



POLLINIS
STOPPONS L'EXTINCTION DES POLLINISATEURS

UNDER EMBARGO UNTIL SEPTEMBER 9, 2021 10.30AM

PRESS KIT



French State targeted for not committing to its obligations for the protection of biodiversity: Notre Affaire à Tous and POLLINIS file a lawsuit to force the government to act for nature, a world first legal action.

#JusticeForTheLiving

www.justicepourlevivant.org

PRESS CONTACTS

Notre Affaire à Tous

Chloé Gerbier, legal expert and spokesperson
gerbierchloe@gmail.com - 06 46 43 55 09

POLLINIS

Julie Pecheur, advocacy director and spokesperson
juliep@pollinis.org - 06 74 55 81 81



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PRESS CONFERENCE

SEPTEMBER 9, 2021, 10AM

UICN

MARSEILLE - Parc Chanot

H9 – B 11

Press Conference Room – Callelongue

[Registration form](#)

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PRESS RELEASE

UNDER EMBARGO UNTIL SEPTEMBER 9, 2021 10.30AM

Collapse of biodiversity : the NGOs Notre Affaire à Tous and POLLINIS launch a legal action against the French State

September 9, 2021, in Marseille

On the occasion of the IUCN World Conservation Congress in Marseille, Notre Affaire à Tous and POLLINIS are launching the first stage of an unprecedented legal action against the French government for failing to meet its obligations to protect biodiversity. The two NGOs target in particular the notorious failures of the process of authorization and marketing of pesticides, a major cause of the massive decline of biodiversity. They intend to have the fault of the State in the sixth mass extinction recognized.

"By its scope and its aim, this action is a world first", says Cécilia Rinaudo, coordinator of Notre Affaire à Tous, the association of lawyers behind the Case of the Century, the legal action for the climate. "As recent climate actions have led to many successes, we have decided this time to go to court to launch the world's first citizen lawsuit for biodiversity. It is time for the French government to be held accountable for the collapse of the living and to respect its commitments."

"Despite all the talk and despite national, European and international laws and conventions, the French government has failed to set up a pesticide approval system that truly protects pollinators and wildlife in general," says Nicolas Laarman, general delegate of POLLINIS. "The figures of the current collapse are appalling. This generalized decline in biodiversity will have dramatic consequences on the balance of life and threatens the future of the next generations."

The latest scientific studies are implacable

At the global level, more than 40% of insect species are in decline, 30% of which are threatened with extinction¹, and all insects could disappear from the surface of our planet in 100 years². In Europe, the mass of winged insects has already decreased by 80% in less than 30 years³. In the front line, pollinating insects, such as bees, on which 84% of cultivated species in Europe depend⁴.

¹ Revue Biological Conservation, (2019) <https://www.sciencedirect.com/science/article/abs/pii/S0006320718313636?via%3Dihub#f0020>

² Académie des Sciences PNAS, (2021) <https://www.pnas.org/content/118/2/e2023989118>

³ PlosOne (2017)

⁴ Rapport d'information du Sénat, (2017) <http://www.senat.fr/rap/r16-474/r16-4741.pdf>

Rapport IPBES (2016), https://www.ecologie.gouv.fr/sites/default/files/rapport_evaluation_pollinisateurs-IPBES.pdf



The French government, aware of the dramatic stakes, is making ambitious speeches on environmental protection and is multiplying its international, European and national commitments, recently reiterated in Marseille during the IUCN Congress.

At a time when the United Nations General Assembly must discuss the recognition of the universal right to a healthy environment and that the National Environmental Health Plans (NEHPs) are ineffective and remain unambitious, the findings on the loss of biodiversity, a pillar of the environmental health concept, are catastrophic. It is clear that the French government is not meeting the biodiversity protection objectives it has set for itself.

