

PARIS ADMINISTRATIVE COURT

N°1904967, 1904968, 1904972, 1904976/4-1

FRENCH REPUBLIC

ASSOCIATION OXFAM FRANCE
ASSOCIATION NOTRE AFFAIRE À TOUS
FONDATION POUR LA NATURE ET L'HOMME
PEOPLE
ASSOCIATION GREENPEACE FRANCE

ON BEHALF OF THE FRENCH

Ms. Anne Baratin
Rapporteur

The administrative court
(4th Section - 1st Chamber)

Ms. Amélie Fort-Besnard
Public Rapporteur

Hearing of 14 janvier 2021
Lecture of 3 février 2021

44-008
60-01-02-02
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In view of the following procedure:

I. Through a petition and an additional brief, registered under n° 1904967 on the 14th of March and the 20th of May 2019, Oxfam France, represented by its Managing Director, Ms. Cécile Duflot, represented by her legal counsel, requests:

1°) To condemn the State to pay the NGO the symbolic sum of 1 euro, in compensation for the moral damage suffered;

2°) To condemn the State to pay the NGO the symbolic sum of 1 euro, in compensation for the environmental damage;

3) To enjoin the Prime Minister and the concerned Ministers to cease the State's breaching of its legal obligations (general and specific) regarding the fight against climate change, or to alleviate its effects, to end the environmental damage. This includes carrying out the following as quickly as possible:

- to take the necessary measures to reduce greenhouse gas emissions - in proportion to global emissions, and in regard of the differentiated responsibility of developed countries – at a level compatible with the target of containing the growth of the global temperature under 1,5°C compared to pre-industrial levels, taking into account France's additional emissions since 1990 and the additional efforts that such a target requires;

- at the very least, take all measures to achieve France's objectives in terms of reducing greenhouse gas emissions, developing renewable energies and increasing energy efficiency, as set out in Act No. 2009-967 of 3 August 2009 on the Implementation of the Environment Grenelle, Act No. 2010-788 of 12 July 2010 on National Commitment to the Environment, Act No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth, Decree No. 2015-1491 of 18 November 2015 on National Carbon Budgets and the National Low-Carbon Strategy, Decree No. 2016-1442 of 27 October 2016 on Multi-Year Energy Programming, Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on Effort Sharing, Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the Promotion of the Use of Energy from Renewable Sources, Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on Energy Efficiency, Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on Mandatory Annual Reductions of Greenhouse Gas Emissions by Member States from 2021 to 2030 and Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the Promotion of the Use of Energy from Renewable Sources;
- to take adequate measures to adapt the national territory to climate-induced changes;
- to take adequate measures to ensure the protection of citizens' life and health against climate-induced hazards.

4°) To charge the State with the sum of 3,000 euros pursuant to the provisions of Article L. 761-1 of the Administrative Code of Justice.

The Association maintains that:

- the State is legally bound by a general obligation to fight climate change, founded, firstly, in the protection of the right of everyone to live in a balanced and healthy environment, as provided in Article 1 of the Charter of the Environment, a constitutional principle; secondly, in the obligation of environmental vigilance, by which the State has to abide in accordance with Articles 1 and 2 of the aforementioned Charter, and applicable, in view of France's international obligations to fight climate change, including the United Nations Framework Convention on Climate Change of 1992 and the Paris Agreement adopted on 12 December 2015, finally, in the very notion of vigilance, which must be linked to the duty to prevent environmental damage and the precautionary principle, as enshrined in Articles 3 and 5 of the Charter, as well as to the duty of diligence defined under international law;
- the State has a legal obligation, in accordance with the principles of the right to life and the right to the protection of one's privacy and family life, as provided in article 2 and 8 of the European Convention on Human Rights, which presupposes the protection of the environment and the fight against climate change, the consequences of which jeopardize nearly 9.75 million people in France;
- the State is bound by a general legal principle that everyone has the right to live in a sustainable climate system, prerequisite to the promotion of sustainable development and to current and future generations' enjoyment of human rights; such a principle, although not explicitly recognized by the French state, results from the general state of the law, domestic and international, and the requirements of the legal consciousness of our time and of the rule of law.
- the State has disregarded that general obligation to fight climate change, firstly, by abstaining, until 2005, to take adequate measures to eliminate or, at least, to mitigate dangers and hazards induced by climate change, although climate change, its anthropogenic nature, and its adverse

consequences have been known for several decades and have been established by the IPCC since 1990, and, by abstaining since 2005 to take adequate measures to ensure an adequate monitoring of the implementation of these obligations; secondly, by setting targets that are insufficient to maintain an increase in temperature inferior to 1,5 °C, despite the fact that France has accepted, as a developed country, a “*common but differentiated responsibility*”, which necessarily results in undertaking greater efforts than developing countries; finally, by adopting, through its administrative authorities, measures which prove insufficient to ensure the application of the legislative and regulatory framework aiming to fight climate change, as evidenced, in particular, by delaying the payments of conversion aid or insufficient climate-friendly investments;

- the disregard of this general obligation amounts to a fault sufficient to engage State responsibility;
- the State is also bound by specific obligations related to its fight against climate change, as enshrined in international conventions, the laws of the European Union, and domestic law, each pertaining to the mitigation of greenhouse gas emissions and energy consumption, the development of renewable energies, the adoption of sector-specific measures, and the implementation of evaluation and monitoring measures;
- regarding the mitigation of greenhouse gas emissions, the EU targets, adopted in Decision n°406/2009/CE and Regulation 2018/842/UE, are insufficient to meet the EU's international commitments to limit global warming below 2°C compared to pre-industrial levels; the same applies to the targets of the "nationally determined contributions";
- in France, greenhouse gas emissions exceed by 4% the yearly limits as defined in the Decree on the national low carbon strategy (SNBC) for 2015-2018, which represents a cost of 3 to 4 billion euros; in the transport sector, the target set for 2017 was overstepped by 10.6%. Thus, the target set by the First Grenelle Act, to reduce emissions from the transport sector to their 1990 level by 2020 will clearly not be achieved; in the construction sector, the target set for 2017 was overstepped by 22.7, and by 3.2% in the agricultural sector; France's failure to comply with its general and sectoral targets shows the State's lack of knowledge of its obligations to reduce greenhouse gas emissions under European Union and domestic law - in particular, the First Grenelle Act, the Energy Transition for Green Growth Act (LTECV) and the SNBC Decree -- and its general obligation to fight climate change;
- regarding energy efficiency improvement, France disregarded its general obligation to fight climate change and its obligations stemming from Directive 2012/27/UE and the October Decree pertaining to multi-annual energy programming; achieving the targets set by this decree would require a fourfold increase in the annual rate of improvement in energy efficiency **in the final sectors**, while the consumption of fossil fuels is increasing since 2014;
- the targets establishing the share of renewable energies in the overall energy consumption have been disregarded, in breach of Directive 2009/28/CE, article L. 100- 4 of the Code of Energy and the PPE decree of 27 October 2016, which further establishes a breach of the State's general obligation to fight climate change;
- in the transport sector, the regulatory authority has failed to take, in appropriate time, the necessary measures to achieve the targets enshrined in the First Grenelle Act and the SNBC I: regarding, firstly, the modal shift from road and air freight to rail freight, and secondly, the targets for consumption and greenhouse gas emissions from private vehicles as well as their maintenance; thus, the share of rail transport in freight decreased from 25% to 10% from 2001 to 2017 while public investment in rail infrastructure was reduced and average CO2 emissions per kilometre of the vehicle fleet have increased, the average fuel consumption of private vehicles has fallen only very slightly and the measures adopted to encourage the renewal of

vehicle fleets with low carbon vehicles have proved insufficient;

- in the building sector, the targets of reducing energy consumption by 38% by 2020 and renovating 500 000 buildings per year are not being met; no monitoring system has been set up, nor has the national observatory for energy renovation been established (as provided for in the plan for the energy renovation of buildings, published in April 2018). The public service body for the energy performance of housing, as provided for in the TECV Act, has not been set up, either. Regarding the obligation to carry out renovations to improve the energy performance in buildings for tertiary use or in which a public service activity is carried out, the Decree provided for in Article L. 111-10-3 of the French Construction and Housing Code, aimed at defining the nature and terms of this obligation, was only adopted seven years after the entry into force of the Second Grenelle Act, introducing the aforementioned obligation. However, this was only to be annulled by the State Council in 2018, with the result that these regulatory provisions have still not been implemented; finally, the Decree of 24 November 2014, on the terms and conditions of application of these audits, adopted in application of the 16 July 2013 Act, limited its scope to 80% of the energy bills for large companies, which does not provide a reliable picture of the overall energy performance, and prevents the identification of the most significant opportunities for improvement;
- in the agriculture sector, the target of cultivating 20% of agricultural land for organic farming in 2020 was disregarded, as only 6.5% of this surface area was organically cultivated in 2017; the target pertaining to mitigating the use of nitrogen fertilizers was similarly disregarded, as its sales increased between 2014 and 2016, as was the target of developing the production of legumes, as the dedicated surface area only recently increased and at an insufficient pace; the significant delays in the payment of organic farming aid and agri-environmental and climatic measures prevent the targets to be met, and constitute a breach of Article 31 of the First Grenelle Act;
- regarding evaluation and monitoring, firstly, the Decree provided for in Article L. 222-1 B of the Environmental Code (stemming from the LTECV of 17 August 2015) was only issued by the regulatory authority in May 2017. It aims to define the principles and methods for calculating greenhouse gas emissions stemming from public projects, while only applying to the financing decisions of these projects from October 2017. This delays by more than two years the implementation of the system provided in the Code, although no technical difficulties were identified to justify this choice. The obligation to evaluate public projects is not only belated but insufficient. Secondly, the State is breaching its obligation to deliver reports assessing its greenhouse gas emissions in its area of competence, activities, and assets, and has also failed to meet its obligation to update these reports every three years, as only 18 reports, themselves imprecise and not up-to-date, have been published;
- regarding the adaptation to climate change: first, by taking 12 years to adopt the very first National Adjustment Strategy, regulatory authorities, in particular the Minister of the Environnement, disregarded the State's obligations stemming from the UNFCCC as well as their general obligation to fight climate change; second, by delaying to adopt national plans to adapt to climate change (those which have been adopted are proving insufficient), the State disregarded its obligations under the UNFCCC, the law of the European Union - in particular, EU Regulation n° 525/2013 - and Article 42 of the First Grenelle Act, as well as the State's general obligation to fight climate change, amounting to a wrongful omission engaging State responsibility. Finally, only 12 to 14 of the 750 public establishments of inter-communal cooperation required to adopt a territorial climate-air-energy plan before 31 December 2016, pursuant to Article L. 229-26 of the Environment Code, have, to date, adopted such a plan. The prefects can be held accountable, and therefore the State, as they failed to enjoin them to adopt such plans;
- the sum of these omissions amounts to offenses likely to engage State responsibility;

