



INTERSOL 2015

**MITIGATION AS PART OF PROSECUTION IN AN ILLEGAL DUMPING
CASE**

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SUMMARY

- Steps and origin
- Technical Outlook
- Judicial and Legal process
- Technical process and judicial expertise
- Results and feed back
 - Assments :
 - environmental and cost efficiency
 - Environmental feed backs for other remediation nearby

Steps and origin

□ Public regulations

- Code du travail (Labour code) and provisions related to occupational conditions in asbestos
- “Code de l’Environnement” Installations registered for environmental purposes : conditions for management and legal dumping of asbestos containing materials

Steps and origin

□ The very process

- An industrial plant needing to deconstruct a former workshop
- A workshop the roofing of which was covered with fiber cement corrugated plates
- The fiber cement contained asbestos
- The craftsman, later on indicted in the case, had submitted a low cost tender

Steps and origin

- ❑ Neither indepth inspection nor simple check had been done related to possible asbestos content of the roofing material
- ❑ No specific care had been developed during roofing dismantling
- ❑ A careless dumping in the limit of the craftsman private property

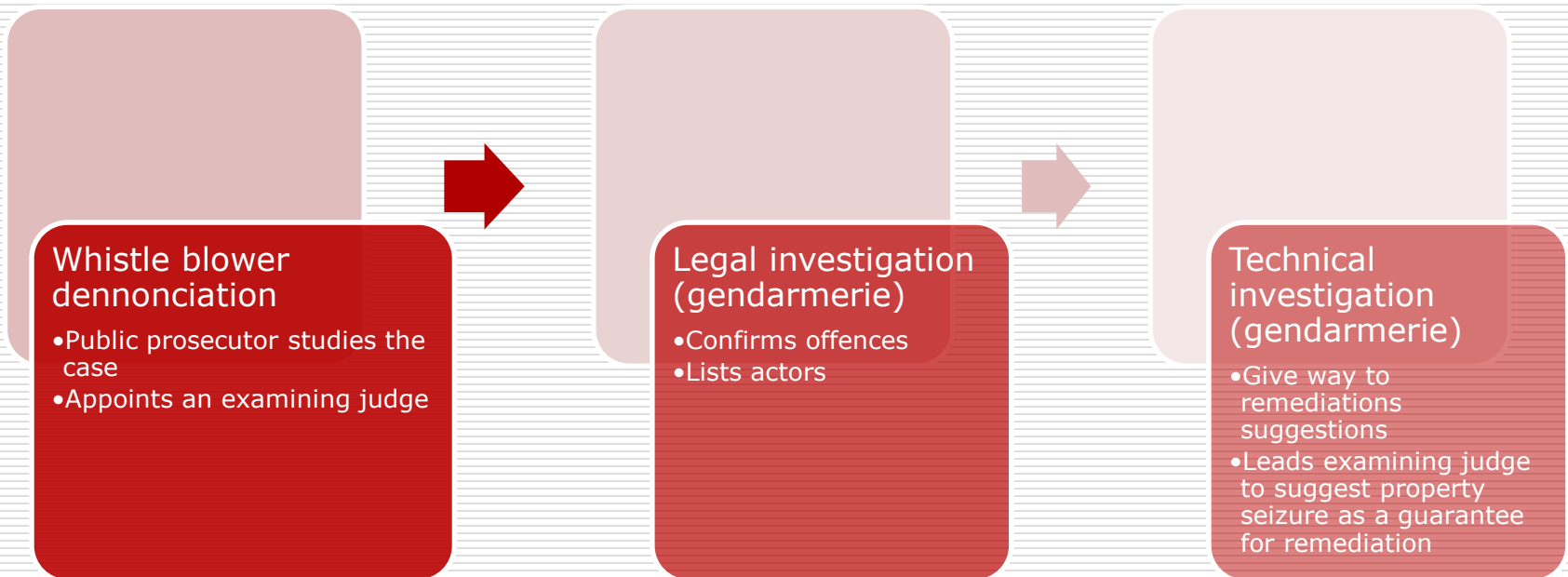
Steps and development

- The process :
- An anonymous whistle blower
 - Denouncing careless transportation
 - Denouncing careless dumping in the edge of forest of broken corrugated asbestos plates
- A prosecutor interested by the facts
- An examining magistrate appointed, scarcely situation in an environmental case

Steps and development

- A local gendarmerie inquiry
 - Describing the string of events leading to the offences
 - Listing the offences : based upon environment code and labor code disregard
- A national gendarmerie inquiry
 - Using lab investigations
 - Using in situ excavations
 - Providing some pieces of information about remediation costs

Steps and development



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Technical outlook

- What should have been done :
 - Corrugated plates in asbestos cement must be wrapped up in a material such as plastic sheets
 - Be handled by specifically trained workers wearing appropriate protections
 - Be carried in trucks with tarpaulins
 - and be stored in an isolated alveolus in a landfill for inert waste.