One of the major causes of the generalized decline of biodiversity is the immoderate and systematic use of pesticides, and in absolute terms, France is still among the largest consumers of pesticides in Europe.⁵ All Ecophyto plans to reduce pesticides have failed. Neonicotinoids, which are particularly toxic and damaging, have just been granted a derogation and glyphosate is still in use.

Even worse, as the two NGOs show, pesticides that are harmful to living organisms are authorized without rigorous control and without relevant evaluation of their real effects on biodiversity. Today, it is the whole of the territories which are durably contaminated by a diffuse pollution, the molecules being found in the long term in the grounds, the air, the rivers and the water tables.

A citizen's lawsuit of unprecedented size and scope

Through the launch of this action for wrongful failure to act, and aiming at the recognition of the ecological damage, POLLINIS and Notre Affaire à Tous thus ask the State to take all the necessary measures for the protection of living organisms and thus to repeal an insufficient pesticide approval process.

"It is the responsibility of the State to better protect nature, to recognize the intrinsic value of natural elements and to better preserve them", say the NGOs. "As demonstrated by the recent decision of the Administrative Court of Paris in the Affaire du Siècle, the tool of law is essential to initiate this necessary evolution of our relationship with living beings. As recognized by the Constitutional Council, the environment is the common heritage of human beings and we can no longer turn a blind eye to its destruction".

To support this legal action, the NGOs are also launching a large mobilization campaign to question the government, so that the State quickly takes the necessary measures.

If the government's response is not satisfactory within the next two months, the two organizations will proceed to file a full legal appeal before the Administrative Court of Paris.

PRESS CONTACTS

⁵ European statistics : http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=aei_fm_salpest09&lang=en.



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gerbierchloe@gmail.com, +33 6 46 43 55 09

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juliep@pollinis.org, +33 6 74 55 81 81



THE REASONS OF OUR ACTION

For more than forty years, the French government has constantly declared its desire to preserve the species and spaces of its territory. This declared will to halt the decline of biodiversity has resulted in the signing of numerous international treaties and the establishment of national strategies and plans. This approach is enshrined in the Charter of the Environment. However, the strategies for the protection of biodiversity are not up to the ambitions, nor to the urgency: the decline of life is more than ever at work on the French territory - with potentially catastrophic consequences on the balance of ecosystems and the future of the next generations.

Unfulfilled commitments and refusal to act

This decline is the result of a wilful ignorance of the causes of biodiversity loss. Indeed, the scientific consensus, supported by a growing number of publications, establishes the link between the decline of biodiversity and the development of conventional agriculture and its immoderate and systematic use of pesticides. However, the public authorities refuse to act.

In France, neonicotinoids, which are highly toxic even in minute doses, have been granted a derogation to be authorized again and glyphosate is still in use. Even more seriously, because of a faulty approval process, hundreds of products that are harmful to living organisms are authorized without rigorous control and without any relevant evaluation of their real effects on biodiversity.

The responsibility of the State is to establish laws, procedures and processes for the authorization of products with the objective of preserving life and its right to regenerate at a natural rate. The insufficiencies detailed in the injunctions of Notre Affaire à Tous and POLLINIS do not allow this protection, and are thus constitutive of serious failures of the French State in order to engage its responsibility.

Pesticides that decimate biodiversity

Among Western European countries, France is the largest consumer of plant protection products (PPP) in terms of volume of active substances. Although multiple factors are responsible for biodiversity losses, scientists agree that the increasing use of pesticides is one of the main causes of this decline.⁶

⁶ BIJLEVELD VAN LEXMOND *et. al.*, « Worldwide integrated assessment on systemic pesticides. Global collapse of the entomofauna: exploring the role of systemic insecticides », *Environmental Science & Pollution Research*, 2014, p.1.