- the causal relationship between these omissions and the worsening of climate change is established: particularly, in the areas of environmental protection and health, State accountability can be engaged when the conduct of the administration is one of the determining causes of the damage. In the present case, the French State was informed and aware of the insufficient character of the existing measures to reach its targets regarding climate change, and has thus proven negligent while implementing its obligations. This directly contributes to worsening climate change and reduces the possibility to prevent it; consequently, the State's faults and omissions are the direct cause of the aggravation of the environmental damage linked to climate change, the very cause of the diverse harms detailed above.
- its moral damage is established in light of its statutory objective, which is to “*develop and support activities to fight poverty and its structural causes, and to promote the defence of fundamental rights worldwide*” through the implementation “*directly or in partnership, of programmes and actions aiming to provide a sustainable and quality access to food and essential services (health, education, water, etc.), for as many people as possible, contribute to a fairer sharing of natural resources, and permitting the most disadvantaged populations - particularly women - to preserve and exercise their fundamental rights (...)*” and of the actions it undertakes; indeed, it leads advocacy missions with political bodies to obtain changes in climate policy, and also organises numerous campaigns to raise awareness and engage civil society in the challenges of the fight against climate change, such as conferences, exhibitions or other events, organizing workshops in schools, publishing editorials and press releases, and undertaking actions on social networks; moreover, it finances research pertaining to climate change to collect pertinent and up-to-date data, and supports developing countries with the implementation of necessary measures to adapt to climate change and mitigate its effects; overall, about 2 million euros have been devoted to these actions since 2009; the aggravation of climate change or, at the very least, the impossibility of remedying it, due to the faults of the State, is detrimental to the collective interests it defends. Indeed, this aggravation constitutes an obstacle to the realisation of its social purpose, which is the protection of the environment; consequently, the environmental harm, established through an excess of greenhouse gas emissions, constitutes a moral damage, for which it is entitled to seek reparation;
- Ecological damage, enshrined in the Civil Code through Act n°2016-1087, is defined as “non-negligible damage to the elements or functions of ecosystems or to the collective benefits, drawn by man from the environment”. Accordingly, it can be established by the administrative judge; in the present case, this damage results from the State's shortcomings, characterised by the worsening of climate change, or at least, by the impossibility of remedying it; this affects the ecological functions of the atmosphere, harm that contributes to the existing ecological damage. Indeed, the identified faults and omissions caused the first surplus of greenhouse gas emissions beginning in 1990 (date of the first IPCC report), a second surplus since 2015 in relation to the carbon budgets defined by the SNBC Decree, and an assured future damage, because anthropogenic greenhouse gases have a lifetime of 12-120 years in the atmosphere. As a result, even if these emissions were to cease immediately, this now would not prevent global temperatures from rising for several decades to come;
- The requested Order aims to call an end to this harm and prevent any aggravation, as authorised under State Council case law.

Through a defence brief, registered on 23 June 2020, the Minister of Ecological and Solidarity Transition concludes that the request is dismissed.

She argues that:

- The petitioner cannot claim the application of the provisions of the Paris Agreement as they do not bear any legal effect over individuals; in any event, the targets, as defined in Articles 2 and

7 have been respected;

- France cannot be held accountable for any failure to comply with the European Convention on Human Rights, as it respects the targets set to protect the populations;
- Regarding the target of reducing greenhouse gas emissions by 17%, France's commitments are more constraining than those of the European Union and have been partially met, with a decrease of 13.8% in 2018, compared to 2005; that the 2020 targets will be met;
- The same can be assessed regarding the target of improving energy efficiency, and numerous measures have been implemented;
- Arguing the disregard of the Charter of the Environment is ineffective in absence of a priority preliminary ruling on the issue of constitutionality, and thus does not create a legal obligation to fight climate change;
- The general principle of law has not been established through administrative case law, and thus cannot be held against the State.
- Non-compliance with carbon budgets is not a violation of the Code of the Environment and important measures have been put in place, including the Energy-Climate Act of November 2019, which sets a series of targets on greenhouse gas reduction, renewable energies, the renovation of thermal sieves, the creation of the High Council for Climate, the green budget (annual report on the environmental impact of the finance bill), the Mobility Orientation Act of December 2019, which requires the complete decarbonisation of land transport, the development of electric vehicles, the greening of public vehicle fleets, the bicycle plan, the sustainable mobility package, the law against waste and on the circular economy of February 2020, which deals with reducing waste production, recycling, and the revised SNBC, and the new multi-annual program of April 2020;
- the Petitioners do not establish a causal link between the alleged faults and omissions and the alleged damage, as France is responsible for 1% of global greenhouse gas emissions, linked to five sectors including transport, the service sector, agriculture, and manufacturing industry; especially as local and regional authorities play an essential role and that, in industrial matters, a structuring role is played by the European Emissions Trading Scheme; and that the State must not excessively restrict individual freedoms;
- the existence of moral damage is not demonstrated;
- the ecological damage is not applicable before the administrative jurisdiction;
- some of the injunctions requested fall within the scope of the law: the administrative judge cannot request the Prime Minister to submit a bill to the Parliament.

Through a reply brief, registered on 3 September 2020, the association Oxfam France comes to the same conclusions by the same means.

It also argues that:

- The Paris Agreement was only invoked in support of a broader argument on France's international commitments;
- The target of increasing the use of renewable energy is one of the principal means of action for

reducing greenhouse gases, but the accumulated delay will not make it possible to reach the binding target of 23% in 2020;

- the target of improving energy efficiency, which is also one of the principal means of action in the fight against greenhouse gases, will not be achieved by 2020 as the State has itself recognised (new EPP, Decree 2020-456 and France's 2020 Report in application of Directive 2012/27/EU of 25 October 2012 on energy efficiency); this lack of awareness reflects the inadequacy of the measures adopted in this area, in spite of its domestic legal obligations and those stemming from the law of the European Union, and constitutes a violation likely to engage State responsibility.
- the European Convention on Human Rights enshrines a State requirement to protect, including through preventive measures; in this particular case, deficiency can be established considering the fact that the health risks have long been known, though underestimated, and the legal framework is inefficient, as demonstrated by the fact that, despite measures to alleviate climate-induced risks, reduction of greenhouse gas emissions trajectories are constantly exceeded, as outlined by the High Council for Climate in its 2020 annual report, and policies and methods regarding adaptation to climate change are inadequate, in part due to low financial investments;
- no direct violation of Articles 1 and 2 of the Charter has been asserted (but it cannot be set aside) and it is false to say that the implementation of the Charter does not create a general obligation to fight against climate change, as shown in the Constitution Council 2019-823 QPC decision; the State Council has ruled that in terms of air pollution, the drafting of plans by State authorities is not enough: those plans must be effective, without remaining limited to laying out objectives without concrete action;
- regarding the respect of obligations under national law:
- the new laws upon which the State relies demonstrate France's lack of ambition in terms of greenhouse gas reduction, building renovations, and development of renewable energies, or highlight deficiencies of the regulatory power;
- the 3rd August, 2009 Law can be invoked to prevent future illegality if administrative acts compromise the achievement of these objectives, regardless of the fact that the time period for greenhouse gas reduction has not yet expired ;
- emission caps fixed by carbon budgets have been surpassed for the 2015-2018 period, as well as for 2019, as observed by the High Council for Climate in its 2020 report; however, those caps are binding and no derogations have been provided for, rather, only a reviewing process every four years;
- the claimant establishes the reality of its moral damage, in particular due to its important financial investment in the "Climate Energy" campaign.

In statements in intervention lodged on the 20th April, 2020 and the 5th January, 2021, i.e following the closure of preliminary investigation, the association Initiatives for Climate and Energy, represented by Mr. Gendreau, asks that the court grant the requests in the "State's legal briefs" .

In a statement in intervention, lodged on the 22th June 2020, the Abbé Pierre Foundation, represented by its presented Mr. Laurent Desmard, represented by Mr. Daoud, requests the court:

1°) to order the State to pay the symbolic sum of 1 euro in compensation for the moral damage suffered;

2°) to order the Prime Minister and competent ministers to put an end to the State's negligence towards its obligations - general and specific - in terms of fighting climate change or alleviating its effects, and to cease the ecological damage, and particularly, in the shortest time period possible, to:

- take the necessary means to reduce greenhouse gas emissions in the atmosphere - in due proportion to worldwide emissions, and taking into consideration the particular responsibility which weighs on developed countries - to a level compatible with the objective to contain the rise of average global temperature below the 1.5°C threshold compared to preindustrial levels, taking into account the greenhouse gas surplus emitted by France since 1990 and additional efforts that aligning with this objective implies;
- at the very least, take all measures to achieve France's objectives in terms of reducing greenhouse gas emissions, developing renewable energies and increasing energy efficiency, as set out in Act No. 2009-967 of 3 August 2009 on the Implementation of the Environment Grenelle, Act No. 2010-788 of 12 July 2010 on National Commitment to the Environment, Act No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth, Decree No. 2015-1491 of 18 November 2015 on National Carbon Budgets and the National Low-Carbon Strategy, Decree No. 2016-1442 of 27 October 2016 on Multi-Year Energy Programming, Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on Effort Sharing, Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the Promotion of the Use of Energy from Renewable Sources, Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on Energy Efficiency, Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on Mandatory Annual Reductions of Greenhouse Gas Emissions by Member States from 2021 to 2030 and Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the Promotion of the Use of Energy from Renewable Sources;
- take necessary measures to adapt national land to the effects of climate change;
- take necessary measures to ensure the protection of the life and health of citizens against climate change-induced risks;

3°) to charge the State for 3000 euros in application of article L. 761-1 of the Code of Administrative Justice.

It maintains that:

- the European Convention on Human Rights imposes obligations upon States, notably in terms of environmental risks weighing on inhabitants and homes of individuals, against which States have the obligation to take concrete measures to protect the right to the protection of homes and goods against serious environmental risks, whether they be established or potential;
- there exists a general principle for each individual to have the right to live in a sustainable climate system, which stems from the general state of the law as much as from contemporary

legal awareness;

- the International Covenant on Economic, Social and Cultural Rights enshrines a right to adequate housing, meaning protected from environmental risks, and creates a positive obligation on States to take adequate measures to ensure the implementation of such a right;
- the State violates its obligations in terms of the evaluation and monitoring of this policy of improvement of energetic efficiency, through a lack of definitions relating to the nature of energy refurbishment and energy insecurity;
- the objective to grant each individual access to energy, notably through an “energy check”, necessarily increases global use of energy if it is not paired with the obligation to reduce greenhouse gas emissions and mitigate climate change in general;
- the implementation of specific measures of home energy refurbishment is not sufficient and will not help reach fixed objectives;
- the State has failed to meet its obligations to mitigate and adapt regarding the “decency decree”, which violates Articles 3 and 5 of the Law Relating to Ecological Transition and Green Growth and does not lay out any level of energy performance, in violation of NLCS objectives;
- faults and omissions specific to the State in terms of the fight against climate change are at the very least the cause of aggravation of climate change and of the impossibility to remedy it, meaning that they are the direct cause of the aggravation of the environmental damage linked to climate change;
- the claimant’s moral damage is ascertained in regards to actions the claimant leads, which consist of funding actions to fight energy insecurity, actions in council and support of local players, investigations, expertise and research in order to make housing a national priority, awareness-raising measures for public authorities through “punch” interventions to call out unacceptable housing conditions or the lack of ambition of certain policies.

In a statement in intervention lodged on the 20th July, 2020, the National Federation for Organic Agriculture (*Fédération nationale d’agriculture biologique*), represented by its president, Mr. Guillaume Riou, requests that the court:

1°) order the State to pay the symbolic sum of **1** euro in compensation for the moral damage suffered;

2°) order the Prime Minister and competent ministers to put an end to the State’s negligence towards its obligations - general and specific - in terms of fighting against climate change or alleviating its effects, to cease the ecological damage, and in particular, to take necessary measures to reach France’s objectives in terms of reduction of greenhouse gas emissions by the agriculture sector and to mobilise sufficient means to favour agricultural practices in line with climate objectives;

3°) charge the State for 3000 euros in application of article L. 761-1 of the Code of Administrative Justice.

