



GREENPEACE



FONDATION
NICOLAS HULOT
POUR LA NATURE
ET L'HOMME



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Climate: the State ordered to act before April 2022

The government's denial of the insufficiency of its climate policies did not convince the judges: in the case brought by the city of Grande-Synthe before the French Council of State, the government has been ordered to "take all the measures necessary" to put France back on the right path in terms of its commitment to reduce greenhouse gas emissions. This is indispensable to protect the French population, two thirds of whom are already highly or very highly exposed to climate risk, as recalled yesterday by France's High Council on Climate.

In a vain effort to camouflage its inaction, the government based its defence widely on its "Climate and resilience" law. Yet the insufficiency of this draft bill had been highlighted by the High Council on Climate, the Economic, Social and Environmental Council and the National Council for Ecological Transition, as well as by the members of the Citizen's Convention on Climate.

Although the judges are limited by the separation of powers to ordering the State to enforce all the law's implementation decrees and those of previous climate laws as rapidly as possible, this decision is a strong signal to both government and legislators: France is not doing enough for the climate and must take action immediately.

Corinne Lepage, lawyer for the city of Grande-Synthe, co-founder of the law firm Huglo Lepage Avocats declared: *"I am delighted with this historic decision on two counts. Firstly, the Council of State has recognised the impossibility of achieving the old objectives, essentially those resulting from the new objective to reduce greenhouse gas emissions by 55%. As such, it recognises that the Climate and Resilience law is largely inadequate. Secondly, the commitment made in 2018 by the commune of Grande-Synthe and its former mayor allow France and the Council of State to go down in the history of climate justice at planetary level. I am proud and happy to have taken part in this"*.

Damien Carême, Member of European Parliament, mayor of Grande-Synthe from 2001 to 2019 stated: *“I initiated these proceedings against the State at the end of 2018, because I cannot resolve myself to leave an uninhabitable world to our children and grandchildren. Today, our legal system has proved me right and I hope this will bring an end to the lethargy, hypocrisy and cynicism. This ruling by the Council of State is historic: for the first time in France, the State is ordered to act for the climate. It’s about time, as nobody is fooled anymore. Behind the government’s fancy speeches there is a lack of action and ambition which is putting our joint futures in danger. The last annual report by the High Council on Climate shows that France needs to double the rate of reduction of greenhouse gas emissions, to reach at least a decrease of 3% by 2021. Double the rate! At the beginning of 2020, it had feebly chosen to lower its reduction objective from 2.3% to 1.5% per year, although we know perfectly well that this is insufficient to comply with the Paris Agreement. This criminal behaviour has at last been condemned. I would like to thank Corinne Lepage for her determination to obtain justice. The solutions are within our grasp. It’s a question of courage.”*

For the Case of the Century organisations, joined parties in the case: *“The noose is tightening around the government. The Council of State has ordered Emmanuel Macron and the government to use the last months of this five-year term to get France back on track on climate, by implementing all the necessary decrees. In the Case of the Century, the administrative court may, as of September, impose stronger, more precise measures, or even a penalty. Backed by the 2.3 million signatories of the Case of the Century, we formally call on the Government to uphold the judge’s decision. There is no more time to loose. Let’s not forget that across the border, the German chancellor Angela Merkel immediately took note of the decision by the Federal Constitutional Court and announced more ambitious climate goals.”*

For Régis Froger, lawyer for the cities of Grenoble and Paris: *“The cities of Paris, Grenoble, and Grande-Synthe of course, are delighted with the historic decision by the Council of State which obliges the State to face up to its responsibilities. The judges have clearly stated that action is urgent and that the measures proposed by the State are inadequate to cope with the climate challenges and that its commitments are taking shape too slowly. The High Council on Climate has pointed out that 2/3rds of French people are exposed or highly exposed to the hazards brought about by global warming. Lots of communities have not waited and are strongly committed to the fight against global warming, via concrete actions in terms of transport, housing, food and revegetation. The city of Paris has transposed these commitments through an ambitious Climate Plan, which aims to build a carbon neutral city by 2050 with 100% renewable energies. We are now waiting to see what new measures will be proposed by the State in the coming months to answer the Council of State order before March 31, 2022, and to ensure, on its scale, the protection of all our futures.”*

With this decision, the Council of State has placed civil society in the position of climate watchman. In 9 months’ time, we will all see the reality of the State’s action in response to this court ruling. The High Council on Climate has reminded us of the urgency to act: its annual report, published on June 30, 2021 indicates that ‘due to cumulated delays by France, the current rate of annual reduction almost needs to double to reach at least 3% by 2021 and 3.3% on average over the third carbon budget period (2024-2028).’

In the meantime, the administrative court of Paris must also reach a decision in the Case of the Century, and may order the State to take precise measures to reduce its greenhouse gas emissions. The organisations have specifically asked for the revision of France's climate trajectory (National Low-Carbon Strategy), in particular to compensate for France's excessive emissions over the 2015-2018 period.

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MEDIA BRIEF

What is the Grande-Synthe case?

In February 2019, the northern city of Grande-Synthe, particularly exposed to climate change, started a legal action against the State of France, to get the State to take additional measures to reduce France's greenhouse gases emissions.

The Grande-Synthe action is actively supported by the Case of the Century, a different climate justice action, led by 4 NGOs. 2.3 millions people are supporting the case, making the Case of the Century the most signed online petition in France.

The cities of Paris and Grenoble also added arguments to support the Grande-Synthe case.

What happened previously in the case?

After an investigation a year and a half long, the Council of State, the highest administrative court in France, issued a first ruling in November 2020, asserting that France's climate goals are binding, breaking from a French political tradition of considering long-term commitments as "soft law".

In November, the Court gave the government additional time to prove that its climate policies will effectively allow France to reduce its greenhouse gas emissions by 40% in 2030 compared to 1990 levels.

Today's ruling, ordering the State to take regulatory action to swiftly implement France's new Climate law within 9 months, is definitive, as there is no possible appeal.

What were the State's arguments?

The State argued that the Paris Accord and other climate commitments did not create rights for the population, and that, in any case, climate goals were not binding.

The State also claimed that France's climate policies were sufficient to reduce GHG emissions by 40% in 2030. The government notably put forward the new Climate legislation being adopted, despite all official institutions evaluating the law as largely insufficient. In a vain effort to substantiate its claim, the government ordered a study from the Boston Consulting Group, study that showed that only 70% of the goal could "possibly be reached", estimating that the 30% left could "hardly be reached".

What were the cities and NGOS' arguments?

The cities and NGOS based their claim on a wide array of legal obligations, created by the Paris Accord, European Union directives, the French Constitution and several French laws.

They demonstrated that France's climate policies put the brunt of the effort in the future, instead of implementing the necessary actions now.

The Case of the Century produced a scientific study by an independent expert firm, that concluded that it was "*certain that current or planned measures, including measures in the Climate law, would not allow France to respect its goal to reduce GHG gases by 40% compared to 1990 by 2030.*"

What happens next?

The government now has 9 months to implement new regulatory actions. After the 9 months periode, the parties will make sure that the State goes back in front of the Council of State to demonstrate the reality of the actions taken and their effect.

If the judges estimate that the actions are still insufficient, they could order a financial penalty, that would apply for every semester the State does not implement measures.

In the meantime, a major hearing should take place in the Fall. The verdict in the Case of the Century could see the judges of the administrative court of Paris order precise measures as well as a financial penalty to the State, as in this separate procedure, the State's fault has already been recognized in February.