

Raymond Avrillier: Environmental Activism in the Courtroom

An interview with Benjamin Joyeux, Raymond Avrillier

January 7, 2025

As the climate crisis intensifies, litigation has found renewed impetus as a tool for protecting the environment, stopping harmful projects, and holding authorities to account. Raymond Avrillier's pioneering and decades-long legal activism in France has led to significant success, including bringing down ex-government minister and former Grenoble mayor Alain Carignon. In an interview with Benjamin Joyeux, he details his long journey and why he chose to undertake it largely in courtrooms.

Benjamin Joyeux: When did you start using the law to further the environmental cause?

Raymond Avrillier: It happened fairly early, at the end of the 1960s, before we even used the term "environmentalism". In Grenoble at the time, we were not engaged in a battle (we refused to use the language of war) but taking action that could nonetheless appear "violent", such as dumping manure in front of the city's conference centre while it hosted an event on fighting pollution organised by the region's biggest polluters, including [Rhône-Poulenc](#).

There emerged at the time two movements – which we would today call "environmentalist" but which weren't described as such back then – that took action, including legal action. The first was a movement to protect nature and was particularly concerned with the mountains. It opposed the "Snow Plan"¹ and the accelerating urbanisation of our alpine areas. We were fighting to save the soil, plants and water. The movement included naturalist allies as well as more traditional groups anxious to protect natural sites. An emblematic struggle was the campaign from 1969 to 1971 to protect the Vanoise National Park from a plan to build a ski resort that would require part of the park to be downgraded. The action involved a protest on cross-country skis and a legal challenge to a plan that broke the law.

The second movement took action from the late 1960s to the mid-1970s and focused on working conditions in factories, particularly the most polluting ones, and the quality of life around them. These included plants in Lyon's "[chemical corridor](#)", and [Pont-de-Claix](#) and Jarrie chemical facilities south of Grenoble. Action took the form of lawsuits to enforce rules on protecting workers and local people. For example, we revealed at the time that all the vines in the municipality of Champ-sur-Drac had been polluted by chemical production in Jarrie. This second movement, with its greater focus on social issues in factories, also emerged from one of the first-ever international environmental campaigns: the fight against the use of Agent Orange and other defoliants by American troops in Vietnam. We would prove, belatedly, that chemical factories in Pont-de-Claix provided these substances to the Americans. There was also the De Bonne barracks in Grenoble, which was a nuclear, biological and chemical weapons site. We fought to publicly reveal the risks posed by the civil and military use of extremely dangerous materials.

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You're not a lawyer by training. What were you doing at the time? And what made you realise the importance of social and environmental issues?

My background is in engineering and applied mathematics. I went to engineering school but I didn't want to finish. At first, I actually wanted to be a maths teacher. I applied for the *École normale supérieure* and was due to sit the entrance exams in Lyon in May 1968, but that was the year that we boycotted them. I was already a young activist and involved in the student union. Since I didn't want to be an engineer in industry, I had moved into social science research, carrying out research projects for the Ministry of Health into things such as pollution in Lake Bourget and sectorisation in psychiatry. I wasn't a journalist, but all the work we were doing with our activist friends led us to create alternative media, such as local Alpes-Dauphiné branch of *Agence de presse Libération* (*Liberation Press Agency*) which would eventually become the newspaper *Libération*, and the periodical *Vérité Rhône-Alpes* (*Rhône-Alpes Truth*).

Before May 1968, the source of my activism lay mainly in opposition to the war in Vietnam, especially the fight against white phosphorous munitions, defoliants and all the other chemical weapons used. In parallel, there was also the campaign against nuclear weapons, which were then being developed at pace, including at the Grenoble Nuclear Research Centre. After May 1968, I got involved with student action committees, the "leftists", Maoists, anarchists, etc. We were fighting for better working conditions and living standards for workers and for people more broadly: for example, housing for foreign workers subcontracted by the SNCF (*Société Nationale des Chemins de Fer Français*, the French national railway company), who were living in railway carriages at Grenoble station at the time.

It was action for peace on the one hand, and action for better living standards and working conditions for workers on the other, that led some of us to take an interest in fact-finding and journalism with a view to creating alternative media outlets to the regional monopoly that existed at the time. This led to the launch of pirate radio stations at the end of the 1970s, like *Radio Active* in Grenoble, set up in 1976 as part of the movement against the nuclear power station in Malville, and local investigative newspapers, as happened when eight people died in a mine in La Mure in an explosion that was foreseeable. And so, by concentrating on investigations and facts – diligently so to avoid libel – we revealed irregularities, illegalities and offences, and demanded that the relevant authorities launch legal investigations.

