

Pesticides: Court condemns French state for failing to protect biodiversity

The Paris Administrative Court recognizes the existence of environmental damage resulting from the 'widespread, diffuse, chronic and long-lasting contamination' of water and soil by pesticides.

By [Perrine Mouterde](#)

Published in LE MONDE on June 29, 2023, at 4:30 pm (Paris) (extracts)
Time to 4 min.



Climate, air pollution and now biodiversity. Once again, the courts have recognized the French state's responsibility in the aggravation of environmental crises. On Thursday, June 29, the Paris Administrative Court ruled against the state for failing to meet its commitments to reduce pesticide use and for its inability to protect groundwater from the impact of these substances.

For the first time, the court recognized the existence of environmental damage resulting from the "widespread, diffuse, chronic and lasting contamination" of water and soil by plant protection products, as well as the decline in biodiversity and biomass. It requires the government to take "all appropriate measures" to repair this damage and prevent further damage by June 30, 2024.

In an unusual move, the administrative court did not follow the public rapporteur's conclusions in their entirety. This legal action, launched in January 2022 by five advocacy organizations, was primarily aimed at the assessment and marketing authorization procedure for pesticides, which is notoriously flawed but for which the state has not been condemned.

'A victory' for advocacy organizations

But for the five groups, this judgment, handed down at the end of what they describe as the first major trial in favor of biodiversity, is "a victory." "The court recognizes the full extent of the environmental damage and the responsibility of pesticides in the collapse of living organisms," said Julia Thibord, head of strategic litigation at Pollinis, one of the five

organizations. "It also recognizes fault on the part of the state concerning the inadequacy of risk assessment. This judgment marks a first step."

Benoît Fontaine, a conservation biologist at the National Museum of Natural History in Paris, also believes that this decision is a step in the right direction. "Clearly, it's not enough for scientists to have been writing articles for decades saying that we're heading for disaster," said Fontaine. "We need to act in other ways too, and the law is a very important lever. But it's astounding that the decision is not stronger regarding the pesticide approval procedure, as the abnormalities of this process are well known."

Throughout the proceedings, the organizations pointed out the flaws in the procedure for approving and marketing plant protection products, which is supposed to prevent the sale of goods with "unacceptable" effects on the environment. The species used for testing are not sufficiently relevant or representative; chronic, sublethal, indirect and cocktail effects are not adequately taken into account; and exposure to substances is underestimated. "All these insufficiencies and shortcomings have been substantiated by the scientific literature and the European and French regulatory authorities and have been sufficiently established," said public rapporteur Anne Baratin at the June 1 hearing.

She also explained that, while the approval of active substances is decided at the European level, France, like all other member states, has considerable room for maneuver to remedy these shortcomings, notably through the application of the precautionary principle. "The shortcomings in the procedures must be regarded as a wrongful failure on the part of the state likely to give rise to liability," affirmed the administrative court in its ruling.

Conversely, the court found that while the direct nature of the link between the fault and the damage was "established," it was not "certain." "The results of the additional studies that the National Health Safety Agency may require are not known at the date of the judgment. And therefore, it cannot be inferred with certainty that this would have the effect of significantly modifying the type or number of plant protection products put on the market," explained the court. However, Julia Thibord considers this point to be "questionable," and the five organizations are expected to appeal to the administrative court.

Nevertheless, the state has been condemned for failing to meet its targets for reducing pesticide use and will have to bring its current course back into line with its stated goals within the next year. Launched in 2009, the Ecophyto plan to reduce the use and effects of plant protection products aimed to halve the use of these substances within 10 years. Since then, the deadline has been constantly postponed by successive plans, and the target has still not been reached. As it stands, the new Ecophyto 2030 plan no longer even sets a target for reducing use. In a report published on June 13, the French National Biodiversity Observatory points out that sales of plant protection products for agricultural use increased by 14% between the periods of 2009-2011 and 2018-2020.

Counter-revolution

In an attempt to determine the causes of this failure, a parliamentary commission of inquiry has just been launched at the initiative of the Socialist group in the Assemblée Nationale. "Despite some promising results from the Ecophyto plans, the record is not good," said MP Dominique Potier, who is the rapporteur for the commission. "Ten years ago, there was a convergence of public and private opinion in favor of eventually phasing out the use of plant

protection products. Today, it seems that this consensus is breaking down and a counter-revolution is being mounted."

With this ruling, the administrative court recognizes that the objectives set by France, in compliance with a European directive, are indeed binding – [contrary to what the French government had tried to argue](#). France is one of the main users of pesticides in the European Union and ranks among the top three member states in terms of the number of authorized substances (291, 32% more than the European average) and the quantity of substances sold (68,000 tonnes by 2021).

The state's failure to protect its groundwater from the impact of pesticides is the second fault found by the courts. The 2000 Water Framework Directive, which France transposed in the 2004 Water Act, required all member states to achieve good status for water bodies by 2015, a goal the country now hopes to achieve by 2027. However, in April 2022, the General Council for the Environment and Sustainable Development estimated [in a report](#) that France was again at risk of failing to meet this target.

Directly challenged, the government produced only a short statement in its defense during the proceedings. It did not see fit to send a representative to defend itself in court. It was Phytéis, the union representing 18 companies supplying plant protection products, which clumsily attempted to defend the government's position on June 1. As of midday Thursday, the Agriculture Ministry had not yet reacted.

[Perrine Mouterde](#)