It maintains that:

- according to the IPCC's 5th evaluation report, global warming and events linked to it already have a tangible impact on agriculture, including on organic agriculture, as well as on food security; agriculture-related policies play a fundamental role in environmental policies, organic farming being acknowledged as contributing to the alleviation and adjustment to climate change as it emits less greenhouse gas; the French Climate Plan also wishes to "*mobilise agriculture to fight climate change*" and the NLCS, regarding the agriculture sector, "*mainly relies on the pursuit and amplification of actions related to agro-ecological projects and to precision agriculture, in order to reinforce systems which emit less greenhouse gas whether it be directly or indirectly*" and expressly cites organic farming as being the solution;
- its intervention is admissible considering environmental issues are intrinsically linked to agricultural issues, which are the Federation's main issues of concern, according to its statute; thus the State's violation of its objectives in terms of fighting climate change directly jeopardises the collective interests fought for by the Federation, which is actively involved in the fight against climate change;
- the State has failed its obligation to favour production and structuring of the organic sector, thereby compromising its objective to reach 20% certified organic agricultural surface area by 2020, the objective fixed by the Grenelle I Law; indeed, the government's decision to limit the transfer from the first to the second pillar of the common farming policy, dedicated to aid for conversion to organic farming, to 4.2%, reduced financial aid to organic farming, in order to preserve financing of aids which are not conditional on changing farming practices; late payment of CAP aids are a consequence of State negligence in regards to the complexity of administrative tasks that fell upon it, as well as poor organisation of the payment chain of those aids; the State has complicated access to organic farming aids, and placed in great financial difficulty those farmers who committed themselves to taking significant steps to address the challenge of climate change;
- this State violation of its specific obligations to fight climate change through agriculture thus contributes to the violation of its general obligation to fight climate change, an obligation arising from the Charter for the Environment and the European Convention on Human Rights and therefore is liable;
- the causal link between the State's fault and the aggravation of climate change has been ascertained by the claimant, intervention to which the Federation joins;
- such aggravation of climate change is in turn a direct source of damages claimed by the applicant Federation; indeed, if the State had taken all necessary measures in regards to its general and specific obligations in terms of fighting climate change and developing organic farming, some of the Federation's projects could have been achieved and could have reached much different results; in this regards, it is entitled to request 1 euro in compensation for its moral damage;
- injunctions requested can, in essence, put an end to this damage.

In a letter dating from the 11th June, 2020, in application of article R. 611-7 of the

Administrative Code of Justice, parties have been informed that this decision is likely to have been taken on a plea raised of its own motion by the court on the basis of the inadmissibility of the petition which requests reparation for the ecological damage considering that, firstly, Oxfam France is not certified as working for the protection of the environment and, secondly, its mission is not aimed towards the protection of nature and the environment.

In a legal brief lodged on June 25th, 2020, the association Oxfam France responded to the plea involving a matter of public policy.

In a decision on the 7th September, 2020, the date of closure of the investigation was set for October 9th, 2020, at 12:00.

In application of article R. 613-1-1 of the Code of Administrative Justice, in letters from October 29th, 2020 addressed to the Minister for Ecological Transition, the Minister for Economic Affairs and Finances, the Minister for Home Affairs, the Minister for Home Affairs, the Minister for Solidarity and Health, the Minister for Agriculture and Food, the Minister for Europe and Foreign Relations, the Minister for Territorial Cohesion and Relations with Local Authorities were asked to issue their own observations in a one-month time period, on the requests of injunction made by the claimant association, in so far as they correspond to each of their respective attributions.

Legal briefs lodged by the Minister for Ecological Transition and the Minister for Agriculture on January 8th, 2020, have not been released.

II. In one petition and two legal briefs, lodged as n° 1904968 on March 14th, 2019, May 20th, 2019 and September 4th, 2020, the association Notre Affaire A Tous, represented by its president, Ms. Clotilde Bato, represented by Mr. Daoud, requests that the court:

1°) order the State to pay the symbolic sum of **1** euro in compensation for the moral damage suffered;

2°) order the State to pay the symbolic sum of **1** euro for the ecological damage suffered;

3°) order the Prime Minister and competent ministers to put an end to the State's negligence towards its obligations - general and specific - in terms of fighting against climate change or alleviating its effects, and to cease the ecological damage, in particular in the shortest time period possible, to:

- take the necessary means to reduce greenhouse gas emissions in the atmosphere - in due proportion to worldwide emissions, and taking into consideration the particular responsibility which weighs on developed countries - to a level compatible with the objective to contain the rise of average global temperature below the 1.5°C threshold compared to preindustrial levels, taking into account the greenhouse gas surplus emitted by France since 1990 and additional efforts that aligning with this objective implies;
- at the very least, take all measures to achieve France's objectives in terms of reducing greenhouse gas emissions, developing renewable energies and increasing energy efficiency, as set out in Act No. 2009-967 of 3 August 2009 on the Implementation of the Environment Grenelle, Act No. 2010-788 of 12 July 2010 on National Commitment to the Environment, Act

No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth, Decree No. 2015-1491 of 18 November 2015 on National Carbon Budgets and the National Low-Carbon Strategy, Decree No. 2016-1442 of 27 October 2016 on Multi-Year Energy Programming, Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on Effort Sharing, Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the Promotion of the Use of Energy from Renewable Sources, Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on Energy Efficiency, Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on Mandatory Annual Reductions of Greenhouse Gas Emissions by Member States from 2021 to 2030 and Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the Promotion of the Use of Energy from Renewable Sources;

- take necessary measures to adjusting national land to the effects of climate change;
- take necessary measures to ensure protection of life and of the health of citizens against climate change-induced risks;

4°) charge the State for 3000 euros in application of article L. 761-1 of the Code of Administrative Justice.

The association raises the same arguments as those laid out in petition n° 1904967 and furthermore argues that its moral damage is ascertained regarding its statutory purpose, which includes “*promoting climate justice through advocacy aimed at reinforcing environmental legislation and the rights of nature*” and actions it leads, firstly, to fight climate change and protect climate victims, including through appeals to public authorities, active campaigning on ecological transition or advocacy towards political institutions, and secondly, to contribute pedagogical tools on the fight against climate change and the protection of climate victims, through the formation of a “Climate Movement”, awareness campaigns aimed towards the general public or campaigns promoting new legal tools to defend climate systems and the planet; the aggravation of climate change or, at the very least, the impossibility to remedy it, due to the State’s faults, jeopardises collective interests which the association defends, in the sense that this aggravation is an obstacle to the concrete implementation of its statutory purpose, which is the protection of the environment; consequently, the environmental damage defined as excessive greenhouse gas emissions, constitutes a moral damage for which the association is entitled to seek compensation.

Via a legal brief lodged on June 23rd, 2020, the Minister for Ecological and Social Transition concludes that the petition should be dismissed.

She argues that none of the pleas invoked by the claimant are valid.

Via legal briefs in intervention lodged on April 20th, 2020 and January 5th, 2021, i.e following closure of the investigation, the association Initiatives for Climate and Energy (*Initiatives pour le climat et l’énergie*), represented by Mr. Gendreau, asks that the court give effect to “the State’s legal briefs”.

Via a legal brief in intervention, lodged on June 22nd, 2020, the Abbé Pierre Foundation, represented by its president, Mr Laurent Desmard, represented by Mr. Daoud, requests that the court:

1°) order the State to pay the symbolic sum of **1** euro in compensation for the moral damage

suffered;

2°) order the Prime Minister and competent ministers to put an end to the State's negligence towards its obligations - general and specific - in terms of fighting against climate change or alleviating its effects, and to cease the ecological damage, in particular in the shortest time period possible, to:

- take the necessary means to reduce greenhouse gas emissions in the atmosphere - in due proportion to worldwide emissions, and taking into consideration the particular responsibility which weighs on developed countries - to a level compatible with the objective to contain the rise of average global temperature below the 1.5°C threshold compared to preindustrial levels, taking into account the greenhouse gas surplus emitted by France since 1990 and additional efforts that aligning with this objective implies;
- at the very least, take all measures to achieve France's objectives in terms of reducing greenhouse gas emissions, developing renewable energies and increasing energy efficiency, as set out in Act No. 2009-967 of 3 August 2009 on the Implementation of the Environment Grenelle, Act No. 2010-788 of 12 July 2010 on National Commitment to the Environment, Act No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth, Decree No. 2015-1491 of 18 November 2015 on National Carbon Budgets and the National Low-Carbon Strategy, Decree No. 2016-1442 of 27 October 2016 on Multi-Year Energy Programming, Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on Effort Sharing, Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the Promotion of the Use of Energy from Renewable Sources, Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on Energy Efficiency, Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on Mandatory Annual Reductions of Greenhouse Gas Emissions by Member States from 2021 to 2030 and Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the Promotion of the Use of Energy from Renewable Sources;
- take necessary measures to adapt national land to the effects of climate change;
- take necessary measures to ensure protection of the life and health of citizens against climate change-induced risks;

3°) charge the State for 3000 euros in application of article L. 761-1 of the Code of Administrative Justice.

It raises the same arguments as those laid out in its intervention in support of petition n° 1904967.

Via a legal brief in intervention lodged on July 20th, 2020, the Nation Federation for Organic Farming (*Fédération nationale d'agriculture biologique*), represented by its president Mr. Guillaume Riou, requests that the court:

1°) order the State to pay the symbolic sum of 1 euro in compensation for the moral damage suffered;

2°) order the Prime Minister and competent ministers to put an end to the State's negligence

towards its obligations - general and specific - in terms of fighting climate change or alleviating its effects, to cease the ecological damage, and, in particular, to take necessary measures to reach France's objectives in terms of reduction of greenhouse gas emissions by the agriculture sector and to mobilise sufficient means to favour agricultural practices in line with climate objectives;

3°) charge the State for 3000 euros in application of article L. 761-1 of the Code of Administrative Justice.

It raises the same arguments as those laid out in support of petition n° 1904967.

In application of article R. 611-7 of the Code of Administrative Justice, in a letter from June 11th, 2020, parties were informed that this decision was likely to be based on a plea raised of its own motion, which constitutes a ground for setting aside the petition requesting the reparation for the ecological damage considering, firstly, that the association Notre Affaire à Tous is not certified as working for the protection of the environment and, secondly, that it has been created less than five years prior to the day the petition was introduced.

In a legal brief lodged on June 25th, 2020, the association Notre Affaire à Tous responded to the plea involving a matter of public policy.

In a decision on September 7th, 2020, closure of investigation was set to October 9th, 2020 at 12:00.

In application of article R. 613-1-1 of the Code of Administrative Justice, in letters from October 29th, 2020 addressed to the Minister for Ecological Transition, the Minister for Economic Affairs and Finances, the Minister for Home Affairs, the Minister for Home Affairs, the Minister for Solidarity and Health, the Minister for Agriculture and Food, the Minister for Europe and Foreign Relations, the Minister for Territorial Cohesion and Relations with Local Authorities were asked to issue their own observations in a one-month time period, responding to the requests of injunction made by the claimant association, in that they correspond to each of their respective attributions.

Legal briefs lodged by the Minister for Ecological Transition and the Minister for Agriculture on January 8th, 2020, have not been released.