Technical outlook

- What was the technical result
 - On the edge of a forest, a jumble of
 - Inert waste, wastes from building deconstruction
 - Broken corrugated plates in asbestos cement

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Judicial process

- ❑ Mixing remediation and judicial prosecution is an uneasy challenge : legal constraints, due process of law and technical needs are often at odds.
- ❑ Environmental damages are damages against community interests, without a specific owner
- ❑ Judicial commitment was aimed not only to trial but also to environmental remediation under a special agency committed to management of assets linked to infringements and felonies.
- ❑ That is the first involvement in France of that newly founded agency on an environmental ground.
- ❑ 'Agence de gestion et de recouvrement des avoirs saisis et confisqués Agency of recovery and management of seized and confiscated assets
http://www.justice.gouv.fr/art_pix/agrasc_rapport_activite_2012_english_.pdf

Judicial process - Guarantee

- A newly born agency steps in
- Managing complex assets
 - The Agency may be entrusted by Prosecutors and Judges with the task of managing complex assets, i.e assets requiring administration
 - That part of the agency statute led to seizure of offenders property

Judicial process

- ❑ What is the status of the AGRASC (Agency of recovery and management of seized and confiscated assets)?
- ❑ The Agency is a public administrative body placed under the joint supervision of the Ministry of Justice and the Ministry of Budget. The President of the Board of Administration and its Director General are members of the Judiciary.
- ❑ The Secretary general comes from the Ministry of Budget.

Judicial process - Compensation

- Improving compensation of civil claimants in criminal proceedings
 - The Agency may compensate civil claimants in criminal proceedings by giving priority ranking to their claims over assets which have been definitively confiscated under a final order handed down by a court of trial
 - Here the Agency accepted for first time to compensate environmental damage

Judicial process- Consequences

- ❑ Seizure of the private property of the offenders
- ❑ Guarantee of technical measures for a clean up

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Technical proces and Judicial expertise - The mission

- Visit the dumping location
- Identify the string of events leading to the situation
- **Describe mitigation scenarios**
- **Produce specifications to ask for tender to prevent or mitigate environmental hazards**

Technical proces and Judicial expertise– the steps

- Visit
- Ask the may be offenders their opinion and collect additional information
- Describe mitigation scenario
 - Clean up
 - Encapsulation

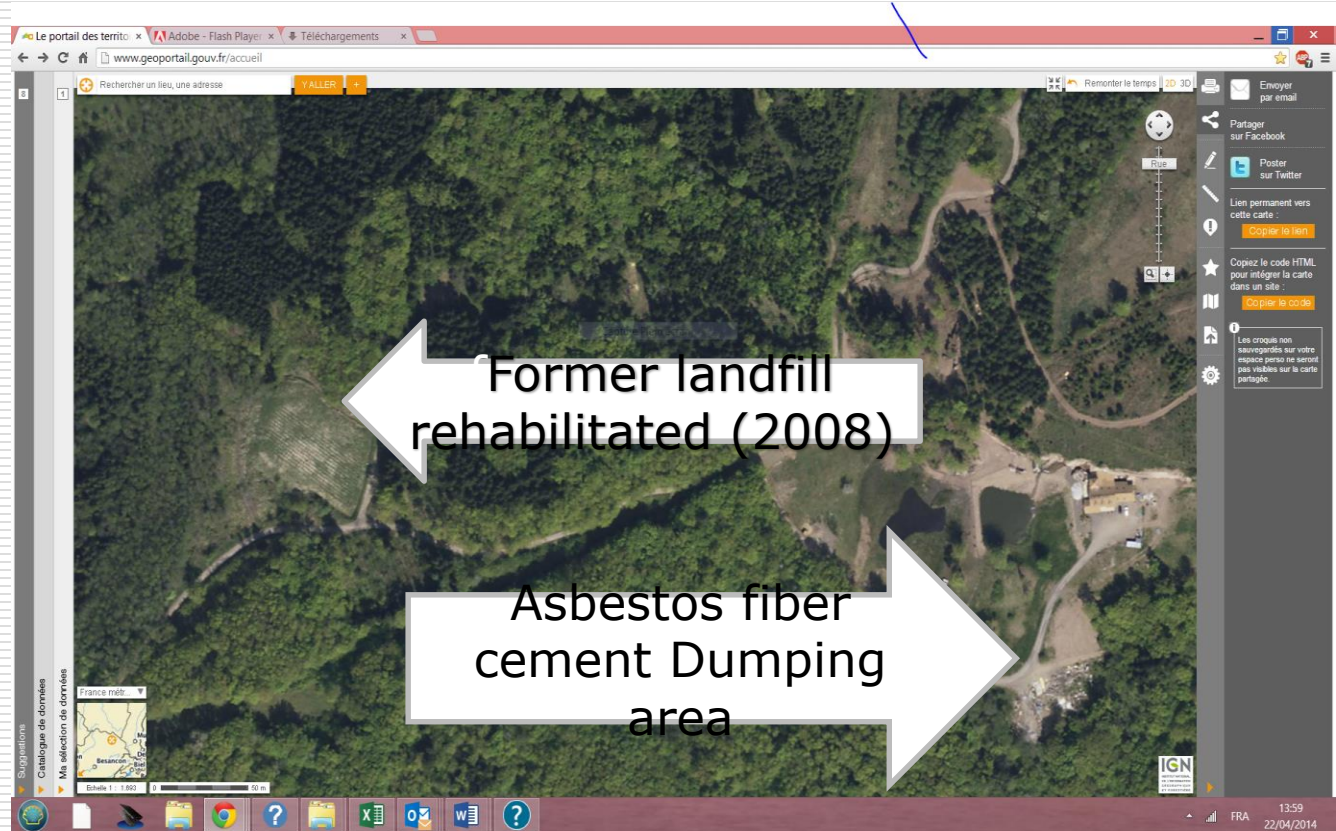
Technical proces and Judicial expertise– the results