So, protecting health and the environment, welfare issues, and independent investigations were the three sources of my activism at the time that made me realise the importance of not just facts, but rights, too.

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How did you end up using the law in your battles?

Actually, the independent investigations that we ran with our alternative media outlets underpinned the legal action taken on behalf of victims of the hazards, pollution, and industrial accidents. For example,

we conducted independent probes into the deaths of eight miners in a mine in La Mure on 4 May 1971, the deaths of nine workers testing a cable car in Les Deux-Alpes in 1972, and the deaths of three alpine soldiers in an avalanche on Le Taillefer in April 1976.

At first, it was a case of using civil and criminal law to assert victims' rights. Later, with the launch of the *Superphénix* experimental breeder reactor at Creys-Malville in Isère, we also began using administrative law to oppose this project. Together with the conservation group FRAPNA² (which I was a member of), we brought a judicial review in an administrative court against work started by *Électricité de France* at the Creys-Malville site. Then, we challenged the planning permission and prefectural orders for the project. Eventually, in the Council of State, we challenged the decree authorising the nuclear facility and its amendments.

This legal action eventually led the Council of State, on 14 February 1997, to repeal the last decree authorising the Superphénix. When Lionel Jospin came to power in June 1997 and appointed Dominique Voynet as Environment Minister, they had a choice: they could restart the whole approval process, which would take at least three years, or abandon it, which is exactly what they did.

So, at first, we embraced the law to defend ourselves and the victims of industry or the state – workers, protestors and others – before discovering the power of judicial review in opposing unlawful decisions made by public authorities. I wrote an article based on this legal action for the *Revue juridique de l'environnement* in 1995: *L'écologie à l'épreuve du droit. Le droit à l'épreuve de l'écologie* (When the Law and Environmentalism Collide).

You use “we” a lot when talking about your actions in the past. Did you act as part of an established collective with the same people or more as a member of different and diverse organisations?

I often worked and campaigned with the same people over the years, but there were also different groups and collectives. You can't ignore your personal commitment, of course, because it comes at a cost: you're attacked, dragged through the courts and so on. But the “we” was essential: it took the form of different groups, collectives and organisations, unions, and political movements.

Back in the day, many unions, political parties, and movements favoured nuclear power, the development of the chemical industry, the building of motorways, etc. This made it hard to act within political parties beyond small minorities of people.

Throughout the 1970s and up to the start of the 1980s, there was a plethora of political movements labelled “leftist” which were involved in social and democratic issues, as well as what were yet to be described as environmental issues. In Grenoble's municipal elections of March 1977, 9.1 per cent of votes went to the list *Grenoble écologie, pour autogérer la cité* (Grenoble environment, for a self-managed city). We created the organisation *Grenoble Écologie Autogestion* (GEA – Grenoble Environment Self-Management) in 1982 to prepare for the municipal elections in 1983. GEA was subsequently re-christened *Écologie Alternatives Autogestion* (Environment Self-Management Alternatives) and then *Association Démocratie Écologie Solidarité* (Democracy Environment Solidarity Association). The idea was to unite all our different collectives and movements so that we had representatives who could make a difference inside institutions. The political party Les Verts (The Greens) was born in 1984.

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victims of industry or the state before discovering the power of judicial review in opposing unlawful decisions made by public authorities.

The “we” that drives us remains diverse – it could be as part of a non-profit, union or political party – but it’s always about creating an alternative solution to a very real local issue: For instance, proposing alternatives to the A51 (planned motorway between Grenoble and Marseille), reducing waste instead of enlarging the incineration facility in La Tronche (north-east of Grenoble), saving Grenoble’s municipal swimming pool from demolition, or supporting the *Collectif des usagers pour un chauffage urbain juste et solidaire* (User Collective for Fair and Inclusive Urban Heating). The idea is not to take a single approach – be it non-profit, union or party political – but to form a “popular” front around totemic issues by bringing together people with different leanings.

For each campaign, there was always a small group with one or two spokespeople, plus four or five key people for the more technical or organisational side of things. We had to handle every aspect, so we needed to bring together all the expertise we needed. And, of course, we needed to join together to form movements or collectives that could mobilise people. For instance, to propose alternatives to the A51, with a different route that upgraded the RN-75 trunk road instead of building a motorway, we worked with highway specialists. For the Superphénix, we had nuclear engineer friends who were qualified to explain the danger and why this breeder reactor should never be launched, backed by evidence that was presented to the Council of State. And we could also call on skilled lawyers.

