

## “PUNITIVE CHARACTER OF ENVIRONMENTAL DAMAGE IN THE DECISIONS OF THE SUPREME FEDERAL COURT (STF/ BR) FOR USE OF PESTICIDES”.

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### INTRODUCTION

Many countries encouraged the use of pesticides on plantations to develop the monoculture system for export. With this policy, which in Brazil was called “Agribusiness”, the country has become the largest consumer of pesticides in the world since 2008. (VIERO et al., 2016).

In Brazil, the issue of lawsuits in environmental matters seek two purposes: the recovery of the damaged environment, through direct and indirect measures and the indemnity arising from the damage caused (punitive character), for the restoration of the degraded environment and in rehabilitation of affected people. The great harmful potential of pesticides is indisputable, so the study of punishments is of special relevance in favor of the environments and the victims (CAMAPUM, 2018).

There are laws in Brazil, such as the Pesticides Law (Law n° 7.802/89), which seek to make agribusiness practices compatible with the preservation of the environment and the protection of the most vulnerable populations. It so happens that such legal precepts have been gradually weakened in light of public policies based on political interests, in order to benefit large rural producers, mitigating, in different situations, the punishments for environmental damage (COSTA, 2018).

### OBJECTIVES

Evaluate the sanctioning and jurisprudential nature of environmental damages caused by pesticides in the STF decisions in the last ten years in Brazil.

### METHODOLOGY

A survey of the court decisions of the Federal Supreme Court (STF) of the last ten years (from January 2009 to April 2019), referring to environmental crimes with the use of pesticides, in the Jusbrasil database (<https://stf.jusbrasil.com.br>), in the jurisprudence section, was carried out. To carry out a quantitative study and qualitative analysis of the punitive character of environmental damage, in court decisions, for the use of pesticides in Brazil. Based on the methodology of the ecological care principles of Law in Brazil (DA SILVA BERG e TAVARES, 2018).

The evaluation was based in two questions: 1) how many cases per year were tried by the STF in these 10 years? and 2) was the judgment valid with the protection of the environment?

### RESULTS AND DISCUSSION

It was observed in this period of ten years of analysis of the sentences that the STF judged only ten cases. Being a very small number in correspondence with the environmental damages caused by pesticides, but the cases per year coincide with countries like Spain, Argentina and Mexico shown in “Fig1”. The measures foreseen, in addition to the protection of the environment, more they are insufficient, if compared to the legislation of the United States and the European Union. So, it’s necessary that the punitive character laws in this sense are updated and effectively applied; and that fines are applied at higher levels, so that companies do not choose to pay for the damage they cause, instead of investing in methods and technologies that avoid the impacts caused to the environment (CAMAPUM, 2018).

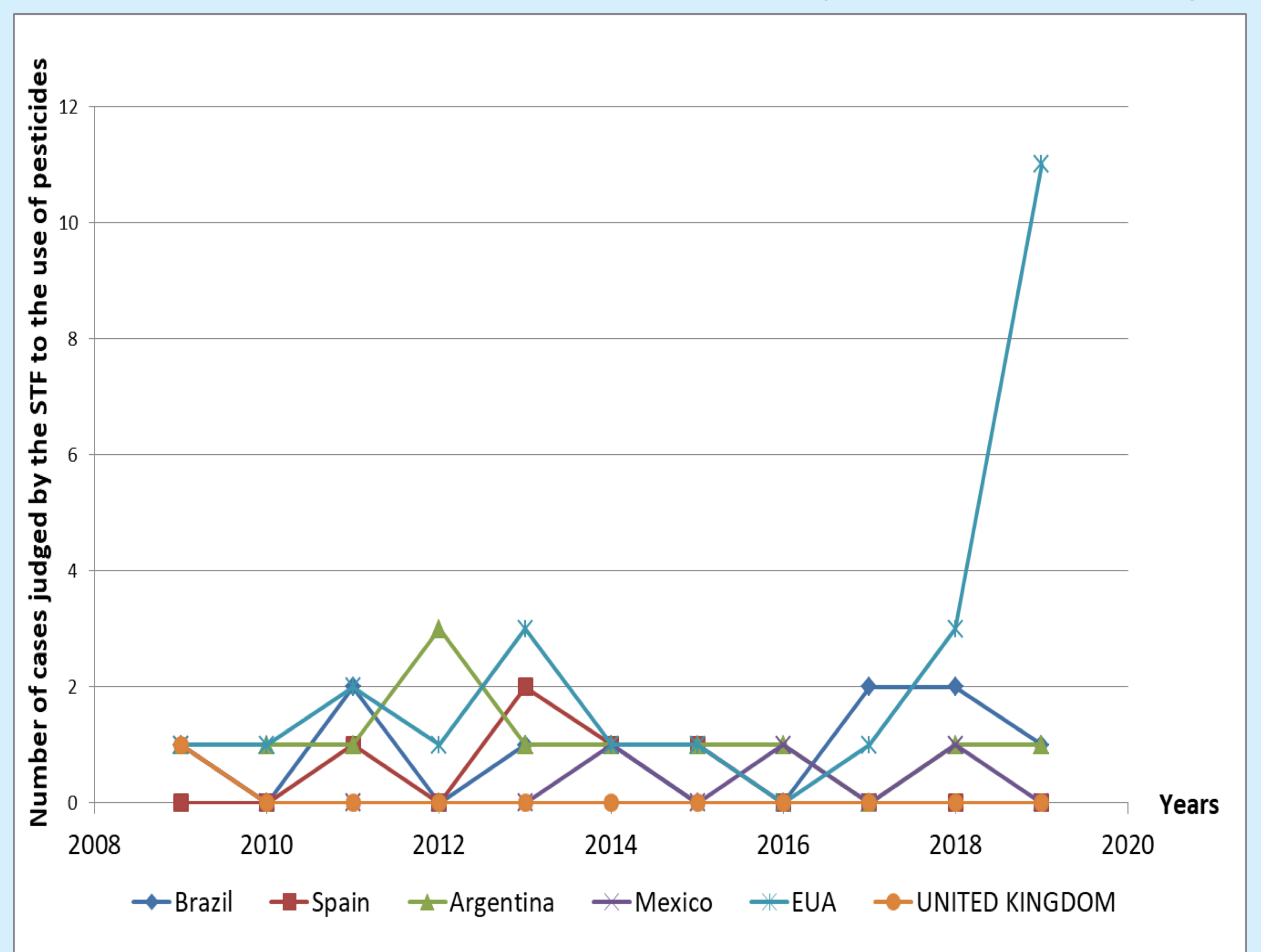


Fig 1. Number of cases judged by the STF per year on damage to health due to the use of pesticides, in Brazil, Spain, Argentina, Mexico, USA, UNITED KINGDOM from 2009 to 2019, found on the website <https://stf.jusbrasil.com.br>.

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