- ❑ The dumping location on the edge of a forest
- ❑ In that very forest, at 400 m a former dumping zone, with a satisfactory rehabilitation program 5 years ago
- ❑ Encapsulation is technically easier and cheaper than clean-up by waste removal

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Technical proces and Judicial expertise– the results



Technical proces and Judicial expertise– the results

- The former lanfill rehabilitation dossier included relevant data related to
 - Hydrology
 - Local environmental sensivity
 - Local operational costs

Technical process and Judicial expertise- the results

N°	Lot 1 Désignation	U.	Q.	Prix unitaire H.T. €	Montant H.T. €	Montant T.T.C. €
	Commune de XXX					
1	Installation de chantier itinérante	u	1	750	750	900
2	Panneau d'affichage	u	1	750	750	900
3	Formation des intervenants	u	1	900	900	1080
4	Débroussaillage	m ²	600	2,25	1350	1620
5	Déboisement talus	m ²	400	4	1600	1920
6	Nettoyage du site Enlèvement manuel des déchets apparents ou sub apparents	u	1	1600	1600	1920
7	Préparation des interventions,	u				0
8	Egalisation du sol en front de talus	m3	1 200	4	4800	5760
9	Couverture argileuse ou marneuse sur 40 cm, avec matériau prélevé à proximité	m3	650	9	5850	7020
10	Couverture terreuse sur 30 cm avec matériaux prélevés à proximité	m3	500	9	4500	5400
11	Creusement de fossé section moyenne fd =0,30 - g= 1,00 m - h = 0,30 m	m	180	3,5	630	756
12	Plan de recolement	u	1	400	400	480
	TOTAL				23130	27756

Technical proces and Judicial expertise– the results

N°	Lot 2 Végétalisation Désignation	U.	Q.	Prix unitaire H.T. €	Montant H.T. €	Montant T.T.C. €
	Commune de Mélisey - Chemin du Sygle La Couaz					
21	Végétalisation herbacée par projection sur talus	m ²	700	0,75	525	630
22	Végétalisation herbacée par projection avec renfort arbustif	m ²	1200	1,1	1320	1584
	TOTAL					2214
	TOTAL POUR LES DEUX LOTS					29970

Basic elements for waste removal

– Cost for legal dumping

	m ²	T	TONNA GES		PRIX EN € /T HT	COÛT HT
						4158,64
	1213	0,02	24,26		171,42	9
						1741,62
	508	0,02	10,16		171,42	7
	90	0,02	1,8		171,42	308,556
						407,979
	119	0,02	2,38		171,42	6
						932,524
	272	0,02	5,44		171,42	8
						3832,95
	1118	0,02	22,36		171,42	1
						11382,2
TOTAL	3320	0,12	66,4			9

Basic elements for waste removal – Total cost for legal waste removal and dumping

Basic dumping price	Produce overrun	Conditioning	Transportation	TOTAL
11382,29	X 4	300		
11382,29	45529,16		105003000	70411,5

That cost, rather underestimated, is almost three times higher than local encapsulation

Technical process and Judicial expertise– the results

- Preference for an encapsulation scenario
- No obvious emergency
- Mitigation will wait for a final judgement about penal liability and rehabilitation sentence

Now, time for questions

Thank you for your attention