



Pesticide newsletter

N°4 - July 2021

Jurisdictional news



France: 21 anti-glyphosate activists released on grounds of necessity

The criminal court of Foix, in Ariège, [decided](#) on June 1st, 2021 to release twenty-one anti-GMO activists that were judged for "damage to the property of others in meeting". On September 27th, 2016 and March 1st, 2017, the activists had painted the labels of hundreds of cans of glyphosate-based herbicides in order to denounce the risks of these products. The prosecutor had required sentences ranging from €150 to €300 suspended fines. But the court recognized that the potential dangers of these products for human health and the environment were more important than the offence committed and that the activists had acted in a "state of necessity".

The court based its decision on Article 127-7 of the Penal Code which "*states that the person who, faced with a present and imminent danger that threatens himself,*

others or property, performs an act necessary to safeguard the person or property, unless there is a disproportion between the means employed and the seriousness of the threat, is not criminally responsible". It recognizes that the danger of glyphosate is established and considers that the action was legitimate since it aimed at "*informing the population as well as the managers of the stores involved, in the face of this particularly insidious danger*". Moreover, the judged action met the requirement of proportionality because it was carried out without violence and the damage was limited to the targeted products.

In first instance in 2017, the president of the criminal court of Foix had accepted the request of the activists' counsel, Guillaume Tumerelle, to refer four preliminary questions to the Court of Justice of the European Union (CJEU) related to the European authorization of glyphosate, and mainly the respect of the precautionary principle. In its [judgment](#) of October 1st, 2019, the CJEU confirmed the validity of the European rules, considering that there was no evidence to question it, but it recalls that the regulation requires to assess the dangerousness of a product, taking into account the internal cocktail effects of the marketed products and not only the effects of the active ingredient, which is not sufficiently the case today. The Court of Foix thus [notes](#) that the CJEU ruling allows to deduce the under-assessment of the risks of the "probably carcinogenic" products in question and that it is this under-assessment that allowed EFSA to conclude to the absence of toxicity of glyphosate, while the International Agency for Research on Cancer (IARC) from the WHO concluded the opposite. It concludes that "*this necessary action to inform the population and the managers of the stores involved, in the face of this particularly insidious danger, meets the requirement of proportionality required by the concept of necessity*". The defendants were therefore acquitted.

This decision, the first where the state of necessity is recognized for this type of action, could have an influence on other legal actions. Similar activities in Hérault and Morbihan regions at the same time had led to suspended fines. In other actions of civil disobedience, where the state of necessity has been pleaded, activists had been released only on the grounds of freedom of expression.

This decision strengthens the actions led by environmental activists and pushes the public to question the legitimacy of the sale of these toxic chemicals.

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