French assessments of the state of biodiversity have regularly highlighted a widespread decline, particularly in agricultural environments. The 2019 results of the STOC⁷ program, for example, showed that "the most significant drop concerns birds specializing in agricultural environments (-29.5%)." The program's scientists point to *"the intensification of agricultural practices in recent decades, particularly since 2008-2009. A period that corresponds, among other things, to the widespread use of neonicotinoids, very persistent neurotoxic insecticides, the end of fallow land imposed by the Common Agricultural Policy, the surge in wheat prices, and the resumption of nitrate over-amendment, allowing for over-protein wheat."*

These alarming results concerning birds are symptomatic of the general state of biodiversity in France. Above all, they reveal the degradation of habitats (soil, water, air), under the pressure of intensive agricultural activities, and the massive use of synthetic pesticides⁸.

A diffuse and durable pollution, impacting all the fauna

Chronically applied to crops, plant protection products are transported by air, fixed in the soil, carried by water through leaching and runoff, and seep into the groundwater, so that **the pollutions are punctual and diffuse.**

Above all, these products have negative impacts on non-targeted species. For example, the active ingredients of pesticides are found in water and are toxic to living organisms outside their target area.

The facts are clear, the decline is proven and the consequences are catastrophic: States no longer have any choice but to coordinate ambitious actions. It is their power and responsibility to stop one of the main causes of the decline of biodiversity.

In France, the government itself has stated that it is necessary to *"make the protection of biodiversity one of the priorities of major public policies"*⁹. However, the commitments of the State remain unfulfilled, and the processes for authorizing the marketing of pesticides remain insufficient, allowing the marketing of products that destroy biodiversity.

A citizen's lawsuit of unprecedented size and scope

The NGOs Notre Affaire à Tous and POLLINIS therefore ask the State to respect its commitments and its obligations regarding the protection of biodiversity. To do so, it is imperative that France adopt a rigorous and efficient pesticide registration process. The failures committed until now are likely to engage the responsibility of the French State, which has refrained from implementing the means at its disposal to stop the massive ongoing decline of biodiversity.

⁷ Le Suivi Temporel des Oiseaux Communs est un programme de sciences participatives porté par le MNHN au sein du CESCO. Ce suivi permet de produire des indicateurs annuels sur l'abondance des espèces dans différents habitats (forêt, ville, campagne etc.).

⁸ UMS PatriNat, Biodiversité d'intérêt communautaire en France : un bilan préoccupant. Résultats de la troisième évaluation des habitats et espèces de la DHFF (2013-2018), septembre 2019, p.4.

⁹ Ministry of Ecological Transition on the National Biodiversity Strategy



This legal action, which points out the way the State fails to protect nature through its laws and regulations, is the very first action of this type in France and in the world. An action demanding the respect of the rights of nature, and of human rights, including to health and a healthy environment.

We demand justice for the living.



LEGAL ARGUMENTS

Scientific studies have shown that the use of phytosanitary products is one of the main causes of the loss of biodiversity, due to their devastating effects on animal species, their habitats, as well as plant species.

France is party to numerous international conventions

Nonetheless, the State has numerous obligations in regards to biodiversity, and the current marketing authorisation procedure for phytopharmaceuticals products gives the State sufficient means to set guidelines for putting such products on the market.

On multiple occasions, France has pledged to act for the protection of biodiversity. To cite a few, in Nagoya, Japan, France has pledged to prioritise 20 objectives, the “Aichi objectifs for biodiversity”, through the Strategic Plan for Biodiversity 2011-2020. Furthermore, two international conventions have forced the French government to take action to maintain or bring back species of migratory birds at favourable conservation status: the AEWA agreement and the RAMSAR convention. Parties, including France, must identify habitats of ecological importance and **avoid degradation of habitats that are home to migratory water bird populations. Such degradation may come from agricultural practices, including massive use of pesticides.**

European and national legislation ensure strong protection of biodiversity

On a European scale, the 92/43/CEE of the 21st May, 1992 directive on the conservation of natural habitats and of wild fauna and flora, aims to *“contribute to and maintain biodiversity through the conservation of natural habitats as well as wild fauna and flora on European territory of Member States where the treaty is applicable.”*