III. Via one petition and two legal briefs, lodged as n° 1904972 on March 14th, 2019, May 20th, 2019 and September 3rd, 2020, the Foundation for Nature and Man (*Fondation pour la Nature et l'Homme*), represented by its chief executive, Mr. Alain Grandejean, represented by Mr. Baldon, requests that the court:

1°) order the State to pay the symbolic sum of **1** euro in compensation for the moral damage suffered;

2°) order the State to pay the symbolic sum of **1** euro for the moral damage suffered;

3°) order the Prime Minister and competent ministers to put an end to the State's negligence towards its obligations - general and specific - in terms of fighting against climate change or alleviating its effects, and to cease the ecological damage, in particular, in the shortest delay possible, to:

- take the necessary means to reduce greenhouse gas emissions in the atmosphere - in due proportion to worldwide emissions, and taking into consideration the particular responsibility which weighs on developed countries - to a level compatible with the objective to contain the rise of average global temperature below the 1.5°C threshold compared to preindustrial levels, taking into account the greenhouse gas surplus emitted by France since 1990 and additional efforts that aligning with this objective implies;
- at the very least, take all measures to achieve France's objectives in terms of reducing greenhouse gas emissions, developing renewable energies and increasing energy efficiency, as set out in Act No. 2009-967 of 3 August 2009 on the Implementation of the Environment Grenelle, Act No. 2010-788 of 12 July 2010 on National Commitment to the Environment, Act No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth, Decree No. 2015-1491 of 18 November 2015 on National Carbon Budgets and the National Low-Carbon Strategy, Decree No. 2016-1442 of 27 October 2016 on Multi-Year Energy Programming, Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on Effort Sharing, Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the Promotion of the Use of Energy from Renewable Sources, Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on Energy Efficiency, Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on Mandatory Annual Reductions of Greenhouse Gas Emissions by Member States from 2021 to 2030 and Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the Promotion of the Use of Energy from Renewable Sources;
- take necessary measures to adapting national land to the effects of climate change;
- take necessary measures to ensure protection of life and of the health of citizens against climate change-induced risks;

4°) charge the State for 3000 euros in application of article L. 761-1 of the Code of Administrative Justice.

The foundation raises the same arguments as those laid out in support of petition n° 1904967 and further argues that its moral damage is ascertained in regards to its statutory purpose, which includes *“contributing to a metamorphosis of our societies through changing individual and collective behaviours”*, in order to *“ensure the preservation of our shared natural heritage, equal sharing of resources, solidarity and the respect for diversity in all ways”*, and actions the foundation leads, including the organisation of seminars, exhibits, and other events, the publication of media for information and communication, or leading field operations and advocacy campaigns destined to favour awareness among citizens and public authorities; the aggravation of climate change or, at the very least, the impossibility to remedy it, due to the State’s faults, jeopardises collective interests which the association defends, in the sense that this aggravation is an obstacle to the concrete implementation of its statutory purpose, which is the protection of the environment; consequently, the environmental damage, defined as excessive greenhouse gas emissions, constitutes a moral damage for which the association is entitled to seek compensation.

In a statement of defence, registered on 23 June 2020, the Minister for Ecological and Solidarity Transition concluded that the application was rejected.

She submits that none of the pleas put forward by the applicant are well-founded.

In its statements in intervention registered on 20 April 2020 and 5 January 2021, i.e. after the conclusion of the investigation, the association Initiatives Pour le Climat et L'énergie, represented by Mr. Gendreau, asked the court to uphold the "conclusions of the State".

By a statement in intervention, registered on 22 June 2020, the Fondation Abbé Pierre, represented by its president, Mr. Laurent Desmard, represented by Mr. Daoud, applied to the court:

1°) to order the State to pay him the symbolic sum of one Euro as compensation for the moral damage suffered;

2°) to enjoin the Prime Minister and the competent ministers to put an end to all State failures to fulfil its general and specific obligations in the fight against climate change or to mitigate its effects, to put an end to the ecological damage, and in particular, within the shortest possible time, to:

- take the necessary measures to reduce greenhouse gas emissions into the atmosphere - in due proportion to global emissions, and taking into account the special responsibility accepted by developed countries - to a level consistent with the objective of containing the rise in global average temperature below 1.5°C above pre-industrial levels, taking into account the surplus of greenhouse gases emitted by France since 1990 and the additional efforts that compliance with this objective implies;
- at the very least, take all measures to achieve France's objectives in terms of reducing greenhouse gas emissions, developing renewable energies and increasing energy efficiency, as set out in Act No. 2009-967 of 3 August 2009 on the Implementation of the Environment Grenelle, Act No. 2010-788 of 12 July 2010 on National Commitment to the Environment, Act No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth, Decree No. 2015-1491 of 18 November 2015 on National Carbon Budgets and the National Low-Carbon Strategy, Decree No. 2016-1442 of 27 October 2016 on Multi-Year Energy Programming, Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on Effort Sharing, Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the Promotion of the Use of Energy from Renewable Sources, Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on Energy Efficiency, Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on Mandatory Annual Reductions of Greenhouse Gas Emissions by Member States from 2021 to 2030 and Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the Promotion of the Use of Energy from Renewable Sources;
- take the necessary measures to adapt the national territory to the effects of climate change;
- take the necessary measures to ensure the protection of the life and health of citizens against the risks of climate change;

3°) to charge the State €3,000 pursuant to the provisions of Article L. 761-1 of the Code of Administrative Justice.

It raises the same pleas in law as those developed in its participation in support of Application

No. 1904967.

By a statement in intervention registered on 20 July 2020, the Fédération nationale d'agriculture biologique (National Federation of Organic Agriculture), represented by its president, Mr. Guillaume Riou, applied to the court:

1°) to order the State to pay him the symbolic sum of one Euro as compensation for the moral damage suffered;

2°) to enjoin the Prime Minister and the competent ministers to put an end to all failures by the State to fulfil its obligations - both general and specific - in terms of combating climate change or mitigating its effects, to put an end to the ecological damage, and in particular to take the necessary measures to achieve France's objectives in terms of reducing greenhouse gas emissions from the agricultural sector and to mobilise sufficient resources to promote agricultural practices that comply with climate objectives;

3°) to charge the State €3,000 pursuant to the provisions of Article L. 761-1 of the Code of Administrative Justice.

It raises the same pleas as those developed in support of Application No. 1904967.

By an order of September 7, 2020, the closing of the investigation was set for October 9, 2020 at 12:00 noon.

By letters dated 29 October 2020, sent in application of Article R. 613-1-1 of the Code of Administrative Justice, the Minister for Ecological Transition, the Minister for the Economy, Finance and Recovery, the Minister of the Interior, the Minister for Solidarity and Health, the Minister for Agriculture and Food, the Minister for Europe and Foreign Affairs and the Minister for Territorial Cohesion and Relations with Territorial Authorities were invited to submit their observations, within one month, on the requests for injunctions made by the applicant association, in so far as they fall within their respective remits.

Briefs submitted by the Minister of Ecological Transition and the Minister of Agriculture, registered on 8 January 2021, were not disclosed.

IV. By an application and two pleadings, registered under no. 1904976 on 14 March 2019, 20 May 2019, and 3 September 2020, the association Greenpeace France, represented by its executive director, Mr. Jean-François Julliard, represented by Mr. Capdebos, applied to the court:

1°) to order the State to pay him the symbolic sum of one Euro as compensation for the moral prejudice suffered;

2°) to order the State to pay him the symbolic sum of one Euro for the ecological damage suffered;

3°) to enjoin the Prime Minister and the competent ministers to put an end to all State failures to fulfil its general and specific obligations in the fight against climate change or to mitigate its effects, to put an end to the ecological damage, and in particular, within the shortest possible time, to:

- take the necessary measures to reduce greenhouse gas emissions into the atmosphere - in due proportion to global emissions, and taking into account the special responsibility accepted by developed countries - to a level consistent with the objective of containing the rise in global average temperature below 1.5°C above pre-industrial levels, taking into account the surplus of greenhouse gases emitted by France since 1990 and the additional efforts that compliance with this objective implies;
- at a minimum, take all measures to achieve France's objectives in terms of reducing greenhouse gas emissions, developing renewable energies and increasing energy efficiency, as set out in Act No. 2009-967 of 3 August 2009 on the Implementation of the Environment Grenelle, Act No. 2010-788 of 12 July 2010 on National Commitment to the Environment, Act No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth, Decree No. 2015-1491 of 18 November 2015 on National Carbon Budgets and the National Low-Carbon Strategy, Decree No. 2016-1442 of 27 October 2016 on Multi-Year Energy Programming, Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on Effort Sharing, Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the Promotion of the Use of Energy from Renewable Sources, Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on Energy Efficiency, Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on Mandatory Annual Reductions of Greenhouse Gas Emissions by Member States from 2021 to 2030 and Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the Promotion of the Use of Energy from Renewable Sources;
- take the necessary measures to adapt the country to the effects of climate change;
- take the necessary measures to ensure the protection of the life and health of citizens against the risks of climate change;

4°) to charge the State €3,000 pursuant to the provisions of Article L. 761-1 of the Code of Administrative Justice.

It raises the same pleas as those put forward in support of Application No. 1904967 and further argues that its moral damage is established in the light of its statutory purpose, which is specifically "the promotion of renewable energy sources and energy saving, the fight against pollution and disruption affecting the fundamental balance of the oceans, soil, subsoil, air, water, biosphere, climate, sites, and landscapes, the defence of the interests of consumers, users, and taxpayers in the fields of the environment, health, and food, of energy, waste management, urban planning, advertising, and the living environment" and the actions it carries out, including public awareness campaigns, scientific research, civil disobedience, legal action against legislation undermining environmental protection and industrial projects impacting on climate change, conferences, publication of information and communication and advocacy activities, designed to raise the awareness of citizens and public authorities; thus, the worsening of climate change or, at the very least, the impossibility of remedying it, attributable to the State's faults, is detrimental to the collective interests it defends, in that this worsening constitutes an obstacle to the achievement of its corporate purpose, which is the protection of the environment; consequently, the environmental damage characterised by a surplus of GHG emissions constitutes moral damage, for which it is entitled to seek compensation.

In requests to participate registered on 20 April 2020 and 5 January 2021, i.e. after the conclusion of the investigation, the association Initiatives pour le climat et l'énergie, represented by Mr.

Gendreau, asked the court to uphold the "conclusions of the State."

By a statement in intervention, registered on 15 June 2020, the association France Nature Environnement, represented by Mr. Le Briero, applied to the court:

1°) to hold that France's failure to comply with the annual limit set for nitrogen dioxide has led to definite ecological damage aggravating the effects of climate change through the emission of a surplus of nitrogen dioxide that contributes to the acidification and eutrophication of the environment and, contributing in part to a reduction in the carbon dioxide absorption capacity of forest and marine ecosystems, the emission of a surplus of nitrogen dioxide, a recognised precursor of ozone, thus partly aggravating the formation of ozone, a recognised greenhouse gas, the formation of a surplus of ozone damaging forest ecosystems, thus partly reducing their capacity to absorb carbon dioxide;

2°) to enjoin the State to take all useful and necessary measures within the shortest possible time in order to ensure compliance with the annual limit value for nitrogen dioxide (NO₂) in the twelve French urban areas and air quality zones which are systematically and persistently exceeded: Marseille, Toulon, Paris, Auvergne-Clermont-Ferrand, Montpellier, Toulouse Midi-Pyrénées, the Reims Champagne-Ardenne regional urban area, Grenoble Rhône Alpes, Strasbourg, Lyon Rhône-Alpes, Vallée de l'Arve Rhône-Alpes and Nice.

