

# THE ASAP ACT: SEIZING THE OPPORTUNITY OFFERED BY THE RECOVERY TO SPEED UP THE ADMINISTRATIVE SIMPLIFICATION PROCESS

The **Act to Accelerate and Simplify Public Action (ASAP)** was promulgated on December 7, 2020.

A new stage in the transformation of public action, set in motion in 2017 with the [Action Publique 2022](#) program, the ASAP Act includes a set of major simplification measures aimed at facilitating:

- **The arrival or expansion of industrial projects within contained and competitive timeframes.**
- **Business' access to public procurement, particularly in exceptional circumstances.**
- **Quicker publication of information about the economic regulation of healthcare products.**

The ASAP Act is intended as a catalyst for the recovery and a means of making France a more attractive business environment.

## Contributing to the economy's recovery by speeding up the execution of industrial projects

**Several of the Act's provisions help shorten the time needed to review industrial projects, aligning them with European standards. Local authorities will, in some cases, be able to adjust the intensiveness of the consultations to the issues at stake in the project and the realities of France's regions.<sup>1</sup> This is expected to reduce project implementation times by anywhere from several weeks to several months.**

Procedures are simplified and adjustable to the issues at stake and the regions, as Prefects are empowered to:

- **Authorize the early start of certain construction works, without having to wait for the environmental permit to be issued**, at the expense and risk of the applicant, and where the works take place on stretches of land not directly concerned by the environmental issues addressed in the permit application under review. The project must have been awarded a building permit, and public consultation on the environmental permit application must have been completed. In practice, this new measure can result in substantial time-savings in the construction process, ranging from several weeks to several months.<sup>2</sup>
- **Hold an electronic public consultation rather than a public enquiry when a project does not require environmental assessment.**<sup>3</sup>
- **Refer (only if deemed necessary) to the CODERST (Departmental Council for the Environment and Health and Technological Risks)<sup>4</sup> on all regulated facilities (ICPEs), whether these are subject to declaration, registration or authorization requirements.** This appraisal will need to take into account the issues at stake and the sensitivity of the project with regard to the environment. In practice, if the CODERST is not brought in, the

<sup>1</sup> These provisions of the ASAP Act cover the transcription into the law of several measures contained in the Kasbarian report, "Five workstreams for simplifying and speeding up the arrival of new industrial sites", presented to the Prime Minister at the beginning of the 2019 academic year.

<sup>2</sup> Where the public enquiry required for building permit issuance has been carried out.

<sup>3</sup> See table in the appendix to Article R. 122-2 of the Environment Code.

<sup>4</sup> Opinions issued by the CODERST do not have decision-making value, but constitute a decision-making assistance tool for the Prefect.

total time required for authorization of an industrial site can be shortened by approximately four weeks.

**The right of initiative is now a function of project type:** The time period during which local authorities, associations, or citizens may exercise their right of initiative, asking that the Prefect hold a consultation prior to certain projects so as to determine their impact on the environment, **will be reduced from four to two months. This timeframe is of consequence in that it must be cleared before the environmental permit application can be submitted.**

**Industrial projects are secured:**

- **The regulations applicable to a project will be those in effect at the time the complete environmental permit application is received.** Should ministerial decrees be issued containing new requirements, applications already under consideration will continue to be subject to the same deadlines for compliance with the new standard as existing industrial sites, without need to revise the application submitted.
- **Energy-intensive business status applied to** facilities located on the same **industrial platform.**

## Adapting public procurement rules to the circumstances

**The ASAP Act includes a section aimed at simplifying public procurement. Through a series of measures, the provisions instituted during the health-related state of emergency will be made permanent for economic operators. This new framework will enable the State, as well as supplier businesses, to respond more quickly and effectively to exceptional situations.**

**The procedural rules governing public procurement may thus be relaxed:**

- **In the event of exceptional circumstances:** Adjustments may be implemented by decree so that buyers and businesses can overcome the difficulties stemming from a major crisis. These may concern, in particular, the practical procedures for consultation, the extension of contracts expiring while the exceptional circumstances prevail, the proportionate extension of the deadline for contract execution, or a non-sanctions policy with regard to businesses in the event of obstacles to execution due to the crisis.
- **For reasons of general interest:** Contracts may be awarded by mutual agreement (without prior public notice or competitive tendering) for reasons of general interest, by decree of the Council of State.
- **For SMEs:** Part of the execution of public contracts will be reserved for SMEs and artisans, for all so-called global contracts (design-build contracts, global performance contracts and sector-specific global contracts) and no longer only partnership contracts.
- **For distressed firms** benefiting from a recovery plan, which will be able to access public procurement contracts.
- Until the end of 2022, the **threshold** for exemption from advertising and competitive bidding for **works contracts** will be raised to **€100,000**, and the use of design-build contracts for State transport infrastructure will be authorized.

*Main dematerialized platforms for accessing public procurement:*

- [State Procurement Platform \(PLACE\)](#)
- [Official Gazette of Public Procurement Announcements \(BOAMP\)](#)
- [Network of Hospital-Sector Buyers \(REASH\)](#)

## Securing timeframes for the publication of administrative decisions regarding the health sector

**The ASAP Act creates an “Official Gazette of Health Products” (BOPS) and does away with the multiplicity of media in which official decisions could be published.**

The BOPS will centralize, online, all decisions regarding the reimbursement, coverage, prices, tariffs and the regulation of prescription and provision of health products (medicinal products, medical devices, other healthcare products, related services).

Implemented by the *Caisse Nationale d'Assurance Maladie* (National Health Insurance Fund), it is intended to replace publications in the Official Gazette for the decisions concerned.

The BOPS will make it possible to continue the efforts made by the public authorities, particularly through the [Strategic Council for Health Industries](#) (next edition in July 2021), to guarantee the sector's manufacturers greater visibility and speed in the publication of decisions.

## Speeding up public decision-making with the most immediate impact on businesses and citizens

**The ASAP Act enables major advances in terms of administrative simplification.**

- By **abolishing or grouping some twenty administrative advisory commissions** that have become unnecessary.
- By **abolishing provisions resulting from the over-transposition of European directives** in the fields of finance, public procurement and electronic communications.
- By **decentralizing** around fifteen **individual administrative decisions** (pertaining to social, economic and financial, as well as cultural and health-related affairs).

**The ASAP Act is part of this continuous simplification effort carried out since the beginning of the five-year period, within the framework of the Action Publique 2022 program, already transcribed in the ESSOC (2018) and PACTE (2019) Acts.**