The European Commission has also committed to a EU strategy to favour biodiversity by 2020. The main objective set by heads of states and governments was to *“stop the loss of biodiversity and the degradation of ecosystem services by 2020, ensure their restoration as much as possible and reinforce the EU’s contribution in preventing the loss of biodiversity”.*

In French national law, from the first two articles of the Charter for the Environment, the French Council of State has deduced there exists an environmental duty of care, thereby reaffirming the interpretation of articles 3 and 6, as well as deducing that the State has an obligation to reconcile public policies and the protection of health and the environment with economic development and social progress. The French Environmental Code finally states that *“biodiversity is part of the nation’s common heritage”*.¹⁰

¹⁰ Article L. 101-1, French Environmental Code



A marketing authorisation procedure for pesticides insufficiently protective

While putting phytopharmaceuticals products on the market is a shared competence between the European Union and member States, such a legal system does not stop member States to apply further restrictions, in application of the precautionary principle. This prerogative should also allow the State to respect its self-imposed commitments in terms of conserving biodiversity.

A combined reading of articles 36, 44 and 71 of European regulation 1107/2009 concerning the placing of plant protection products on the market shows that if a States identifies, notably thanks to scientific studies, a risk that a substance poses for public health or biodiversity, it can and must, in regards to its commitments, proceed to the removal of such a product from the market or prevent its authorisation.

In application of the precautionary principle on a European and national scale as well as the rural and maritime fishing code¹¹, it appears that a competent administrative authority may, at any moment, take additional protective measures, or even prevent traffic of such a product.

In regards to obligations and international, European and French objectives in terms of protecting biodiversity, the process of putting French phytosanitary products on the market is clearly insufficient. Numerous short-comings of this process were identified by the French ANSES (Agency for Food Environmental and Occupational Health Safety) which come from products put on the market, despite the danger they represent for biodiversity.

Indeed, upon studying those substances:

- chronic effects are not systematically checked
- numerous sublethal effects nonetheless responsible for the collapse of populations are not taken into account
- effects on numerous species (reptile, batrachian, soil fauna...) are completely overlooked and species that are taken into account are sorted through categories ("bees" for example) without factoring in some of those species' specificities (there are thousands of wild bee species) ;
- the mixing of different products, i.e the cocktail effect, are not taken into account ;
- real effects and levels of contamination are not properly studied in the field ;
- authorisations, hard to revoke, are delivered for excessively long periods of time, way before the industry is able to provide all relevant data ;
- finally, the double part the ANSES plays by authorising and evaluating products, raises the issue of independence within the industry.

Those short-comings and inconsistencies show that maintaining such an authorisation process, which is a vehicle for the decline of biodiversity, is contrary to obligations in regards to the conservation of biodiversity.

¹¹ Article L. 253-7, Rural and maritime fishing Code



The French government is responsible for maintaining a process which leads to the destruction of biodiversity.

By refraining from taking necessary measures to remedy the short-comings of the marketing authorisation process, the French government commits a fault which engages its responsibility. Through its inaction, it violated its own commitments and its own legislation aimed at ensuring a high level of protection for biodiversity.

Those shortfalls are blatant in the case of neonicotinoid products in concise studies that have focused on risks run only by honey bees, whereas numerous studies have alerted on the effects of those phytosanitary products on the entire fauna.

In regards to those very toxic insecticides, persistent in water and soil, and affecting insects' central nervous systems, it is up to the government to anticipate that the use of these products would lead to the non-discriminatory destruction of all invertebrates.

The main issue is that this phenomenon applies to all substances put on the market through the blatantly insufficient marketing authorisation process for pesticides.

Considering the current emergency, the evolution of the assessment protocol should now be a priority for the government. Implementing tools and transitional arrangements is vital, tools and arrangements for which we detain all necessary information and which can and must be implemented immediately.

