



## HIGHLIGHT – WASTE : MANAGEMENT OF ELECTRICAL, ELECTRONIC AND PNEUMATIC WASTE IN THE IVORY COAST

Electrical and electronic equipment (EEE) often contains substances or components that are hazardous to the environment (batteries and accumulators, greenhouse gases, mercury-containing components, capacitors that may contain PCBs, etc.), but they are also high recycling potential of the materials that compose them (ferrous and non-ferrous metals, rare metals, glass, plastics, etc.) This also applies to pneumatic equipment.

To respond to these health and environmental challenges, the Government of Ivory Coast has just launched a project on the management of electronic, electrical and pneumatic waste. This project will be implemented in collaboration with the African Recycling Society (SAR, acronym in French) and the General Surveillance Society (SGS, acronym in French). It will be divided into three modules. The first is to identify and register new and used imported products in Ivory Coast. The second module consists in collecting, on behalf of the Government, the eco-tax of new and second-hand imported products, under the polluter pays principle and the principle of extended producer responsibility. The eco-tax thus generated will be used to finance the implementation of a national program for the recovery and recycling of waste electrical and electronic equipment (D3E) and used tires. The third module consists of configuring a recovery and recycling system for D3E and used tires, in association with the SAR.

Likewise, Decree No. 2017-792, of December 6, 2017, limits the age of second-hand vehicles imported to Ivory Coast, another strong act in the fight against pollution on the part of the Government that should inspire other states in the sub-region of West Africa.



## ENVIRONMENTAL REFUGEES – PROMOTION OF INTERNATIONAL LEGAL RECOGNITION OF PEOPLE DISPLACED BY THE ENVIRONMENT AT COP24 ON CLIMATE CHANGE

On December 8, on the occasion of the 24th session of the Conference of the Parties (COP24), the issue of legal recognition of people displaced by environmental problems has drawn attention and marked the agenda of the day's session, by initiative of CIDCE, the NGO Care Geo & Environment and its partners. Backed by the voices of the International Center for Comparative Environmental Law, Care GEO NGOs and partner organizations, this conference theme recalled that the concept of refugee exists internationally through the Geneva Convention of July 28, 1951 on the status of refugees and stateless persons. This convention defines the refugee in his article 1 as "any person (...) who (...) fears with good reasons to be persecuted for their race, their



## ECOLOGY – MANGROVE AS PROTECTION AGAINST TSUNAMIS

430 dead and several dozen missing. This is the partial result of the tsunami of December 27, 2018 in Indonesia. On December 24, under the photo of the Krakatau volcano, the Kompas newspaper called "an unpredictable tsunami". According to official agencies, the sources of the disaster would be several phenomena that occurred simultaneously and in a loop: high waves amplified by the full moon and Krakatau eruption, which caused tremors in its flanks that caused the fall of a slope of the volcano to the sea. This caused a landslide under water. Other landslides must be feared, according to the same sources. That is why Vice President Jusuf Kalla asked people living in Sunda Strait to stay at home for the next few days. However, according to recent studies, the worst could have been avoided.

In fact, a study conducted after the tsunami that devastated Palu in the Celebes Island at the end of September, shows that the damage was less in the protected areas by mangroves. These natural barriers would be a better defense than artificial structures. Therefore, "on September 28, 2018, the mangrove forests have shown that they were effective in protecting the villages against the tsunami that struck the Palu Bay," the Kompas newspaper reported, citing a study conducted by the National Office of Studies and Application of Technology.

Experts hope that, in the future, the Indonesian authorities will opt for the use of the mangrove as a natural barrier, since it provides an excellent protection for human beings and is essential for the coastal ecosystem.



## COMPUTER SECURITY – CNIL SANCTIONS UBER € 400,000 FOR BREACH OF DATA SECURITY

The CNIL, in its deliberation n ° SAN-2018-011 of December 19, 2018, pronounced a sanction of 400,000 euros against the company UBER for not having sufficiently insured the users' data of its VTC service. The facts go back to November 2017. "The attackers first managed to access the identifiers stored clearly on the Github collaborative development

religion, their nationality, their belonging to a certain social group, or their political opinions, is outside the country of the one who has the nationality and who can not, or because of this fear, does not want to claim the protection of this country. " This definition does not take into account refugees who are victims of climate disasters. Thus, this category of refugees faces a legal vacuum. No text gives them protection. These victims are, then, the great absences of the summits on climates and international law. However, they are more numerous due to the frequency of cataclysms (hurricanes, fires, droughts, sea level rise, atmospheric pollution).

A degraded environment is not yet considered a legitimate reason to leave its territory and does not yet justify legal protection measures. However, there are refugees due to natural disasters and ecological accidents. They deserve legal protection in the same way as war refugees.