It argues that:

its participation is admissible, in particular, from the moment that it has sufficient interest to act; indeed, the association's purpose, according to its articles of association, is "the protection of nature and the environment", the "conservation and restoration of natural, terrestrial, and marine environments, resources and habitats, animal and plant species, the diversity and fundamental balance of the biosphere, water, air, soil, subsoil, sites, and landscapes, the living environment" and the "fight against pollution and disruption", it is recognised as being in the public interest and approved under article L. 141-1 of the French Environment Code and since 2015 has been developing activities in the field of environmental protection and specifically for ecological transition and against climate change;

- the fight against atmospheric pollution is directly related to the fight against climate change; yet France systematically and persistently exceeds the annual limit for nitrogen dioxide set by the directives, which are themselves transposed into the Environment Code; this deficiency has contributed to significant damage to ecosystem elements, their functions, and also to the collective benefits humanity derives from the environment, in particular through the acidification of soils, significantly affecting elements of the forest ecosystem that can lead to its decline, thus damaging its carbon capture function, through the acidification of aquatic environments that can eventually endanger many species and thus the entire food chain, and furthermore reduces the carbon sink capacity of oceans and seas;
- by its failure to comply with the limit established in order to avoid, prevent, or reduce the harmful effects on human health and/or the environment of nitrogen dioxides, the French State has manifestly disregarded its general obligation to combat climate change as it derives from the provisions of the Environmental Charter; that failure is the direct and certain cause of the damage pleaded.

By a statement in intervention, registered on 22 June 2020, the Fondation Abbé Pierre,

represented by its president, Mr. Laurent Desmard, represented by Mr. Daoud, applied to the court:

1°) to order the State to pay him the symbolic sum of one Euro as compensation for the moral damage suffered;

2°) to enjoin the Prime Minister and the competent ministers to put an end to all State failures to fulfil its general and specific obligations in the fight against climate change or to mitigate its effects, to put an end to the ecological damage, and in particular, within the shortest possible time, to:

- take the necessary measures to reduce greenhouse gas emissions into the atmosphere - in due proportion to global emissions, and taking into account the special responsibility accepted by developed countries - to a level consistent with the objective of containing the rise in global average temperature below 1.5°C above pre-industrial levels, taking into account the surplus of greenhouse gases emitted by France since 1990 and the additional efforts that compliance with this objective implies;
- at the very least, take all measures to achieve France's objectives in terms of reducing greenhouse gas emissions, developing renewable energies and increasing energy efficiency, as set out in Act No. 2009-967 of 3 August 2009 on the Implementation of the Environment Grenelle, Act No. 2010-788 of 12 July 2010 on National Commitment to the Environment, Act No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth, Decree No. 2015-1491 of 18 November 2015 on National Carbon Budgets and the National Low-Carbon Strategy, Decree No. 2016-1442 of 27 October 2016 on Multi-Year Energy Programming, Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on Effort Sharing, Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the Promotion of the Use of Energy from Renewable Sources, Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on Energy Efficiency, Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on Mandatory Annual Reductions of Greenhouse Gas Emissions by Member States from 2021 to 2030 and Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the Promotion of the Use of Energy from Renewable Sources;
- take the necessary measures to adapt the country to the effects of climate change;
- take the necessary measures to ensure the protection of the life and health of citizens against the risks linked to climate change;

3°) to charge the State €3,000 pursuant to the provisions of Article L. 761-1 of the Code of Administrative Justice.

It raises the same pleas in law as those developed in its participation in support of Application No. 1904967.

By requests to participate registered on 8 October 2020 and 13 January 2021, the Association nationale de protection des eaux et des rivières (ANPER-TOS) (National Association for the Protection of Water and Rivers), represented by Mr. Le Briero, applied to the court:

1°) to judge that the French State is responsible for failing to act to preserve aquatic resources

and biodiversity against the effects of climate change;

2°) to enjoin the State to take all useful and necessary measures to preserve aquatic resources and biodiversity against the effects of climate change.

It argues that:

- its participation is admissible, in particular, from the moment it has sufficient interest in acting; in fact, under the terms of its articles of association, the purpose of the association is to contribute to the protection of water and the biodiversity of aquatic environments and their habitats, to fight against all forms of pollution, and to protect water resources, and it is recognised as being in the public interest and approved under Article L. 141-1 of the Environment Code;
- the State, firstly, refrains from taking sufficient action to modify agricultural practices in order to mitigate the impacts of climate change, as evidenced by the absence of a reduction in authorisations for water withdrawals for agriculture, the State's choice to develop hillside and substitution reservoirs for agricultural irrigation without modifying cultivation practices, and the continued disappearance of wetlands as a result of the State's inaction to address climate change, and, secondly, it insufficiently preserves rivers and waterways from the impacts of climate change; lastly, it neglects to follow the recommendations of its own departments that would allow for a balanced, democratic, and sustainable management of water resources faced with the challenges posed by global warming.

By an order of September 7, 2020, the closing of the investigation was set for October 9, 2020 at 12:00 noon.

By letters dated 29 October 2020, sent in application of Article R. 613-1-1 of the Code of Administrative Justice, the Minister for Ecological Transition, the Minister for the Economy, Finance and Recovery, the Minister of the Interior, the Minister for Solidarity and Health, the Minister for Agriculture and Food, the Minister for Europe and Foreign Affairs, and the Minister for Territorial Cohesion and Relations with Territorial Authorities were invited to submit their observations, within one month, on the requests for injunctions made by the applicant association, in so far as they fall within their respective remits.

Briefs submitted by the Minister of Ecological Transition and the Minister of Agriculture, registered on 8 January 2021, were not disclosed.

Given the other documents in the case file;

Given:

- the Constitution and its Preamble;
- the United Nations Framework Convention on Climate Change of 9 May 1992 and its Protocol signed in Kyoto on 11 December 1997;
- the Paris Agreement, adopted on 12 December 2015;
- Council Decision 94/69/EC of 15 December 1993;
- Decision 406/2009/EC of the European Parliament and of the Council of 23 April 2009; -

- Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009; -
Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012; -
Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018; -
the Civil Code;
- the Energy Code;
 - the Environment Code;
 - Act No. 2009-967 of 3 August 2009 on the Implementation of the Grenelle Environment Grenelle (1), known as the Grenelle 1 Act;
 - Law No. 2015-992 of 17 August 2015 relating to the Energy Transition for Green Growth;
 - Law no. 2019-1147 of 8 November 2019 relating to Energy and Climate; - Decree no. 2015-1491 of 18 November 2015 relating to National Carbon Budgets and the National Low-Carbon Strategy;
 - Law No. 2016-1442 of 27 October 2016 on Multiannual Energy Programming;
 - Decree no. 2019-439 of 14 May 2019 on the High Council for the Climate; - Decree no. 2020-456 of 21 April 2020 on Multiannual Energy Programming;
 - Decree no. 2020-457 of 21 April 2020 relating to National Carbon Budgets and the National Low-Carbon Strategy;
 - the Code of Administrative Justice;

After hearing in open court:

- the report by Ms. Anne Baratin, First Counsellor;
- the conclusions of Ms. Amélie Fort-Besnard, public rapporteur (advocate reporter);
- the observations of Mr. Alimi and Mr. Kouzmine, lawyers of the association Oxfam France, Mr. Daoud and Mr. Partouche, lawyers of the association Notre Affaire À Tous, Mr. Baldon, lawyer of the Fondation pour la nature et l'homme, Mr. Capdebos, lawyer of the association Greenpeace France, Mr. Daoud, lawyer of the Fondation Abbé Pierre, Mr. Le Briero, lawyer of the association France Nature Environnement;
- and the observations of Ms. Bretonneau and Ms. Risler, representing the Minister for Ecological Transition, and Mr. Maillard, representing the association Initiatives pour le climat et l'énergie.

Notes taken during deliberations were recorded on 18 January 2021 for the Fondation Abbé Pierre, the association Notre Affaire À Tous, the association France Nature Environnement and the Association nationale pour la protection des eaux et des rivières (National Association for the Protection of Water and Rivers).

Considering the following:

1. The aforementioned claims n°s 1904967, 1904968, 1904972 and 1904976, submitted on behalf of Oxfam France, the association Notre Affaire À Tous, the Fondation pour la Nature et l'Homme and the association Greenpeace France, have the same object and have been the subject of a joint investigation. It is appropriate to join them to rule in a single judgment.

On the conclusions on compensation:

2. In a letter dated 17 December 2018, the associations Oxfam France, Notre Affaire À Tous, Greenpeace France, and the Fondation pour la Nature et l'Homme, asked the Prime Minister, the Minister of Ecological and Solidarity Transition, the Minister of Solidarity and Health, the Minister of Agriculture and Food, the Minister of Territorial Cohesion and Relations with Territorial Authorities,

the Minister of Transport, the Minister for the Economy and Finance, the Minister for Public Action and Public Accounts, the Minister for Europe and Foreign Affairs, the Minister for the Interior, and the Minister for Overseas France, firstly, to remedy the moral and ecological damage resulting from the State's shortcomings in combating climate change and, secondly, to put an end without delay to all these shortcomings which, by default, continue to engage its responsibility, i.e. to take all appropriate measures to stabilize atmospheric greenhouse gas concentrations throughout the country at a level that would contain the increase in global average temperature to 1.5° C above pre-industrial levels, in combination with appropriate targets for developed and developing countries, to take all appropriate measures for adaptation in the national territory, and particularly vulnerable areas, to the effects of climate change, to cease any direct or indirect contribution by the French State to climate change, to implement all measures to achieve the minimum targets set for reducing greenhouse gas emissions throughout the national territory, developing renewable energies and increasing energy efficiency. This request having been rejected by a letter dated 15 February 2019, the four aforementioned associations ask the court, firstly, to order the State to compensate them for the moral damage they consider they have suffered and for the ecological damage in the amount of 1 symbolic Euro for each of them, secondly, to enjoin the Prime Minister and the competent ministers to put an end to all the State's failures to fulfil its obligations - general and specific - in terms of the fight against climate change or to mitigate its effects, to put an end to the ecological damage, and in particular, in the shortest possible time, to take the necessary measures to reduce greenhouse gas emissions into the atmosphere - in due proportion to global emissions, and taking into account the special responsibility accepted by developed countries - to a level consistent with the objective of containing the rise in global average temperature below 1.5°C above pre-industrial levels, taking into account the surplus of greenhouse gases emitted by France since 1990 and the additional efforts that compliance with this objective implies; at the very least, take all measures to achieve France's objectives in terms of reducing greenhouse gas emissions, developing renewable energies and increasing energy efficiency, as set by the Programming Act of 3 August 2009 relating to the Implementation of the Environment Grenelle, the Law of 12 July 2010 on National Commitment to the Environment, the Law of 17 August 2015 on Energy Transition for Green Growth, the decree of 18 November 2015 on National Carbon Budgets and the National Low-Carbon Strategy, the decree of 27 October 2016 on Multi-Year Energy Programming, Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on Effort Sharing, Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the Promotion of the Use of Energy from Renewable Sources, Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on Energy Efficiency, Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on Mandatory Annual Reductions of Greenhouse Gas Emissions by Member States from 2021 to 2030 and Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the Promotion of the Use of Energy from Renewable Sources; to take the necessary measures to adapt the national territory to the effects of climate change and to ensure the protection of the life and health of citizens against the risks related to climate change.

