

## Impact of the French Elections on national and EU digital policies

04 May 2022

### I/ Reelection of French President Macron, continuities and major shifts

#### The stakes of the legislative elections

On April 24, 2022, the President of the French Republic and presidential candidate **Emmanuel Macron** was reelected **for a 5-years term** with 58.54% of the votes against 41.46% for his opponent Marine Le Pen. The next French Government will need to be confirmed by French MPs following the next legislative elections.

The **legislative elections**, which will take place on **June 12 and 19, 2022**, will determine whether the next Government will have a majority in the **National Assembly** but also influence the level of implication of President Macron in the European Union. Indeed, for France to be impactful at the EU level, Emmanuel Macron needs to be able to govern efficiently at national level. To do that, his political party needs to hold enough seats in the Parliament to congregate a majority. If not, Mr. Macron's battles will take place at national level, which will undermine his ability to lead at European level.

Moreover, even if the President was reelected, the victory margin was thinner with its opponent than in 2017. Thus, even if we assume that the next **government** will have the National Assembly's majority, Mr. Macron's focus might lay more at the national level than at the European one, to demonstrate its proximity with French people.

#### A political continuity

Since 2017, during Macron's presidential term, many digital legislations have been implemented at French and EU level. Given Mr. **Macron's** political program, continuity should predominate in terms of digital policies, with a strong commitment from the President, at both French and European level. The French President [called](#) on April 12 in an interview with a French newspaper to go further in the regulation of digital platforms.

Emmanuel Macron wants to keep on promoting **French startups** while massively investing in the sectors of the future (**cloud, quantum, artificial intelligence, metavers**). The European proposal for an **Artificial Intelligence Act**, driven by the French EU Council Presidency, is considered by the government as an opportunity to provide the EU with an efficient regulatory framework on AI. The French Presidency has so far supported a balanced AI Act, considering that setting too strict regulatory burdens would undermine the ability of European companies to compete with their American and Chinese counterparts.



Moreover, Emmanuel Macron has indicated that he **wants to strengthen, if necessary, the application of neighboring rights, notably through French or European texts**. The President considers that the European Directive on copyright and related rights should lead to a fair remuneration of press publishers by online platforms, through fair negotiations between the relevant parties.

Finally, Emmanuel Macron has made **youth protection** a central theme of his first term in office, translated by a [law to protect victims of domestic violence](#), which reinforces the control of the age of minors on pornographic sites, and a [law to strengthen parental control](#), passed in February 2022, which will oblige device manufacturers to give users the possibility to install a parental control system on their device, at the first use of the device and free of charge.

### A shift towards ecology

Despite those expected continuities, Mr. Macron strives for a more ecological second presidential term. The President declared on April 16 that, if re-elected, he would appoint a **Prime Minister directly in charge of ecological planning**.

However, climate regulations have been numerous during Macron's first mandate and include, inter alia:

- The [Law on combating climate change and strengthening resilience to its effects](#), commonly called **Climate Change Law** aimed at prohibiting the direct advertising of fossil fuel, with certain exceptions, and at creating a framework for environmental claims in advertising.
- The [Law to reduce the environmental footprint of digital technology in France](#) aimed at educating on digital sobriety, sanctioning software obsolescence and introducing environmental regulation to prevent the increase in consumption and emissions from networks and data centers. The law created the **Observatory for Research on the Environmental Impacts of Digital Media**, attached to the **Agency for Ecological Transition (ADEME)** and the **French Telecom Regulator (ARCEP)**. This observatory was established to quantify the environmental impacts of digital media.
- The [law aimed at reinforcing the environmental regulation of the digital sector by the Electronic Communications Regulatory Authority](#) (ARCEP), granting the **French Telecom Regulator (ARCEP)** the power to request or collect the necessary information or documents relating to the environmental footprint of the electronic communications sector, and, if necessary, take proportionate and transparent measures.

Similar types of regulation need to be carefully monitored at national and European level.

### A focus on cybersecurity

Another priority for Emmanuel Macron is to enhance cybersecurity requirements, notably given the Russian invasion of Ukraine. The revision of the **Network and Information Security directive (NIS 2)**, which entered into interinstitutional negotiations in January 2021, is intended to provide a partial response to this uncertainty. The legislation aims at harmonizing the list of essential service operators at EU level and to strengthen their obligations. An outcome is possible under the **French EU Council Presidency** by the end of **June 2022**.