Therefore, considering that:

- **The State has committed to ensure the protection of biodiversity and prevent its decline,**
- **phytopharmaceutical products are one of the main causes of this decline,**
- **the marketing authorisation process for phytopharmaceutical products is starkly insufficient,**
- **those shortfalls have led to products being put on the market whereas their effects on biodiversity are not fully known,**
- **the State has the power to regulate pesticides put on the market in addition to the European Union's competence in this matter, in application of article L. 253-7 of the rural and maritime fishing code,**

As a result, by not acting upon those apparent shortfalls, the State is liable, notably for ecological prejudice.

Lawyers for the petitioner : Vigo law firm

Me Emmanuel DAOUD / Me Aimée KLEIMAN / Me Etienne de CASTELBAJAC



OUR DEMANDS

We ask that the State put an end to the current illegal situation laid out above, and consequently that it:

- **Take all necessary measures** in order to put an end to the use of phytosanitary threatening the preservation of biodiversity ;
- **Suspend authorisations thus far identified** as leading to the incalculable loss of biodiversity ; including all neonicotinoide and SDHI products and any product containing glyphosate ;
- **Amend the marketing authorisation process for pesticides**, including evaluation, in order to identify and eventually prohibit products that lead to the decline of biodiversity ;
- **Reexamine as a result all marketing authorisations delivered for phytopharmaceutical products**, by taking into account shortfalls and integrating the correction of this process (evaluation of the cocktail effect, chronic and sublethal effects, on larva, and non targeted organisms) ;
- **Take all necessary measures in order to ensure that no phytopharmaceutical product can be used on the French territory**, once it does not fulfill evaluation criteria of risks regarding honey bees and wild pollinating insects identified in the ANSES (2019)and/or the EFSA in the EFSA GD 2013 ;
- **Add an addition protection factor which covers uncertainties linked to the cocktail effect and other non tested effects ;**
- **Implement all measures aimed at fulfilling set objectives, notably in order to:**
 - ensure that agriculture be an ally for biodiversity and accelerate the agroecological transition
 - organise the use of plants as an alternative to phytopharmaceutical products ;
 - reinforce taking into account stakes in terms of biodiversity in human, fauna and flora health policies.



NEXT STEPS

- **9th September, 2021, 10am:** POLLINIS and Notre Affaire À Tous will hold a press conference ;
- **9th September, 2021, 10am:** website launch, as well as the launch of the rallying video and the citizen campaign to call out the government
- **10th September :** NGOs will join the citizen and civil disobedience rally organized around the IUCN Congress;
- **October 2021:** a meet up with the press and multiple associations will take place in order to organize legal and scientific arguments to the lawsuit ;
- **From November 2021:** the complaint will be lodged in the administrative court.



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PLAINTIFF NGOs

POLLINIS

POLLINIS fights for the protection of wild and honey bees, for an agriculture which protects all pollinating insects. Scientists all over the world are alerting us: insect populations are collapsing at an astounding pace. Within this disaster, pollinating insects, essential to ecosystems, to our agriculture and food safety. To halt such extinction, **POLLINIS**, a non-for-profit association, fights in France and on a European level to obtain the prohibition of all “bee-killing pesticides” and accelerate the transition towards the implementation of farming practices more respectful of the environment and biodiversity. The association also works to restore an environment which would be rich and safe for wild pollinating insects, and act to save local honey bees in the natural habitats they have been thriving in for thousands of years.

www.pollinis.org



NOTRE AFFAIRE A TOUS is an independent NGO under the 1901 law which works to encourage conversations about the law, as well as highlight the part the law can play as a rallying tool to protect our common heritage and the living. The association acts within a worldwide movement for climate justice and the rights of nature. As such, its aim is to initiate and assist in legal proceedings serving this movement, and in favour of social and environmental justice. Notre Affaire à Tous was created in 2015 around two area of work: the climate lawsuit, now known as the “Affaire du Siècle” (Case of the Century), and the recognition of rights for nature, which have provided sufficient skill for the association to seek better protection for nature through a lawsuit for the protection of biodiversity.

www.notreaffaireatous.org / @NotreAffaire

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