## CASE LAW

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For the first time, the Chamber of Commerce of the Court of Cassation retained the inexcusable fault of the carrier. In fact, the highest court considered that the transporter who leaves his truck in an isolated place in the middle of the field, which gives direct access to the public road, without effective supervision, commits an inexcusable offense even if the parking of automobiles is occasionally occupied by cars. Therefore, the inexcusable fault of the carrier is now enshrined by the Court of Cassation.

The "inexcusable fault" of the carrier (or freight forwarder) has replaced, since the law of December 8, 2009, article L. 133-8 of the Commercial Code, gross negligence as a reason for the exclusion of limitation clauses of the repair, whether contained in the applicable standard contract or in the contract that the parties have specifically entered into: "an intentional fault involving an awareness of the probability of the damage and its reckless acceptance without a good reason" is inexcusable.

platform, then used these credentials to remotely access a server where the data is stored. They have downloaded information on 57 million users, including 1.4 million located in France, "said the working group created by the European CNILs to coordinate the investigations. The CNIL felt that the attack could have been avoided if some basic security measures had been implemented. For example, Uber should have reinforced the authentication process of its engineers for the Github platform (an identification, a password and a secret code sent on the smartphone) and also set up a system to filter the IP addresses. Implicitly, the CNIL admits that it is not necessarily the hacking of the data that has caused this sanction. It is rather the breach of a security obligation.

In any case, the UBER company should be happy about the non-application in this case of the sanctions provided for by the RGPD, because the facts precede its entry into force. Otherwise, the fine would have been much higher because, with the RGPD, the amount of pecuniary sanctions can be up to 20 million euros or, in the case of a company, up to 4% of the annual global figures.



## CORPORATE SOCIAL RESPONSIBILITY – FROM A VOLUNTARY APPROACH TO BINDING OBLIGATIONS

In principle, CSR is based on a mostly voluntary and non-binding approach, and is related to the so-called soft law. In the last ten years, more or less, several laws have imposed obligations on companies in terms of environmental legislation and, legally, they are increasingly binding. In this sense, the law n ° 2001-420 of May 15, 2001 on the new economic regulations, the law n ° 2009-967 of August 3, 2009 of programming related to the implementation of the Grenelle of the environment, and the law n ° 2010-788 of July 12, 2010 on the national commitment for the environment, known as "Grenelle 2", constitute the legislative basis on which the French national CSR policy is based. Texts such as Articles L. 225-102-1 and L. 233-5-1 of the Commercial Code, or Article L512-17 of the Environment Code, support today the fundamental decision of the Commercial Chamber of the Court of Cassation of April 19, 2005, n ° 05-10,094, founding the CSR as a principle to govern companies.

At European level, the CSR Communication of 25 October 2011 marks the abandonment of the commitment of the European executive to a purely voluntary nature of CSR, which provides, together with the dissemination of good CSR practices, the introduction of binding measures for the companies.



## MEDICAL RESPONSIBILITY – LINE OF CAUSALITY BETWEEN HEPATITIS B VACCINE AND DAMAGE, NULLITY OF PERIOD PERFORMED

After a vaccination against hepatitis B in their child, the applicants claim serious disorders and contraction of Cach syndrome by their child, a rare condition that is part of leukodystrophies and affects children. Therefore, the plaintiffs sued the producer and the pediatrician who had administered a second injection of the vaccine. During the instance, the expertise had been ordered and entrusted to a collegiate body. The plaintiffs filed an application for nullity of the report due to the lack of impartiality of one of the experts, before the judge of first instance, who determined that he had no power to rule on this request. However, they didn't reiterate it before the judges in the background. In order to rule out the nullity of inadmissible appraisal appeals, the judges considered that the plaintiffs had not justified any request for annulment in the first instance. Before the Court of Cassation, the plaintiffs criticize the judges of first instance for not having been issued on the lack of impartiality of one of the experts, which constituted, according to them, a substantive defect that could arise at any moment of the process.

The Superior Court rejected the complaint. He noted, on the one hand, that "that the parties, in a procedure in which judicial expertise has been carried out, have the possibility of punishing a violation by the expert, according to the principle of impartiality or the principle of contradiction, seeking its nullity, in accordance with the provisions of Article 175 of the Code of Civil Procedure, which regulates the nullity of procedural acts, without the conditions have ignorance of their right to a fair trial. It stresses, on the other hand, "that the provisions of articles 118 and 119 of the Code of Civil Procedure only regulate the irregularities of the fund that are exhaustively enumerated in article 117 of the Code". In the present case, the plaintiffs had adequately presented their defense on the merits before the court, but without reiterating the grounds for nullity of the opinion of the expert invoked before the judge of first instance, so that this nullity, brought before the court of appeal, will be covered. Therefore, the request for nullity was inadmissible.