On the French side, **Guillaume Poupard**, head of the French National Authority for Cybersecurity (ANSSI) and who is due to leave the agency this summer, sees the opportunity for a new cyber law after the presidential elections.

## II/ Stronger French and European Regulators

### A willingness to strengthen regulators

The **Regulatory Authority for Audiovisual and Digital Communication** (Arcom) was created from the merger between the French Audiovisual Regulator (CSA) and the French Piracy Watchdog (Hadopi) on January 1, 2022. As the head of the Arcom, **Roch-Olivier Maistre**, was appointed at the beginning of the year through the [law on the regulation and protection of access to cultural works in the digital age](#), the next Government is unlikely to replace him. The Arcom has been given extended powers to supervise digital platforms, collect data and issue potential sanctions.

The **French Data Protection Authority (CNIL)**, well-known for its proactivity, is also seeing its staff increasing on a regular basis and recently [announced](#) that it will focus on commercial prospecting, cloud and the surveillance of telework in 2022.

A new entity, the **Digital Regulation Expertise Unit (PEReN)**, attached to the **Directorate-General for Enterprise** of the French Ministry of Economy, was created on september 2020. Its mission is to assist the different regulators (Arcom, CNIL, Competition Authority) in their supervision of online platforms by developing new digital investigative tools, notably based on algorithmic technologies, big data and artificial intelligence.

The main question lies in the prerogatives and budgets allocated to these independent authorities. Arcom president **Roch-Olivier Maistre** has already explicitly asked for reinforcements in light of the enhanced powers of the authority and the numerous regulations expected to enter into force.

### A shift towards regulators in the framework of the DMA and DSA

Regarding the **Digital Services Act (DSA)**, national authorities remain responsible for most platforms established on their territory as they are today. Each State must appoint a coordinator for these authorities and, in France, **Arcom** is highly likely to be designated as such: it is in charge of supervising the implementation of the [Law reinforcing the respect of the principles of the Republic](#) (Separatism Law) which introduces measures of the European DSA into national law.

As a European regulation, the DSA will replace national provisions once it enters into force. The national coordinators will coordinate in the **European Digital Services Committee**, which will also advise the Commission in its application of the regulation. The very large platforms, those with more than 45 million users in the EU, will be supervised by the Commission.

As for the **Digital Markets Act (DMA)**, the Commission is supposed to be the sole supervisor of the text. Nonetheless, the final agreement leaves room for **national competition authorities** to conduct investigations and then advise the Commission. A Member State may also ask the Commission to open an investigation. A **high-level group of experts**, made up of representatives of independent national authorities, will be created. At the judicial level, the courts will also be able to use the regulation, in conjunction with the Commission.

## The ambition of the ARCOM

The cooperation between regulators will also take place at European level.

On 28 March, the **French Audiovisual and Digital Communication Regulatory Authority** (Arcom) [published](#) its contribution to the **European Commission's** [public consultation](#) on the **European Media Freedom Act** (EMFA). The Arcom strongly welcomes the Commission's orientations to give independent national regulatory authorities and the **European Regulators Group for Audiovisual Media Services** (ERGA) a stronger role and renewed means. It specifies that online content platforms will have to be subject to EMFA obligations, in addition to DSA and DMA obligations, given their role in accessing news and media content. The issue of algorithmic mechanisms that may generate filter bubbles or encourage polarization or imbalance in media coverage should also be addressed by EMFA. Finally, Arcom advocates that audience measurement should be included in the EMFA for both traditional media and online platforms.

The **EMFA**, intended to safeguard the independence of the media throughout Europe, is one of the major upcoming European legislations. The regulation responds to the issue of the media's concentration. The text could be an opportunity to strengthen the role of the **ERGA**. In the framework of this act, it aims to become an efficient network of regulators, emancipated from the **Commission** and capable of formally coordinating its members. The Commission is expected to present the Act on **June 29**.

*As a public affairs firm based in Paris and Brussels, Lighthouse Europe supports its clients in the analysis of French and European political priorities, particularly in the digital and environmental sectors. If you would like to learn more about the impact of the French presidential and legislative elections on particular policies, please do not hesitate to contact us.*