

France court upholds Total convictions over spill

September 25 2012, by Pascale Juilliard



A clear-up vessel is seen on the scene of an oil slick off from the Maltese-registered Erika on the coast of Lorient, western France in December 1999. France's top court has upheld energy giant Total's conviction for negligence over the 1999 shipwreck and oil spill that blackened much of the country's Atlantic coastline.

France's top court on Tuesday upheld energy giant Total's conviction for negligence in a 1999 shipwreck and oil spill that blackened much of the country's Atlantic coastline.

Total had been found guilty of failing to address maintenance problems when it chartered a rusty 25-year-old tanker, the Erika, that broke in two and sank off the Brittany coast, sparking one of France's worst environmental disasters.

Plaintiffs in the case had warned that overturning the original rulings would have undermined decades of attempts to hold companies accountable for environmental damage caused by oil spills.

They hailed the Court of Cassation's ruling as a judgement that would set a strong precedent for future cases.

Bruno Retailleau, the head of the regional council of Vendee, one of the places hit by the slick, said the ruling showed that "the sea is not a lawless place, it is not a place of impunity".

"This is a decision that will make all oil companies think deeply about the organisation of maritime transport," said Jean-Pierre Mignard, a lawyer for several coastal districts affected.

The Erika was carrying 30,000 tonnes of heavy fuel oil and the spill polluted a large stretch of the Brittany coastline, killing tens of thousands of seabirds.

French beach resorts were deserted, fishing was halted and shellfish banned from consumption in the aftermath of the oil spill, leaving the local economy on its knees for years.

Total, Italian certification firm RINA which found the ship to be seaworthy, the Erika's owner Giuseppe Savarese and its handler Antonio Pollara were all convicted in the case.

All their convictions were upheld in Tuesday's ruling.

A Paris appeals court in 2010 ordered Total to pay a fine of 375,000 euros (\$485,000) and awarded compensation to the civil plaintiffs of 200 million euros.

The 80 plaintiffs included the French state, communities affected by the pollution and environmental groups.

About 13 million euros of the compensation awarded was for "environmental damage". The ruling was considered to have established a legal precedent by recognising that polluters can be held accountable for harming the environment.

Lawyers for the defendants had argued that the 1983 French law under which the prosecutions were made could not be applied as it contradicted international conventions signed by France.

The Erika was outside French territorial waters when it wrecked.

Total has already paid 171 million euros in compensation and RINA 30 million euros and Tuesday's ruling would in any case never have called those payments into question.

The firm's lawyers said Monday they would consider whether to now take the case to the European Court of Justice.

In a separate case on Monday, a French appeals court sentenced a former boss of a Total subsidiary to a year in prison for a 2001 chemical plant blast that killed 31 people.

The court handed down a three-year jail term—two of them suspended—and a 45,000-euro fine on former plant chief Serge Biechlin for manslaughter.

The blast, which erupted in September 2001 in a storage warehouse packed with 300 tonnes of ammonium nitrate at the AZF chemical fertiliser plant near Toulouse, also injured 2,500 people and damaged 30,000 homes.

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