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ECOLOGICAL TRANSITION AND PUBLIC SERVICES

In recent years, the issues of climate change and environmental pollution have become increasingly important in public debate. They are now regularly discussed, from the private sphere to the highest decision-making levels.

The issues of ecology and sustainable development gradually emerged in public opinion in the second half of the 20th century. Until the 2000s, the symbolic commitments of States responded to the growing concerns of their populations. However, in recent years, these commitments no longer seem to be sufficient. Associations, the scientific community and the younger generations are now demanding strong actions and concrete results. This is reflected in unprecedented legal challenges, civil disobedience operations, demonstrations and increasingly damning scientific reports. Committed to reforming the law and the public service to meet these new demands, the French State is even considering amending its Constitution¹. The Gendarmerie fits this context, through internal sustainable development initiatives and legal obligations. It is a key player in ensuring compliance with environmental law, through its missions that are preventive as well as repressive and through its eco-responsible approaches.

While political commitments in favor of the environment grow stronger (I), France has gradually translated its positions on the international scene into a search for exemplary public services (II), including the Gendarmerie Nationale, which is fully entering the era of eco-responsibility (III).

I) Increasingly strong political commitments to the environment

Although reflections on the impact of Man on his environment were conducted in the 19th century², the birth of the environmental movement in the Western world dates back to the 1960s. The book *Silent Spring*³ (1962) and the report *The Limits to Growth*⁴ (1972) were two major publications raising public awareness about the environmental problems resulting from human activity. In 1987, the Brundtland Report defined for the first time sustainable development as "a pattern of development that meets the needs of the present generations without compromising the ability of future generations to meet their own needs". Over time, this concept has been enriched to its contemporary form with the three pillars of sustainable development : the social, ecological and economical aspects.

- 1 See the popular referendum on the addition of the notion of ecocide in Article 1 of the Constitution of the French Republic.
- 2 For example, in *Man and nature*, published in 1864, George Marsh deals with the destructive impact of mankind on the environment.
- 3 *Silent Spring* was written by Rachel Carson and published in 1962. The book is dedicated to the negative effects of pesticides and environmental pollution. It was a great success and contributed to the public awareness on these problems.
- 4 *The Limits to Growth*, also known as the "Meadows Report", was published in 1972 after a commission from the Club of Rome. It states that there can be no infinite growth in a world with finite resources. Therefore, any production of a finite resource will pass through a maximum and then dry up due to the depletion of the resource. The report advocates regulating the global economy to avoid a sudden collapse.

One of the major concerns of ecologists is the preservation of biodiversity. As early as the 19th century, this was reflected in the founding of the Société nationale de protection de la nature (*National Society for the Protection of Nature*) in France in 1854 and the creation of the Yellowstone National Park in the United States in 1872. But it is after the Second World War that the relationship to ecology developed. Thus, the WWF (World Wildlife Fund), founded in 1961, raises public awareness about endangered species, destruction and pollution of natural habitats. Since then, many international conventions have been signed⁵ to protect fauna, flora and their habitats. At the same time, the IPCC⁶ has been mandated since 1988 to understand climate change and its effects, as well as to enlighten political decision-makers on the scope of their decisions and the possibilities available to them. Besides, following its 5th assessment report, published in 2014, public opinion seems to have taken the measure of climate change and the difficulty of containing it to levels deemed reasonable.

Despite these efforts, human activities continue to degrade natural ecosystems. The current rate of extinction of species proves this: it is 100 to 1,000 times higher than the average natural rate⁷. We therefore speak of the Holocene extinction or, sometimes, of the Sixth Mass Extinction. In view of all these elements, a current of thought has developed in the 2010s, predicting an imminent collapse of the thermo-industrial civilization⁸: collapsology⁹. This approach, which may seem radical, shows how essential ecological and sustainable development issues have become in today's society.

In response to the growing concern of populations on these issues, governments have made numerous commitments over the last fifty years. In addition to the conventions for the protection of biodiversity, there have been numerous international protocols, conferences and summits whose purpose is to preserve the environment and limit climate change. One of the main successes of this international work is the Montreal Protocol signed in 1987 and implemented in 1989. It aimed to eliminate the chemicals responsible for the hole in the ozone layer. The objective has been achieved: the production of CFC¹⁰ ceased completely before 2010 and the ozone layer is gradually recovering, with a return to its initial level expected around 2050¹¹.

Other strong commitments, particularly on greenhouse gas (GHG) emissions, have been made in recent decades. Thus, the Kyoto Protocol, signed in 1997 and implemented in 2005, aims at a 5% reduction in GHG emissions compared to 1990; and the Paris Climate Agreement signed in 2016 commits its signatories to reduce their GHG emissions in order to limit global warming to less than 2°C, by publishing their objectives and results. Nevertheless, international agreements are not always respected. Indeed, the interests of each country regularly take precedence, especially for non-binding agreements. For example, Canada decided to leave the Kyoto Protocol in 2011 for economic reasons; and, more recently, President Trump decided to withdraw the United States from the Paris Accord - before his successor reversed this decision.