On the interventions:

3. Under the terms of article R. 632-1 of the Code of Administrative Justice: "The application for leave to intervene is made by submitting a distinct brief. (...) / *The President of the bench or the President of the Chamber in charge of the investigation shall, where appropriate, order that the statement in intervention be communicated to the parties and shall set the time limit for the parties to reply. / Nevertheless, the judgment of the main case being heard cannot be delayed by an intervention.* ».

4. Firstly, the association France Nature Environnement, whose purpose is to combat anthropogenic damage to the environment, one of the manifestations of which is the contribution to the phenomenon of climate change, has sufficient interest in intervening in support of application No. 1904976 submitted by the association Greenpeace France. Thus, its intervention is admissible.

5. Secondly, an intervention can only be admitted if its author associates himself either with the claimant's submissions or with those of the defendant. Thus, an intervention which presents conclusions distinct from those of one or the other is inadmissible. As a result, the interventions of the Fondation Abbé Pierre and the Fédération nationale de l'agriculture (National Federation of Agriculture).

6. Third, an unmotivated intervention is not admissible. Consequently, the Association Initiatives pour le climat et l'énergie, whose intervention in support of the State did not include a statement of grounds and which, moreover, did not submit a reasoned intervention until after the conclusion of the proceedings, is not admissible to intervene in the present case.

7. Finally, according to Article 10 of the Statutes of the Association nationale pour la protection des eaux et rivières, the Chairman "has the right to take legal action in the name of the Association. *His intervention is therefore not admissible.* In this case, the Chairman may only be replaced by a proxy acting by virtue of a special power of attorney signed by him or, in the event of impediment, by a Vice-Chairman or the Secretary General".

8. In the absence of a special power of attorney given to his representative by the president of the Association nationale pour la protection des eaux et rivières, the only person competent to represent the association by virtue of the aforementioned statutory provisions, Mr. Le Briero was not entitled to intervene before the court on behalf of the association, in support of the conclusions of the association Greenpeace France. Consequently, the intervention on his behalf is inadmissible.

On ecological damage:

9. To request that the State be ordered to pay them the symbolic sum of one Euro and that an injunction be issued against the Prime Minister and the competent ministers to adopt all necessary measures to put an end to the damage linked to the excess greenhouse gas emissions and to prevent this damage from worsening, the applicant associations maintain that the State is liable, through its failure to combat climate change, for ecological damage.

On the admissibility of the action for compensation for ecological damage:

10. Under the terms of Article 1246 of the Civil Code: "Any person responsible for ecological damage is obliged to remedy it". By virtue of Article 1247 of the same Code, ecological damage consists of a non-negligible harm to the elements or functions of ecosystems or to the collective benefits derived by man from the environment. Article 1248 of this code provides that: "The action for compensation for ecological damage is open to any person with standing and interest, such as the State, the Office Français de la Biodiversité ("French Biodiversity Office"), the territorial authorities and their organizations whose territory is concerned, as well as public institutions and associations approved or created at least five years before the date of the institution of proceedings and whose purpose is the protection of nature and the defence of the environment." Finally, under the terms of Article R. 142-1 of the Environment Code: "Any association whose object is the protection of nature and the environment may bring proceedings before the administrative courts for any grievance relating to it. (...)".

11. It follows from all these provisions that associations, whether approved or not, whose statutory purpose is the protection of nature and the defence of the environment are entitled to bring

an action before the administrative court for compensation for ecological damage.

12. First, it results from the instruction that the purpose of Oxfam France is, according to Article 2 of its statutes, to "develop and support activities to fight against poverty and its structural causes and to promote the defence of fundamental rights in the world", by implementing "actions having in particular the effect of (...) contributing to a more equitable sharing of natural resources". To this end, it carries out advocacy with political bodies in order to obtain changes in climate policy, organises campaigns to raise civil society's awareness of the challenges of the fight against climate change, finances research work on climate change, and supports countries in the South by helping them to implement the necessary measures to adapt to and mitigate the effects of climate change. Created in 1988, it is also a member of the Board of Directors of the association Réseau Action pour le Climat, a federation of associations fighting against climate change. Thus, in view of its purpose and its actions in favour of the fight against climate change, this association is admissible to present claims for compensation for ecological damage.

13. Second, the association Notre Affaire À Tous, created in 2015, has, according to Article 2 of its Articles of Association, the aim of "organising, financing or supporting all actions (...) whose purpose is to protect life, the environment, the climate, present and future generations and fauna and flora" and to "promote the need for human beings, governments and States to act for better protection of the environment". To this end, it initiates and supports legal actions, collaborates in scientific publications and reports on climate justice issues, and helps to organise symposia. Thus, in view of its purpose and its actions carried out to raise awareness of the fight against climate change, this association is admissible to present claims for compensation for ecological damage.

14. Third, the Fondation pour la Nature et l'Homme (Foundation for Nature and Mankind), created in 1990 and recognised as being of public utility by decree of 1 August 1996, aims, according to Article 1 of its statutes, to "contribute to the metamorphosis of our societies by changing individual and collective behaviour", with the aim of "ensuring the preservation of the common natural heritage, the equitable sharing of resources, solidarity and respect for diversity in all its forms". To this end, it carries out actions, such as organising symposiums, exhibitions or other events, publishing information and communication materials, or carrying out field and advocacy actions, designed to raise the awareness of citizens and public authorities about the climate emergency. In view of its purpose, the long-standing nature of its commitment and the multiplicity of actions carried out in favour of environmental protection, this association is admissible to present claims for compensation for ecological damage.

15. Finally, the association Greenpeace France, created in 1977 and approved by ministerial order of 28 September 1994 under Article L. 252-1 of the Rural Code, now Article 141-1 of the Environment Code, has as its object, according to Article 1 of its statutes, "the promotion of renewable energies and energy savings, the fight against pollution and disruption affecting the fundamental balance of the oceans, soil, subsoil, air, water, biosphere, climate, sites and landscapes, action to defend the interests of consumers, users and taxpayers in the fields of the environment, health, food, energy (...)". To this end, it carries out the following actions: public awareness, scientific research work, civil disobedience actions, legal recourse against texts undermining environmental protection and industrial projects impacting climate change, symposia, publication of information and media communications, and advocacy actions designed to raise the awareness of citizens and public authorities. In view of its purpose, the long-standing nature of its commitment and the multiplicity of actions carried out in favour of environmental protection, this association is admissible to present claims for compensation for ecological damage.

On the existence of ecological damage:

16. It is evident from the investigation and hearings, and in particular from the latest special reports published by the Intergovernmental Panel on Climate Change (IPCC), in which France is an active participant, contributing 15% of the funding, and to whose conclusions it adheres, that the constant increase in the Earth's average global temperature, which has now reached 1°C compared to pre-industrial times, is mainly due to anthropogenic greenhouse gas emissions. This increase,

responsible for a change in the atmosphere and its ecological functions, has already caused, notably, the accelerated melting of continental ice and permafrost and the warming of the oceans, resulting in an accelerating rise in sea levels. The latter phenomenon is combined with the increase in frequency and severity of extreme weather events, ocean acidification, and ecosystem damage, which have serious and irreversible consequences on human activities such as fisheries and crops, as well as on water resources, and lead to increasing risks of food insecurity and degradation of water resources, human health, and economic growth. It is further evident from these reports that global warming will reach 1.5°C between 2030 and 2052 if anthropogenic greenhouse gas emissions continue to increase at the current rate and that it will persist for several centuries, even if these emissions decrease, because of the persistence of greenhouse gases in the atmosphere, and that a warming of 2°C rather than 1.5°C would seriously increase these various phenomena and their consequences. This work also shows that each additional half degree of global warming significantly increases the associated risks, particularly for the most vulnerable ecosystems and populations, and that limiting this warming to 1.5°C requires a 45% reduction in greenhouse gas emissions by 2030 compared with 2010 and the achievement of carbon neutrality by 2050 at the latest. Finally, it is demonstrated in the work of the Observatoire national sur les effets du réchauffement climatique (National Observatory on the Effects of Global Warming) -- a body attached to the Ministry of Ecological Transition and responsible in particular for describing, through a certain number of indicators, the state of the climate and its impacts on the whole of the national territory -- that in France, the increase in average temperature, which for the decade 2000-2009 is 1.14°C compared with the period 1960-1990, is notably causing an acceleration in the loss of glacier mass, particularly since 2003, and the aggravation of coastal erosion, which affects a quarter of the French coastline, and the risk of submersion, poses serious threats to the biodiversity of glaciers and the coastline, leads to an increase in extreme climatic phenomena such as heat waves, droughts, forest fires, extreme rainfall, floods, and hurricanes, risks to which 62% of the French population is heavily exposed, and contributes to the increase in ozone pollution and the spread of insects that are vectors of infectious agents such as dengue fever or chikungunya. In the light of all these factors, the ecological damage asserted by the applicant associations must be regarded as established.

On the wrongful omissions and causal link:

17. In seeking to establish the State's liability for the ecological damage, the applicant associations maintain that the State has contributed to the aggravation of the damage by failing to comply with its general obligation to combat climate change, firstly by failing to adopt, through its administrative authorities, sufficient measures to ensure the application of the legislative and regulatory framework it has set itself to combat climate change, and secondly, by setting targets for the reduction of greenhouse gas emissions which do not allow the rise in the global average temperature of the atmosphere to be limited to 1.5°C.

On the general obligation to combat climate change:

18. Firstly, Article 2 of the United Nations Framework Convention on Climate Change (UNFCCC) of 9 May 1992 stipulates that: *"The ultimate objective of this Convention and any related legal instruments that may be adopted by the Conference of the Parties is to stabilize, in accordance with the relevant provisions of the Convention, greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system (...)."* Article 3(1) of the Convention notably states therein that: *"The Parties have the responsibility to preserve the climate system for the benefit of present and future generations, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. It is therefore incumbent on the developed country Parties to take the lead in combating climate change and its adverse effects."* Furthermore, under the terms of Article 2 of the Paris Agreement of 12 December 2015, concluded within the framework of the Conference of the Parties mentioned in Article 7 of the Convention: *"1. This Agreement, in contributing to the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and the fight against poverty, inter alia by: / (a) Containing the rise in global average temperature well below 2°C above pre-industrial levels and continuing efforts to limit the rise in temperature to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the*

risks and impacts of climate change; (...). / 2. This Agreement shall be applied in accordance with equity and the principle of common but differentiated responsibilities and respective capabilities, taking into account different national circumstances.” Under the terms of paragraph 1 of Article 4 of the Agreement: “In order to achieve the long-term temperature objective set forth in Article 2, the Parties shall seek to achieve the global cap on greenhouse gas emissions as soon as possible, on the understanding that developing country Parties will take longer to reach the cap, and to achieve reductions rapidly thereafter in accordance with the best available science so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of the century, on the basis of equity, and in the context of sustainable development and poverty reduction.” Under the terms of paragraph 2 of the same Article: “Each Party shall communicate and update the successive nationally determined contributions it intends to make. Parties shall take domestic mitigation measures to achieve the objectives of such contributions.”

19. Furthermore, by Decision 94/69/EC of 15 December 1993 concerning the conclusion of the UNFCCC, the Council approved the Convention on behalf of the European Community, now the European Union. Notably for the purpose of implementing the aforementioned stipulations, the European Union has adopted a first "Climate and Energy Package 2020", consisting in particular of Decision No. 406/2009/EC of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020. Subsequently, the European Union, which acceded to the Paris Agreement, notified the Conference of the States Parties to the UNFCCC, pursuant to the provisions of Article 4 of that Agreement, of a "nationally determined contribution" (NDC) for the Union and its Member States corresponding to a minimum 40% reduction in greenhouse gas emissions in 2030 compared with their 1990 level. It then adopted a second "Climate Energy Package" based in particular on Regulation (EU) 2018/842 of 30 May 2018 on mandatory annual reductions of greenhouse gas emissions by Member States from 2021 to 2030 contributing to climate action to meet their commitments under the Paris Agreement.

