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The embargoes of two million pesos on each defendant were also maintained.

Mar del Plata: Seven fishmeal factory executives have been charged with polluting the water and the environment.

9.09.2019 in [Prosecutors' Offices](#)

The Federal Court of Appeals in that city ruled on the charges of crimes under Articles 55 and 57 of Law 24.051, which they are accused of being indirect perpetrators. The Federal Public Prosecutor's Office (MPF) referred to the "undeniable" results of the expert examinations, which proved the course of the contamination from the plant to the sea.



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Mar del Plata: Executives of a fishmeal factory are being prosecuted for polluting the port's public beach.

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Prosecutor Adler filed a complaint against the flour mills in the Port of Mar del Plata.

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The Federal Court of Appeals in Mar del Plata upheld the indictments of seven executives of the Coomarpes Ltda. fishmeal factory, accused of dangerously polluting public health, water, and the environment, a crime stipulated and punishable by Articles 55 and 57 of Law [24.051 on hazardous waste](#). It also upheld the embargoes of two million pesos imposed on each defendant and the opening of an environmental impact control and verification incident against the company under investigation.

The incident in question, which is part of a case involving various complaints and investigations into pollution in the port of Mar del Plata, occurred on February 25, 2016, when municipal officials detected the discharge of a supposedly toxic material through the storm drain originating at the Coomarpes Ltda. factory. This led to a series of evidentiary measures, including the collection of three sets of waste samples obtained at different locations and times.

At the hearing held in March, the defense attorneys for the seven defendants raised objections to the indictments handed down by investigating judge Santiago Inchausti: among other issues, they argued that the criminal charges had not been proven, that hazardous waste had not been generated, that marine pollution had not been proven, and that environmental crimes could not be considered a crime.

The complaint, for its part, argued that the discharge's black color and foul-smelling odor are the result of the presence of decomposing fish and shellfish waste, which is highly polluting due to its high COD/BOD levels. When in contact with a receiving environment such as the sea, it poses a risk to human health.

In turn, the Attorney General before the Federal Court of Appeals, Daniel Adler, maintained that "an undeniable contamination has been verified" confirmed by the expert examinations carried out, which "undoubtedly demonstrated the presence of fecal coliforms, which—according to the expert conclusions—affect the health of the population, including the children who

play on the port beach, a public beach, by the way."

He also recalled that the samples for analysis were taken on the beach, in the stormwater runoff, and where the stormwater drain emptied, and were repeated three times. Faced with the obviousness of the evidence, the prosecutor stated: "I thought the defense would acknowledge the undoubtedly polluting incident, that they would make themselves available to the courts, and prosecute this through corporate social responsibility. Nothing of the sort. They have come to deny the incident, an undeniable incident, within a port that is in a shameful state of filth, as evidenced in this case that has been going on for so long, due to the slowness and ineffectiveness of the Federal Court in Mar del Plata."

In closing, Adler argued that the ruling should be upheld in its entirety, "because despite the repeated contaminations noted in the case file, we are faced with a persistent and rebellious attitude toward the law."

Hazardous waste, from the factory to the sea

What the investigating judge verified—and what was confirmed by Court Judges Eduardo Jiménez and Alejandro Tazza—is the discharge of toxic substances through the storm drain located in the coastal area known as Playa del Puerto, which discharges into the sea. This discharge originated from the fishmeal factory facilities of the Mar del Plata Fisheries and Industry Cooperative. From there, a dark black liquid with a strong nauseating odor emanated, which, according to the technical reports included in the case, contained effluents that exceeded the guideline values established in Law 24.051 and its Decree 831/92, Annex 2. Therefore, "we would be," Inchausti said, "facing the presence of hazardous waste."

On the other hand, the judge had stated—and the Court adopted this ruling—that, according to the results of the expert reports, "within the production process, there was a certain degree of regularity in the dumping of hazardous waste, which was detrimental to the environment," given that the final destination of the dumping was the sea.

According to the results of the expert reports, "within the production process there was a certain degree of regularity in the mechanism for dumping hazardous waste."

Along these lines, and in responding to the grievance regarding the lack of evidence that the discharge originated from the company under investigation, the Court noted that this was identified in the records prepared, in accordance with the implemented protocols and the procedural guarantees upheld, by the multiple entities and public agents involved in the detection, verification, and sampling since the complaint was filed with the Sanitary Works of the Municipality of General Pueyrredon. In fact, samples of contaminants originating from inside the company toward the storm drain were taken three times. There, the presence of fats, ammoniacal nitrogen, and COD above permissible limits was confirmed.

Regarding the criminal liability of the defendants, who hold executive positions within the company, the Court judges summoned the investigating judge when he considered the president, vice president, secretary, regular members, principal trustee, and manager to be "indirect perpetrators." Furthermore, he ruled that the treasurer, members, and alternate trustee were found guilty. Regarding the former, he understood that "they knowingly and willfully decided (direct intent) to dispose of this polluting waste in the storm drains." In response, he noted that "at no point did they claim ignorance of this circumstance or invoke any factor that would lead one to believe any kind of error that would exclude the subjective nature of their conduct."

In any case, the Chamber warned that the investigation should "deepen the investigation in order to provide new evidence that will provide greater details about the method and specifics of the decision-making process, and the inherent functional responsibilities of the accused in the company under investigation."

For the Federal Court, the directors "knowingly and willfully decided (with direct intent) to dispose of this polluting waste in stormwater."

Regarding the two million peso embargoes imposed on each defendant, the Court of Appeals judges upheld them, considering that "it cannot be ignored that environmental crimes often cause damage whose repair, whether in the form of restitution or compensation, requires significant financial resources."

The creation of an environmental impact control and verification file was also approved, and in this regard, it was taken into account that the corresponding supervisory bodies, such as OSSE, OPDS, and ADA, were ordered to exercise specific oversight over the process of Coomarpes' productive activity.



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