II) The case of public services: trying to lead by example

In France, as elsewhere in the world, the gap between political commitments in favor of the environment and their implementation by the public authorities is causing discontent and a feeling of injustice among some citizens. Environmental movements are demanding a strict enforcement of the commitments made. Thus, several collectives and associations have sued States for their "climate inaction". There would be more than 800 legal actions ongoing in the world in 2017¹². In France, L'Affaire du Siècle (*The Case of the Century*) is a climate justice campaign launched in 2018 against the state by four NGOs¹³, which received the support of more than two million citizens via an online petition. The administrative court of Paris recognized the State responsible for failures in the fight against global warming¹⁴. In

5 We can mention the international conventions: on the protection of birds; for the protection of plants; for the prevention of sea water pollution by hydrocarbons; on wetlands; on biological diversity, etc.

6 The IPCC (Intergovernmental Panel on Climate Change) was created in 1988 to assess the state of scientific knowledge on climate change and its consequences.

7 TEYSSÈDRE, Anne, *Towards a sixth great extinction crisis ? (Vers une sixième grande crise d'extinctions ?)*, 2004, p. 24-49.

8 This term implies that the modern economy and industry run on fossil fuels.

9 SERVIGNE, Pablo, STEVENS, Raphaël, *How everything can collapse (Comment tout peut s'effondrer)*, 2015.

10 Chlorofluorocarbons : ozone-depleting substances used in the refrigeration cycle and as propellants.

11 World Meteorological Organization, *Assessment for Decision-Makers - Scientific Assessment of Ozone Depletion: 2014*.

12 BURGER, Michael, GUNDLACH, Justin, *The State of the Climate Dispute: A Global Review (L'État du contentieux climatique : Revue mondiale)*, UNEP, mai 2017.

13 Qui sommes-nous ?, *laffairedusiecle.net* [consulté le 23 février 2021]. Available on : <https://laffairedusiecle.net/qui-sommes-nous/>

14 The Case of the Century (*L'Affaire du Siècle*), *tribunal-administratif.fr*, 3 février 2021. Available on : <http://paris.tribunal-administratif.fr/Actualites-du-Tribunal/Communiqués-de-presse/L-affaire-du-siecle>

addition, the Le Conseil d'Etat (*Council of State*), seized by associations, condemned the State for its inaction on air pollution with a penalty of 10 million euros per half-year of delay¹⁵.

However, activists are not limited to legal actions, they are also increasingly demonstrating for the environmental cause. For example, 350,000 people according to organizers participated in La Marche du Siècle (*The March of the Century*) in France on March 16, 2019. Some groups, like *Extinction Rebellion*, advocate civil disobedience. This movement, created in 2018 in the United Kingdom, is spreading all over the world and organizing high-profile spectacular actions.

Opinion polls show that the environment has become a priority issue for a large majority of French people¹⁶ and political ecology is becoming increasingly popular in Western Europe, as shown by the latest municipal elections in France. The conjunction of all these elements makes it necessary for the State to adapt both its laws and its institutions to align with the demands of its citizens and above all with the commitments it has made.

The first response of the State to the pressing injunctions to act in favor of the environment consists in framing national economic activities by laws and standards. Thus, the Environmental Code, which originates from an ordinance of 2000, gathers the legal texts relating to environmental law. It is completed by provisions in the Codes concerning urban planning, trade or fishing, among others. Thus, this body of law has made it possible to transcribe international treaties into French law. For example, in order to reduce its GHG emissions in accordance with the Kyoto Protocol, France requires, through the law on the national commitment to the environment of July 12, 2010, that public and private actors carry out a GHG emissions assessment at least every three years. More recently, following the meeting of the Citizen's Climate Convention in 2019, it is planned to decide by referendum to modify the first article of the Constitution by adding the words "The Republic guarantees the preservation of biodiversity, the environment and the fight against climate change". Following this same Convention which had proposed in June 2020 the creation of a crime of ecocide, a bill dated February 10, 2021 (on combating climate change and strengthening resilience to its effects) provides for a general offence of pollution and one of endangering the environment. The crime of ecocide is, for its part, referred to a regulation, to be negotiated at the international level once the notion of "planetary limits" on which ecocide is based has been scientifically established at the national level.

In addition to purely legal considerations, the State is developing multi-year plans to organize its ecological transformation. For example, we can mention the National Strategy for Ecological Transition towards Sustainable Development for the period 2015-2020, which follows on from the 2015 Energy Transition Law for Green Growth and is based on three main pillars : defining a vision for 2030, transforming the economic and social model for green growth, and encouraging everyone¹⁷ to take part in the the ecological transition. This strategy aims at mobilizing all the levers of action available to the State, from financial incentives to bans and obligations on actors, in order to engage society in this change.