20. Finally, under the terms of Article 3 of the Environment Charter, which has constitutional value: "Every person must, under the conditions defined by law, prevent damage to the environment or, failing that, limit the consequences thereof". The provisions of Article L. 100-4 of the Energy Code, in their wording resulting from the law of 8 November 2019 on energy and the climate, specify that: "I. - In order to respond to the ecological and climatic emergency, the national energy policy has the following objectives: /1° To reduce greenhouse gas emissions by 40% between 1990 and 2030 and to achieve carbon neutrality by 2050 by dividing greenhouse gas emissions by a factor of more than six between 1990 and 2050. The trajectory is specified in the carbon budgets mentioned in Article L. 222-1 A of the French Environment Code. (...)". In order to achieve this objective of reducing greenhouse gas emissions, Article L. 222-1 B of the Environment Code provides that: "I. - The national low-carbon development strategy, known as the "low-carbon strategy", set by decree, defines the procedure to be followed to conduct the policy of mitigating greenhouse gas emissions under conditions that are economically sustainable in the medium and long term in order to achieve the objectives defined by the law provided for in Article L. 100-1 A of the Energy Code. (...)”.

21. As a result of these stipulations and provisions, the French State, which has recognised the existence of an "emergency" to combat the ongoing climate change, has also recognised its capacity to act effectively on this phenomenon in order to limit its causes and mitigate its harmful consequences. To this end, it has chosen to subscribe to international commitments and, at the national level, to exercise its regulatory power, in particular by conducting a public policy to reduce greenhouse gas emissions emitted from the national territory, in which it has undertaken to achieve, by specific and successive deadlines, a certain number of objectives in this area.

On the insufficient action of the State with regard to the objectives it has set for itself:

22. The applicant associations maintain that the State is liable for the aggravation of the ecological damage resulting from the greenhouse gas emissions established hereinabove to the extent that its action is insufficient to achieve the objectives which it has set itself with regard to improving

energy efficiency, increasing the share of energy produced from renewable sources, and reducing greenhouse gas emissions.

On improving energy efficiency:

23. The preamble to the Decision of the European Parliament and of the Council of 23 April 2009 states that: "(...) The European Council of March 2007 decided that the Community makes a firm independent commitment to reduce its greenhouse gas emissions by at least 20% below 1990 levels by 2020. / The improvement of energy efficiency is an essential element for Member States to meet the requirements set out in this Decision". Pursuant to Article L. 100-1 of the Energy Code, energy policy "(...) 4° preserves human health and the environment, in particular by combating the aggravation of the greenhouse effect (...)". Under the terms of Article L. 100-1 of the same code: "In order to achieve the objectives defined in Article L. 100-1, the State (...) shall ensure, in particular, that (...): / 1° Controlling energy demand and promoting energy efficiency and sobriety (...)". To this end, under the terms of Article L. 100-2 of the same code: "the State (...) ensures, in particular, that: / 1° controlling energy demand and promoting energy efficiency and sobriety (...)" and under the terms of Article L. 100-4 of this code: "I. - In order to respond to the ecological and climatic emergency, the national energy policy has the following objectives: / (...) 2° To reduce final energy consumption by 50% in 2050 in relation to the 2012 baseline, with intermediate targets of around 7% in 2023 and 20% in 2030". In this context, Article 2 of the decree of 27 October 2016 on multiannual energy programming stipulates that: "I. - The targets for reducing fossil primary energy consumption compared to 2012 are as follows: / - for natural gas: - 8.4% in 2018 and - 15.8% in 2023; / - for oil: - 15.6% in 2018 and - 23.4% in 2023; / - for coal: - 27.6% in 2018 and - 37% in 2023. / II. - The target for reducing final energy consumption compared to 2012 is -7% in 2018 and -12.6% in 2023. ", the latter objective having been revised by the decree of 21 April 2020 to be reduced to -7.5% in 2023.

24. As a result of the inquiry, including a study by the Institut du Développement Durable et de Relations Internationales ("Institute for Sustainable Development and International Relations") quoting data compiled by the Data and Statistical Studies Department of the Ministry of Ecological Transition, it appears that final energy consumption fell by 1.7% between 2012 and 2017, well below the rate required to meet the target set for 2018, which would require a fourfold increase in the annual rate of improvement in energy efficiency in the end-use sectors. In addition, France's reports of April 2019 and June 2020, transmitted pursuant to Directive 2012/27/EU of the Parliament and of the Council of 25 October 2012 on energy efficiency, specify that this consumption fell by 0.4% between 2017 and 2018 and state that "achieving the objectives for 2020 requires a rapid increase in the measures taken or new measures". Finally, the draft of the new multiannual energy programme notes that "the current pace is insufficient to achieve the 2020 target of the Energy Efficiency Directive. The baseline projection indicates that the 2020 target would not be reached until 2026".

25. However, if the inquiry shows that the State's targets for improving energy efficiency have not been met and that this deficiency has contributed to the failure to meet the greenhouse gas reduction target discussed below, the gap thus observed between objectives and achievements, since improving energy efficiency is only one of the sectoral policies that can be mobilised in this field, cannot be regarded as having contributed directly to the worsening of the ecological damage for which the applicant associations seek compensation. Consequently, their conclusions on this point can only be dismissed.

25. However, if the inquiry shows that the State's targets for improving energy efficiency have not been met and that this deficiency has contributed to the failure to meet the greenhouse gas reduction target discussed below, the gap thus observed between objectives and achievements, since improving energy efficiency is only one of the sectoral policies that can be mobilised in this field, cannot be regarded as having contributed directly to the worsening of the ecological damage for which the applicant associations seek compensation. Consequently, their conclusions on this point can only be dismissed.

On increasing the share of renewable energies in the gross final energy consumption:

26. In this area, Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 states, in its first recital, that: "the control of European energy consumption and the increased use of energy from renewable sources, together with energy savings and increased energy efficiency, constitute important parts of the package of measures needed to reduce greenhouse gas emissions and comply with the UNFCCC, and with further [...] reduction commitments beyond 2012" and requires Member States, in its Article 3, to set overall binding targets for the share of energy from renewable sources. To this end, under the terms of Article L. 100-4 of the Energy Code: "I. - In order to respond to the ecological and climatic emergency, the national energy policy has the following objectives: / (...) 4° To increase the share of renewable energies to 23% of gross final energy consumption in 2020 and to 32% in 2030 (...)", the latter objective having been raised to 33% by the law of 8 November 2019 relating to energy and the climate.

27. It is evident from the inquiry and investigation, and in particular from data from Eurostat, the European Commission's Directorate-General for Community-wide statistical information, that in France, the share of renewable energies in gross final energy consumption in 2018 was 16.6%, an increase of 0.9% compared to 2016.

28. However, if it thus emerges from the investigation that the objectives set by the State have not been achieved, the gap between the objectives and the achievements, since the policy in this area is itself only one of the sectoral policies which can be mobilised, cannot be regarded as having contributed directly to the aggravation of the ecological damage for which the applicant associations are seeking reparation. Consequently, their conclusions on this point can also and only be dismissed.

On the objective of reducing greenhouse gas emissions:

29. In this area, firstly, Annex II to Decision No 406/2009/EC of 23 April 2009, on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020, set a greenhouse gas emission limit for France for 2020 of -14% compared to 2005 emission levels. Annex I of Regulation (EU) 2018/842 of 30 May 2018 on annual binding reductions of greenhouse gas emissions by Member States from 2021 to 2030, provided for in its Article 4, sets for each Member State the level of this minimum contribution and has assigned to France an obligation to reduce greenhouse gas emissions by - 37% in 2030 compared to its 2005 level. On the other hand, the provisions of Article L. 100-4 of the Energy Code, in their wording resulting from the law of 8 November 2019 on energy and the climate, specify that: "I. - *In order to respond to the ecological and climatic emergency, the national energy policy has the following objectives: / 1° To reduce greenhouse gas emissions by 40% between 1990 and 2030 and to achieve carbon neutrality by 2050 by dividing greenhouse gas emissions by a factor of more than six between 1990 and 2050. The trajectory is specified in the carbon budgets mentioned in Article L. 222-1 A of the French Environment Code. For the application of this 1°, carbon neutrality is understood as a balance on the national territory, between anthropogenic emissions by sources and anthropogenic absorptions by sinks of greenhouse gases, as mentioned in Article 4 of the Paris Agreement ratified on 5 October 2016. The accounting of these emissions and removals shall be carried out according to the same modalities as those applicable to national greenhouse gas inventories reported to the European Commission and within the framework of the United Nations Framework Convention on Climate Change, without taking into account international carbon offset credits; / (...)*". In order to achieve this objective of reducing greenhouse gas emissions, Article L. 222-1 A of the Environment Code provides that: "*For 2015-2018, and then for each consecutive five-year period, a national ceiling on greenhouse gas emissions, known as the "carbon budget", is set by decree.* " and Article L. 222-1 B of the same code, in its wording resulting from the aforementioned Act of 8 November 2019, in particular that: "I. - *The national low-carbon development strategy, known as the "low-carbon strategy", set by decree, defines the procedure to be followed to conduct the policy of greenhouse gas emission mitigation under conditions that are economically sustainable in the medium and long term (...)* / II. - *The decree establishing the low-carbon strategy divides the carbon budget for each of the periods mentioned in Article L. 222-1 A by major sectors, in particular those for which France has made European or international commitments, by sector of activity and by category of greenhouse gases. The breakdown by period takes into account the cumulative effect of the emissions considered with respect to the*

characteristics of each type of gas, in particular the duration of its stay in the upper atmosphere. (...) / It also divides the carbon budgets into indicative annual emission segments. / III. - The State, territorial authorities and their respective public institutions take into account the low-carbon strategy in their planning and programming documents which have a significant impact on greenhouse gas emissions. / As part of the low-carbon strategy, the level of financial support for public projects includes, systematically and among other criteria, the criterion of contribution to the reduction of greenhouse gas emissions. The principles and methods for calculating greenhouse gas emissions from public projects are defined by decree.". Under the terms of Article D. 222-1-A of the Environment Code as amended by the decree of 18 November 2015 relating to national carbon budgets and the national low-carbon strategy: "*I. - Greenhouse gas emissions accounted for under the carbon budgets established pursuant to Article L. 222 1 A are those that France notifies to the European Commission and within the framework of the United Nations Framework Convention on Climate Change. / (...) "Under the terms of Article D. 222-1-B of the same code: "I. - Compliance with carbon budgets is assessed on the basis of the most up-to-date annual inventories submitted to the European Commission or under the United Nations Framework Convention on Climate Change."*. Finally, pursuant to Article 2 of the Decree of 18 November 2015: "The carbon budgets for the periods 2015-2018, 2019-2023 and 2024-2028 are set at 442, 399 and 358 Mt CO₂eq per year respectively, compared to annual emissions in 1990, 2005 and 2013 of 551, 556 and 492 Mt CO₂eq respectively. "These latter targets were revised by the decree of 21 April 2020 relating to national carbon budgets and the national low-carbon strategy to 422 Mt of CO₂eq per year for the period 2019-2023 and 359 for 2024-2028. It follows from all of the above that, in line with the commitments it has set itself and the timetable it has established, the State has recognised that it is in a position to take direct action on greenhouse gas emissions.