Has your activism always been based in Grenoble, or has it at times been national or international?

The main issue that friends have asked me to work on at the national and international level is nuclear power, on which we cooperated with the Swiss, the Germans, and the Italians. In our fight against the *Superphénix*, we created a European network based in Lyon, *Les Européens contre Superphénix* (Europeans against Superphénix), for which I was spokesperson. Later, it became the *Réseau Sortir du Nucléaire* (Phase Out Nuclear Power Network), and led to me speaking in Geneva, Milan, Strasbourg, Japan, and New York. I argued that we needed to end the race to build fast-neutron reactors, which posed the risk of weapons-grade plutonium proliferation (20 per cent of this material was slated for export, including to countries such as Iraq and Libya). We worked together with our friends at Greenpeace, as well as with Contratอม, WWF, IPPNW, etc.

It was around this time in 1986 that the Commission for Independent Research and Information on Radioactivity was founded by [Michèle Rivas](#) and other activists. We campaigned both against nuclear power and for renewable energy, a space where a whole host of alternative networks were springing up, like what would eventually become [NégaWatt](#).

The second big issue that has taken me abroad is water. In Grenoble, we were one of the first cities to seriously worry about water and its management. We took it back into public control after then-mayor Alain Carignon had illegally privatised this essential public utility in 1989 and handed it to Lyonnaise des Eaux (part of the Suez Group) as part of a 25-year contract.

We were the first and the only people to reveal a system of corruption surrounding this decision, while similar systems in other cities went unchallenged. On behalf of the opposition green and “alternative”

group of councillors, which I chaired, I brought this issue to the municipal council, to protests to keep the utility public, to the Grenoble administrative court (which threw out our challenge to the decision), and finally to the Council of State. Completing the last step would take us eight years of action, including judicial reviews against the awarding of the contract on the grounds of abuse of power by a corrupt Lyonnaise des Eaux and a corrupt mayor and cronies.

During this years-long fight and with the subsequent return of water to public control, I was asked to help other movements and municipalities elsewhere in France (Paris took back control of water 10 years later, Lyon 20), and then in other countries in Europe (for many campaigns in Italy, in particular) and South America.

For example, as executive councillor in charge of sanitation for the greater Grenoble area, in 2005 I travelled with Fondation Danielle-Mitterrand – France Libertés to Argentina, Bolivia, Brazil and Uruguay to support struggles to bring water – a resource that should be a common good, not a commodity – back under public control. France's ambassador in La Paz intervened to try and persuade Danielle Mitterrand not to take this action as it stood in opposition to a French firm, Suez, which held a privatised water concession in Bolivia.

When people like you have been challenging major government- and industry-backed projects since the 1970s, how can we trust in the rule of law and legal tools to win battles?

I wasn't a lawyer, but I came to understand the importance of civic-minded, grassroots scrutiny of the legality of decisions as a user of the justice system, especially administrative courts. It's not easy at the beginning because you come across as litigious – to both friends and adversaries – when actually it's the people making these decisions who are litigious. But in terms of procedural legality, you ask whether local people were consulted before a decision was made, which documents were provided to the public inquiry, whether prior recommendations were lawful, or how the alternatives were examined. And in terms of substantive legality, you look at the lawfulness of the administrative decision under existing legislation.

Therefore, there are various levels of action to be taken simultaneously, with different time horizons. The first is opposing a project: you protest, petition, and challenge. But at certain points, you realise that this opposition remains just word, and this is where looking to see if our collective rules have been followed comes in. Although we are opponents and challengers of the powers that be, we are, in a way, more civic-minded and democratic than the public leaders and institutions that do not follow common rules for the environment and democracy.

I think this awareness of the importance of the rule of law was first brought home to me by accidents in the workplace, and in particular, the chemical and nuclear hazards that workers in these industries face, which at the time were wholly underestimated. We investigated and blew the whistle about leaks of radioactive substances at the Grenoble Nuclear Research Centre (CENG), now known as CEA Grenoble, through a newspaper founded in 1974, *Main dans le trou du fût*,³ because local papers like *Le Dauphiné Libéré* weren't reporting everything. Some information, such as the emergency response plan for the Creys-Malville power station, we even had to steal from the Isère prefecture.