In this perspective, government departments are called upon to set an example. The 2008 the « Plan pour une administration exemplaire » (*Plan for an exemplary administration*) and the 2020 « Programme Services publics éco-responsables » (*Eco-responsible public services program*) define the steps to be taken in the public service to instill a global movement. Reducing CO2 emissions, assessing energy consumption, managing waste, preserving biodiversity, saving paper, banning single-use plastics and modernizing the car fleet are all among the concerned areas.

III) The Gendarmerie in the era of eco-responsibility

In order to implement this eco-responsible transition of the civil service, a senior sustainable development official is appointed in each ministry. At the Ministry of the Interior, he or she leads a « Mission Développement Durable - MDD » (Sustainable Development Mission - SDM) that oversees the implementation of the ecological policy, decided on the basis of the national strategy. For each project, this mission has referents within the departments, often positioned at the regional level. They are responsible for their implementation and report on progress made and problems encountered. For

15 Council of State (*Conseil d'Etat*), Decision No. 428409, *conseil-etat.fr*. Available on : <https://www.conseil-etat.fr/actualites/actualites/le-conseil-d-etat-ordonne-au-gouvernement-de-prendre-des-mesures-pour-reduire-la-pollution-de-l-air-sous-astreinte-de-10-m-par-semestre-de-retard>

16 According to a Kantar Sofres-One Point survey for RTL (French radio), *Le Figaro* (French newspaper) et LCI (French news channel) from 2018, 76 % of French people believe that the fight against climate change is a priority or is important in the executive's action.

17 Ministry of Ecological Transition. The national strategy for ecological transition towards sustainable development 2015-2020, *ecologie.gouv.fr*. Available at: <https://www.ecologie.gouv.fr/strategie-nationale-transition-ecologique-vers-developpement-durable-2015-2020>

example, each contact person records the GHG emissions of his or her department and sends the information to the SDM so that it can produce a GHG emissions report for the entire ministry.

At the same time, the Gendarmerie is setting its own internal ecological transition objectives and numerous initiatives are being developed. The Army is committed to promoting the circular economy, with an approach to recycling its officers' clothing through partnerships with private companies that reuse used materials. Green waste is composted and electrical and electronic equipment waste is collected and processed by specialized companies. Similarly, in the area of green space management, the Gendarmerie no longer uses any phytosanitary products and plants melliferous flowers to preserve the health of the barracks' occupants and biodiversity. In addition, as part of the search for energy efficiency in buildings, good practices are multiplying. Renovations are regularly carried out and the old boilers are gradually replaced by more efficient heating systems. Staff are made aware of and encouraged to limit their energy consumption through eco-responsible behavior. The installation of photovoltaic panels, which are currently installed on five Gendarmerie sites, could become a widespread measure to limit the energy footprint. Finally, the Gendarmerie trains its drivers in eco-driving and invests in making its vehicle fleet less polluting. The liaison vehicles are being replaced by electric vehicles, while the old diesel vehicles are being replaced by vehicles running on gasoline that emit far less toxic particles such as NOx¹⁸. However, due to operational constraints, not all vehicles can yet be converted to electric drive because of their range and flexibility, which are still inferior to those of combustion engine vehicles.

Besides, beyond its own environmental performance, the Gendarmerie, which ensures law is enforced, is cracking down on the attacks on our environment. A specialized unit attached to the Gendarmerie's criminal investigation department, the Central Office for Combating Environmental and Public Health Violations (*OCLAESP in French*), created in 2004, is dedicated to these issues. Fully integrated into the international ecosystem of organizations responsible for the enforcement of environmental laws, this office is at the forefront of this field. Indeed, it currently holds the European presidency on the fight against environmental crime, which has been included among the 10 priorities of the 2018-2021 European Union policy cycle. Its action concerns in particular animal trafficking, pollution and illegal dumping, as well as trafficking in phytosanitary products prohibited in France. Through this unit, the Gendarmerie plays a major role in the enforcement of environmental law on the national territory and is a key player in making sustainable development a reality¹⁹.

Sustainable development and ecological transition have become priority issues in our societies and are sometimes sources of tension. The State, both through the law and through its public service, tries to show the way to adopt an eco-responsible model and preserve natural resources. The Gendarmerie is a major player in this respect, both through the behaviors it adopts internally and through its role as a judicial police force in the service of environmental rights. It remains to be seen whether all stakeholders, from the business world to private individuals, will follow the movement that the government wishes to encourage, in order to achieve a coherent transition and respond effectively to the urgency of climate change.

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18 Nitrogen oxides : particles harmful to human health that are formed when exhaust gases and combustion residues react with the ambient air.

19 « In three years, the number of cases in which we intervened in support of territorial police or gendarmerie units jumped from 175 to 1,500," according to the head of the OCLAESP's (Office central de lutte contre les atteintes à l'environnement et à la santé publique) Strategy and Analysis Division. Excerpt from “ sécurité alimentaire, écologie: ces gendarmes qui luttent contre la biocriminalité” (*Food safety, ecology: these gendarmes who fight against biocriminality*), *Les Échos* (French newspaper), February 2021.