



Complaint under Article 8 about potential exposure to electromagnetic fields from extra-high-voltage line planned in Nord Pas-de-Calais region: rejected as manifestly ill-founded

In its decision in the case of [Thibaut v. France](#) (application nos. 41892/19 and no. 41893/19) the European Court of Human Rights has unanimously declared the applications inadmissible after dismissing the Article 8 complaint as manifestly ill-founded. The decision is final.

The applications concerned opposition to a plan to replace the existing power line between Avelin and Gravelle in the Nord Pas-de-Calais region with a new 400 kV double-circuit line, most of it overhead, comprising some 20 cables supported by 78 pylons at a height of 70 metres, over about 30 kilometres.

The Court noted that the applicants had not complained about the environmental effects of the existing infrastructure. After the rejection, by the *Conseil d'État*, of their appeal against the ministerial order declaring the project to be one of public interest, they primarily claimed, before the Court, that exposure to the electromagnetic fields generated by the planned extra-high-voltage transmission line would increase the risks of infant leukaemia.

The Court observed that the applicants were adults, that they had not indicated whether there were children in their household and that their home was not in the immediate vicinity of the planned line but about 115 metres away from it. They had not produced any evidence to show that the project would expose them to electromagnetic fields exceeding domestic or international standards.

It thus appeared that the applicants had not demonstrated that the completion of the power line would expose them to an environmental danger such that their capacity to enjoy their private and family life, or their home, as protected by Article 8 of the Convention, would be directly and seriously affected. Since the applications had not contained any evidence capable of calling into question the solution adopted by the *Conseil d'État*, the Article 8 complaint was dismissed as manifestly ill-founded.

Principal facts

The applicants, Jean-Marie Thibaut and Guillaume Thibaut, are French nationals who were born in 1949 and 1975 respectively and live in Tourmignies (France). They are members of the association *Rassemblement pour l'évitement des lignes électriques dans le Nord* (RPEL 59).

The two applicants, along with municipalities and associations – including the RPEL 59 association – are opposed to the project of Réseau Transport d'Électricité (RTE) to replace the existing extra-high-voltage line between Avelin and Gravelle with a double circuit line that would increase its transmission capacity from 1,500 megawatts to 4,600 megawatts. RTE is a limited company wholly owned by Électricité de France (a limited company, 70% State-owned), the State or other companies or bodies in the public sector. This 400 kV double-circuit power line, mostly overhead, is projected to link the towns of Avelin and Gavrelle by some 20 cables supported by 78 pylons at a height of 70 metres over about 30 kilometres. The applicants' homes are located just over 115 metres from the route of the line.

On 12 August 2015 RTE submitted an application to the Ministry of the Environment, Energy and the Sea to have the proposed extra-high-voltage line declared to be in the public interest. The public inquiry prior to the declaration of public interest took place from 11 April to 11 May 2016. The

applicants stated that the report drawn up by the commission of inquiry showed that the opinions collected were “almost 100% exclusively unfavourable to the project”, and that nearly a quarter of the comments reflected the local residents’ concern about their health, and another quarter their doubts as to the usefulness of the project.

On 19 December 2016 the Minister for the Environment, Energy and the Sea issued an order declaring the project to be in the public interest.

On 14 February 2017 a number of associations, including the RPEL 59 association, municipalities and elected representatives lodged an appeal with the Minister for the Environment with a view to the withdrawal of the order declaring the project to be in the public interest.

As the absence of a response from the Minister was considered a tacit decision to reject the appeal, some of the associations that had lodged it, including RPEL 59, together with some municipalities and a community of municipalities, appealed to the *Conseil d’État* for the annulment as *ultra vires* of the ministerial order declaring the project to be of public interest.

The *Conseil d’État* dismissed the appeal by a decision of 19 October 2018.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 16 April 2019.

Relying on Articles 2 (right to life) and 8 (right to respect for private and family life and the home), and on the precautionary principle, the applicants argued that the construction of the projected extra-high-voltage Avelin-Gavrelle power line would create a risk for the health of persons living near it, on account of the resulting magnetic fields, and, in consequence, that it would have an impact on their peaceful enjoyment of their homes. They criticised the fact that the company responsible for the project had rejected the option of putting the line underground and submitted that they could not escape the permanent anxiety caused by their exposure to this risk by moving house, since the proximity of this infrastructure would lower the value of their houses and make it difficult to sell them.

The decision was given by a Chamber of seven judges, composed as follows:

Síofra O’Leary (Ireland), *President*,
Mārtiņš Mits (Latvia),
Ganna Yudkivska (Ukraine),
Lətif Hüseynov (Azerbaijan),
Ivana Jelić (Montenegro),
Mattias Guyomar (France),
Kateřina Šimáčková (the Czech Republic),

and also Victor Soloveychik, *Section Registrar*.

Decision of the Court

Article 8

The Court observed that the applicants had not complained about the environmental effects of an existing infrastructure but about the effects of a planned extra-high-voltage line intended to replace the existing line. As to the alleged environmental danger of the proposed line, the Court noted that the applicants had essentially argued that exposure to the electromagnetic fields generated by such lines increased the risk of infant leukaemia.

The Court noted that the *Conseil d'État* had drawn attention to a number of consistent studies which had, despite their limitations, revealed a significant statistical correlation between the risk factor invoked by the applicants and the above-average occurrence of infant leukaemia, and had deduced that the existence of such a risk was to be regarded as a sufficiently plausible hypothesis, in the light of scientific knowledge, to justify the application of the precautionary principle.

The Court had itself observed, in its decision in *Calancea and Others v. Republic of Moldova* of 6 February 2018, that guidelines published by the International Commission on Non-Ionizing Radiation Protection showed that, according to epidemiological studies, daily exposure to a low-intensity magnetic field (above 0.3-0.4 microteslas) was associated with an increased risk of infant leukaemia, and that the International Agency for Cancer Research had classified such magnetic fields as probably carcinogenic to humans, although a causal link between magnetic fields and infant leukaemia or other long-term effects had not been established.

The Court noted, however, that the applicants were adults, that they had not indicated whether there were any children in their household, and that their home was not in the immediate vicinity of the projected route but a little over 115 metres away. Furthermore, the applicants had not provided any evidence that the implementation of the project would expose them to an electromagnetic field exceeding domestic or international standards.

More generally, the applicants had not substantiated their allegations concerning the risk to which they would be personally exposed. Nor had they provided any evidence to call into question the solution adopted by the *Conseil d'État*, which had considered that “it [was] not apparent from the documents in the file that the disputed project [was] likely to lead to a significant and lasting increase in the electromagnetic field in the vicinity of the line”, and that “the measures taken [by the project owner] [could] not be regarded as manifestly insufficient to fulfil the objective of preventing any damage that [might] result from residual exposure to very low frequency electromagnetic fields”.

It thus appeared that the applicants had not demonstrated that the completion of the power line would expose them to an environmental danger such that their capacity to enjoy their private and family life, or their home, would be directly and seriously affected.

Assuming that Article 8 was applicable in the present case, the complaint under that provision was dismissed as manifestly ill-founded.

The Court, unanimously, declared the applications inadmissible.

The decision is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.