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The dioxin case: a discreet epilogue

The highly publicized case concerning the incinerator of Gilly-sur-Isère, better known as the “dioxin case”, has finally reached its epilogue, more than ten years after the launch of the judicial investigation ordered by the Public Prosecutor of the Albertville Criminal Court.

As may be remembered, an association of people living near the incinerator, supported by several associations of ecologists, lodged a criminal complaint – and a claim for indemnification – against SIMIGEDA, the intercommunal organization that owned the incinerator, its President, Mr. Albert Gibello who was at that time the mayor of Albertville, two *Préfets* (local administrative authority) and the operator of the incinerator, the company NOVERGIE CENTRE-EST, for poisoning, endangerment of others, involuntary manslaughter, unintentional injuries and failure to take actions.

The charges brought against all the natural persons were dismissed and such dismissal was confirmed by the Investigating Chamber of the Chambéry Court of Appeals on September 9, 2009 as the investigation did not establish any sort of connection between the operation of the incinerator and the development of cancers in the surrounding area.

This dismissal was grounded on several medical expert investigations and local statistical studies carried out by the *Institut National de Veille Sanitaire* (the French Institute for Public Health Surveillance or “INVS”).

Only SIMIGEDA, the intercommunal organization which owned the incinerator, and NOVERGIE CENTRE-EST, the operator, were committed for trial before the Albertville Criminal Court, on count of violation of administrative requirements set forth in an operating authorization, without such violation having caused any sort of damage to anyone.

Ignoring the *res judicata* principle, the civil parties served a direct summons upon Mr. Gibello and one of the

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two *Préfets* to appear before the Criminal Court of Albertville for the same facts for which a dismissal had been ordered.

By judgments dated May 23, 2011, the Criminal Court held that the direct summons served upon Mr. Gibello and the *Préfet* by the civil parties were inadmissible, thereby confirming the dismissal of the charges that had been brought against them.

By two decisions dated November 21, 2012, the Chambéry Court of Appeals quite logically upheld these two judgments and recalled that *“as per Article 188 of the French Code of Criminal Procedure, the person under judicial investigation, in respect of whom the investigating authorities have ruled that there was no cause to prosecute, may not be investigated in relation to the same facts, irrespective of the criminal qualification given to those same facts by the civil parties”*.

It also ordered the acquittal of NOVERGIE CENTRE-EST that had been convicted in the first instance trial (SIMIGEDA had been dissolved in the meantime and therefore escaped conviction).

We have represented and defended Mr. Albert Gibello throughout this judicial saga, one of the most publicized environmental cases in the last fifteen years.

This epilogue is a further example that the strategy of the most radical environmental groups is not to win cases but to get maximum coverage from the media that extensively report on their actions but never on their defeats.

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