The 1978 law on access to administrative documents definitely helped us. We immediately used it to take on authorities who continued to withhold certain administrative documents. The first legal battle we fought was over access to information and documents. The second was over safety and security. With Superphénix, we eventually won in the Council of State, 13 years after this dangerous experiment

began, because we proved that the plant didn't have the safety conditions required by its authorising decree. Another example is the fight to save the Colline Verte area south of Grenoble, which a local firm wanted to turn into a quarry. The prefect had authorised the project in August 1974, but after a major grassroots campaign to inform local people and a legal battle, the administrative court suspended the prefectural authorisation a year later, and the construction was cancelled in October 1976. It's one of our local environmental victories that really stands out.

Over the years, you've seen how environmental legislation and case law have evolved. Do you think there has been any real progress in protecting the natural world?

At first, the authorities were very slow in scrutinising facilities, especially those requiring environmental permits (ICPE) and nuclear plants (INB). In our campaigns against the nuclear lobby, we demanded independence for regulatory authorities and more governmental oversight. This led to a huge leap forward with the creation of the Nuclear Safety Authority and the Institute for Radiation Protection and Nuclear Safety, bodies that in theory issue independent recommendations, although today they are called into question. The creation of Environmental Authority Regional Agencies was also a milestone, because for a long time economic and financial interests prevailed in the recommendations of the Environmental Authority, which was previously placed under the authority of the prefect. It took some 20 years between 1970 and 1990 for administrative courts, and then criminal and civil courts, to really take into account environmental law, which has now been codified. Articles L.124-1 et seq., for example, are very useful for the right to "information about the environment".

On top of this came European law, which gradually began to apply from the 1990s onwards. The European Directive on public access to environmental information, for example, strengthened French law. But there is sometimes a boomerang effect with this legislation, as seen with the water directive, which very usefully protects this vital resource but also turns it into a commodity. Another similar case is the REACH regulation, which is very useful for protecting health against chemical substances but has enormous loopholes. So, while this European legislation takes a competitive, market-oriented approach – which we reject – we have repeatedly used certain positive provisions for the right reasons.

Although we are opponents of the powers that be, we are more civic-minded than the public leaders and institutions that do not follow common rules for the environment and democracy.

What, as a priority, should be changed in the law to better protect the environment in the current context of climate chaos and biodiversity loss?

I would first focus on access to information, which needs further strengthening, especially to implement legal decisions faster. For example, when it takes four years to get a ruling by the Commission for Access to Administrative Documents enforced against Laurent Wauquiez, president of the Auvergne-Rhône-Alpes region, it's far too long. We need to overhaul information access and fully and quickly implement the Code on Relations between the Public and the Government so that informed decisions can be made.

We need genuinely environmental public service, or in other words, civil servants who have the means to obtain information and carry out the studies and checks necessary before any decision that impacts

the environment. And we must strengthen support for local elected officials and governments. How many municipalities today have an environment department, or at least a planning department with environmental expertise? Environmental awareness must be at the heart of every public decision. The General Review of Public Policies launched under the Sarkozy administration in 2007 and since continued – got rid of vast swathes of public services that we really need in environmental affairs.

To wrap up, activist groups have for some years been using the law, especially international law emanating from COPs, to further the cause of climate justice, just as you have long done. I'm thinking of organisations like *L’Affaire du siècle*. How do you see this development?

It's all very well to aim higher and stronger. But we must always begin by using the means already available at our humble level, the level we are initially familiar with. I would go in ascending order from very local levels to the COP level globally. Always “acting local, thinking global”. Before using the Paris Accord as a legal foundation, let's first look at what's already in our environmental law and how it is being followed. *Notre Affaire à Tous*, who successfully sued the state for climate inaction, also act at a local level, as in the case of PFAS in Pierre-Bénite. We must think and act at every level; that's the strength of political ecology's concrete actions. When we lead a local environmental campaign that directly impacts people's lives, it makes them feel in control of their environment once more, regardless of their political orientation.



Benjamin Joyeux is a lawyer, ecologist, libertarian, and anti-globalisation activist. He was a communications advisor to the French speaking delegation of Green members of the European Parliament; and is the co-author, with Edouard Gaudot, of *l'Europe C'est Nous* (Les Petits Matins, April 2014).



Raymond Avrillier is a Grenoble-based engineer and environmental activist. He is famous in France for taking down corrupt ex-government minister and former Grenoble mayor Alain Carignon, and for revealing the Élysée polling scandal during Nicolas Sarkozy's presidency.

Published January 7, 2025

Interview in English

Translation available in French

Published in the *Green European Journal*

Downloaded from <https://www.greeneuropeanjournal.eu/environmental-activism-in-the-courtroom/>

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