



Published on 30 October 2017 by **Thomas Caveng**, Legal Translator / Marketing Director

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Traffickers involved in an international trafficking of phytopharmaceutical products convicted by the Criminal Court of Marseille

After several years of investigation, the French Justice System managed to dismantle an international trafficking of phytopharmaceutical products, a case described by Public Prosecutor Franck Lagier as the “*first major case*” of this type adjudicated in France. On October 18, 2017, the Criminal Court of Marseille sentenced the defendants to serve suspended prison terms (from 1 to 4 years) and to pay fines (from 10,000 to 175,000 euros), and awarded damages to phytopharmaceutical companies that fell victim to the fraud, including 661,486.01 euros to BASF FRANCE SAS.

BASF FRANCE SAS was defended by [Jean-Luc Soulier](#) and [Justine Cheytion](#).

Victim of a fraud that consisted in the deceptive sale of products based on the market authorization that had been granted to its own products, BASF AGRO lodged a criminal complaint against unknown persons.

These contentious products contained impurities and chemical substances that were not included in BASF AGRO’s products.

A judicial investigation was launched, and resulted in the dismantlement of a thriving international trafficking of phytopharmaceutical products involving many traffickers and other victim phytopharmaceutical companies, including Bayer, Syngeta and Adama.

No fewer than seven defendants (five individuals and two legal entities) were committed to trial before the Criminal Court of Marseille for (i) fraud as to the origin, essential qualities and composition of phytopharmaceutical products, (ii) aggravated fraud (because of the aggravating factor of endangering human or animal health), (iii) placement on the market of parallel-imported phytopharmaceutical products, without authorization, and (iv) complicity in said offenses.

During the trial, BASF FRANCE (the successor of BASF AGRO) highlighted that the fraudulent marketing of the contentious products had generated a number of risks (for plants, for users and for consumers).

In addition, because of the sale of the contentious products – presented as identical to the reference products –



at abnormally low prices, BASF FRANCE sought compensation for the loss of opportunity to sell its own products.

Lastly, it also sought compensation for the damage to its image and reputation that resulted from the fact that the contentious products had been equated with the reference products. The frauds orchestrated by the defendants conveyed upon BASF FRANCE the image of an owner of products that did not work, or worse, that were toxic for user and consumers.

During the pleading hearing, the attorneys of the defendants asked the Criminal Court of Marseille to acquit their clients and to dismiss the claims for indemnification brought by the victim companies. Their line of argument was, however, rejected by the Criminal Court of Marseille who sentenced all of the defendants and ordered them to pay more than one million euros to the victim companies, including BASF FRANCE that has been indemnified for all the aforementioned heads of damage.

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