30. In this respect, it is evident from the investigation, in particular the annual reports published in June 2019 and July 2020 by the High Council for the Climate, an independent body set up by decree of 14 May 2019 to issue opinions and recommendations on the implementation of public policies and measures to reduce France's greenhouse gas emissions, and the data collected by the Centre interprofessionnel technique d'études de la pollution atmosphérique (CITEPA), a State operator which carries out an annual inventory of France's greenhouse gas emissions on behalf of the Ministry of Ecological Transition, that as far as the reduction of these emissions is concerned, at the end of the 2015-2018, France has substantially exceeded its first carbon budget by 3.5%, i.e. around 61 Mt CO₂eq per year, achieving an average reduction in emissions of 1.1% per year, whereas the budget set required a reduction of around 1.9% per year, with all sectors of activity exceeding their targets for that year, but particularly transport, agriculture, construction, and industry, which account for more than 85% of emissions. For 2019, the decrease in emissions amounted to 0.9% compared to 2018, while the second carbon budget, set for the period 2019-2023, foresees a decrease of 1.5% per year. In this respect, in its two annual reports, the High Council for the Climate noted that "France's actions are not yet commensurate with the challenges and objectives it has set for itself" and noted the absence of substantial reductions in all the sectors concerned. As a result, the State must be regarded as having disregarded the first carbon budget and thus failed to carry out the actions that it had itself recognised as likely to reduce greenhouse gas emissions.

31. Moreover, the fact that the State could achieve the objectives of reducing greenhouse gas emissions by 40% in 2030 compared with their 1990 level and achieving carbon neutrality by 2050 does not exonerate it from its liability where failure to comply with the path it has set itself to achieve those objectives results in additional greenhouse gas emissions, which will accumulate with the previous emissions and produce effects throughout the lifetime of these gases in the atmosphere, i.e. around 100 years, thus aggravating the ecological damage claimed.

On the inadequacy of the objectives to limit warming to 1.5° C:

32. While the applicant associations further contend that France, like the other States Parties to the UNFCCC, has made insufficient commitments to reduce greenhouse gas emissions in order to achieve the objective of limiting the rise in global temperature to 1.5° C above pre-industrial levels, it follows from the investigation that France, as has been stated, has committed itself under Article L. 100-4 of the Energy Code, to reduce its greenhouse gas emissions by 40% between 1990 and 2030 and to achieve carbon neutrality by 2050 by dividing greenhouse gas emissions by a factor of more than six

between 1990 and 2050, which is a more ambitious target than that set by the European Union. Consequently, even supposing that the commitments given by all the States Parties were insufficient, the applicant associations do not establish that this inadequacy was the direct cause of the ecological damage relied on.

On the inadequacy of evaluation and monitoring measures and adaptation measures:

33. It follows from the investigation that the inadequacy of those measures, supposing it to be established, cannot be regarded as having directly caused the ecological damage for which the applicant associations are seeking compensation.

34. It follows from all of the foregoing that the applicant associations are entitled to maintain that, to the extent of the commitments which it had entered into and which it failed to comply with, in the context of the first carbon budget, the State must be held liable, within the meaning of the abovementioned provisions of Article 1246 of the Civil Code, for part of the ecological damage found in paragraph 16. For the rest, their conclusions must be rejected.

On compensation for ecological damage:

On the claim for monetary compensation:

35. Under the terms of article 1249 of the Civil Code: "Repairing ecological damage is primarily done in kind. / *In the event of legal or de facto impossibility or inadequacy of remedial measures, the court shall order the person responsible to pay damages, earmarked for restoring ecology, to the plaintiff or, if the defendant is unable to take appropriate measures to this end, to the State. / The assessment of the damage takes into account, where appropriate, the remedial measures already taken, in particular in the context of the implementation of Title VI of Book I of the Environment Code.*".

36. It follows from these provisions that the compensation for ecological damage, which is a non-personal damage, is to be made primarily in kind, and that only if it is impossible or insufficient to make reparation measures, the court will order the person responsible to pay damages to the plaintiff, that will be allocated to repairing ecology.

37. In the present case, first, the applicant associations do not show that the State would be unable to make good in kind the ecological damage for which it is held responsible in the present judgment and, second, the request for payment of one symbolic Euro as compensation for the ecological damage is unrelated to the extent of that damage. It follows that this claim can only be rejected.

On the request for compensation in kind and the associated injunction applications:

38. Firstly, under the terms of article R. 911-1 of the Code of Administrative Justice: "Where its decision necessarily implies that a legal person governed by public law or a body governed by private law entrusted with the management of a public service must take an enforcement measure in a specific sense, the court, having received submissions to that effect, shall, by the same decision, prescribe that measure together with, where appropriate, a time limit for its implementation. (...)". Further, when the Administrative Court rules on an action for compensation for damage attributable to wrongful conduct by a public person and finds that such conduct and damage continue to exist at the date on which it rules, it may, by virtue of its powers of full jurisdiction and when it is seized of conclusions to this effect, enjoin the public person in question to put an end to such conduct or to mitigate its effects.

39. As stated above, the State can only be held liable for the ecological damage invoked by the applicant associations to the extent that the failure to comply with the first carbon budget contributed to the aggravation of greenhouse gas emissions. Consequently, the injunctions requested by the applicant associations are admissible only insofar as they seek to repair the damage thus established or to prevent it from worsening in the future. The state of the investigation does not allow the court to

determine precisely what measures should be ordered to the State for this purpose. Consequently, it is appropriate to order, as a preliminary matter, an additional investigation in order to communicate to all the parties the uncommunicated observations of the competent ministers, which had been requested by the court on 29 October 2020 within a period of one month, and which were only transmitted to the court on 8 January 2021. A time-limit of two months from the notification of this judgment should be fixed for this purpose.

On moral damage:

On the existence of a moral damage:

40. The provisions of Article L. 142-1 of the Environment Code cited in point 10 do not exempt an association seeking compensation for harm, in particular moral harm, caused by the harmful consequences of a wrongful failure by the administrative authority to demonstrate the existence of direct and certain harm resulting, for that association, from the fault committed by the State.

41. In the present case, in view of the State's wrongful failure to implement public policies enabling it to achieve the greenhouse gas emission reduction targets it has set itself, the applicant associations may claim compensation from the State for those wrongful failings, subject to demonstrating the existence of direct and certain harm resulting therefrom for the associations.

On compensation for damages:

As regards Oxfam France:

42. The association Oxfam France, whose statutory purpose has been described in point 12, has long been implementing actions in particular to help territories adapt to and mitigate the effects of climate change, inasmuch as these effects affect the functions of ecosystems that are essential for the development of human societies. As a result, the State's wrongful failure to meet its commitments in the fight against climate change has undermined the collective interests it defends. Consequently, the State should be ordered to pay Oxfam France the symbolic sum of one Euro which is claimed as compensation for that damage.

As regards Notre Affaire à Tous:

43. The association Notre Affaire À Tous, whose statutory purpose has been described in point 13, carries out a variety of public information and awareness-raising activities in the fight against climate change, and supports or conducts legal and contentious actions on behalf of local authorities or individuals who are victims of environmental damage. As a result, the State's wrongful failure to meet its commitments in the fight against climate change has undermined the collective interests it defends. Consequently, the State should be ordered to pay Notre Affaire à Tous the symbolic sum of one Euro which is claimed as compensation for that damage.

As regards the Fondation pour la Nature et l'Homme:

44. The Fondation pour la Nature et l'Homme, whose statutory purpose was described in point 14, has long been involved in numerous and concrete actions in the field of environmental education and the protection of biodiversity. In addition, it was designated, by order of 18 March 2013, to take part in the debate on the environment taking place within the framework of the national consultative bodies and with a view to examining the environmental and sustainable development policies referred to in Article L. 141-3 of the Environment Code. As a result, the State's wrongful failure to meet its commitments in the fight against climate change has undermined the collective interests it defends. Consequently, the State should be ordered to pay Fondation pour la Nature et l'Homme the symbolic sum of one Euro which is claimed as compensation for that damage.

As regards Greenpeace France:

45. Since 1977, Greenpeace France, whose statutory purpose was described in point 15, has carried out a large number of actions to help reduce global warming and limit its increase, in particular by analysing national energy and climate policies, issuing proposals for energy transition scenarios, running campaigns, and advocating new sustainable consumption models and the abandonment of fossil fuels or a halt to imported deforestation. As a result, the State's wrongful failure to meet its commitments in the fight against climate change has undermined the collective interests it defends. Consequently, the State should be ordered to pay the applicant association Greenpeace France the symbolic sum of one Euro which is claimed as compensation for that damage.

DECIDES:

Article 1: The intervention of the association France Nature Environnement is allowed.

Article 2: Interventions by the Fondation Abbé Pierre, the Fédération nationale de l'agriculture biologique, the Association Initiatives pour le climat et l'énergie and the Association nationale pour la protection des eaux et rivières are not allowed.

Article 3: The State will pay Oxfam France, Notre Affaire À Tous, the Fondation pour la Nature et l'Homme, and Greenpeace France the sum of one Euro each in compensation for their moral damage.

Article 4: It is ordered, before ruling on the conclusions of the four applications, for the court to enjoin the State, in order to halt for the future the worsening of the ecological damage noted, to take all measures to achieve the objectives that France has set itself with regard to the reduction of greenhouse gas emissions, a further investigation in order to submit the uncommunicated observations of the competent ministers to all the parties, within two months of the notification of this judgment.

Article 5: The conclusions of the four applications for the payment of one symbolic Euro as compensation for the ecological damage are rejected.

Article 6: All rights and means of the parties which are not expressly ruled on by the present judgment are reserved until the end of the proceedings.

Article 7: This judgement will be notified to Oxfam France, Notre Affaire À Tous, the Fondation pour la Nature et l'Homme, Greenpeace France, France Nature Environnement, the Fondation Abbé Pierre, the Fédération nationale de l'agriculture biologique, the Association Initiatives pour le climat et l'énergie, the Association Nationale pour la protection des eaux et rivières, the Secretary General of the Government, the Minister for Ecological Transition, the Minister for the Economy, Finance and Recovery, the Minister for the Interior, the Minister for Solidarity and Health, the Minister for Agriculture and Food, the Minister for Europe and Foreign Affairs and the Minister for Territorial Cohesion and Relations with Territorial Authorities.

Deliberated after the hearing of 14 January 2021, at which:

Mr. Duchon-Doris, President,
Ms. Baratin, First Counsellor,
Mr. Perrot, Counsellor.

Read in open court on February 3, 2021.

The Judge-Rapporteur, A. BARATIN

The President,

J.-C. DUCHON-DORIS

The court clerk,

L. THOMAS

The Republic requests and orders the Secretary General of the Government, the Minister of Ecological Transition, the Minister of Economy, Finance and Recovery, the Minister of the Interior, the Minister of Solidarity and Health, the Minister of Agriculture and Food, the Minister for Europe and Foreign Affairs and the Minister for Territorial Cohesion and Relations with Territorial Authorities, each in so far as he or she is concerned, and to all judicial officers, to provide for the enforcement of this Decision as regards the ordinary legal remedies against private parties.

Translation credits : Claudine GUIRAUD, Noémie GARRIGOUX, Bénédicte KAHLAT