

# Trial opens in German environmental scandal

**A correspondent****15 May 2012**

On May 9, legal proceedings began at the Dortmund district court against four defendants, accused by the public prosecutor of involvement in the criminal activities of Envio Recycling Ltd.

The company, which had made huge profits by recycling PCB industrial capacitors (devices for storing electrical energy) in Dortmund's Rhine dock area, was closed by the supervisory authority of the Arnsberg district administration in May 2010. This followed a local newspaper's reports of gross violations of safety and environmental regulations. Employees had worked with their bare hands, dismantling capacitors containing highly toxic PCBs (polychlorinated biphenyls). The dust extracting equipment was inefficient, and the dismantling often took place inside factory buildings.

The production of cancer-causing PCBs was banned in Germany in 1983 and also worldwide, following the Stockholm Convention of 2001. All PCBs and equipment containing PCBs were to be discarded by late 2010. Envio Recycling Ltd's business practice was organised around the subsequent obligation of firms to safely dispose of the carcinogenic substance, and it was able to maximise profits by simply ignoring the new safety regulations. Under normal circumstances, the waste management of PCBs is extremely costly. The high-quality copper from the capacitors enabled Envio to draw substantial revenues on commodity exchange markets.

Those accused are Dr. Dirk Neupert, a director of the firm, a former operations manager, an off-site pollution control officer, and a former workshop foreman.

In view of the serious consequences of the affair this is a very selective choice of those who must have been involved. The extent of the violations would have been impossible without the cooperation of regulatory authorities—from the staff of the municipal environmental office to members of the district governing body.

The consequences for the Envio workers and their families have been catastrophic. Local press and television documented the lives of members of one particular family, whose father worked at Envio and brought the poison into his home via his work clothes. His wife was pregnant at the

time, and their child was born with a cyst-covered kidney that soon failed and had to be removed. The poisonous substance was also found in the blood of the child's five-year-old brother. The parents and children now live in a constant state of fear because no one knows what effects the toxin is going to have.

The rest of the workers are in similar predicaments. Blood tests revealed that 95 percent of them had PCB contamination exceeding standard levels 8,600-fold, and in the worse cases 25,000-fold.

The case of the aforementioned young child is unfortunately not the only one. This inevitably raises the suspicion of a direct link between PCB poisoning and severe, acute disease—even though the particular effects of PCBs have as yet not been scientifically and medically well enough understood to prove the malignancy with complete certainty. In July last year, the WAZ Media Group (a newspaper and magazine publisher) reported that 6 from a group of 273 Envio victims, participating in a support program of the Aachen University Hospital, have recently been suffering from different forms of cancer. Four of them were not even from the group with extremely high PCB levels. This can only mean that many more of those affected will become gravely ill in the coming years.

An official interim report, made by the care program, compiled evidence of the health problems of the participants in the study. These include thyroid defects, motor and mental disorders sometimes amounting to deep depression, poor hormonal and liver values, skin defects and nervous disorders, and deteriorating function of various organs. The program is still in progress and now in its second stage. So far, some 50 cases of suspected occupational disease have been registered with the Employers' Liability Insurance Association.

The prosecution, conducted at the Dortmund district court, will charge CEO Dirk Neupert and his former managers with the offence of serious bodily injury in 51 cases. In addition, the defendants are accused of the illegal handling of hazardous wastes—including one particularly severe instance of this—and the unauthorized operation of a waste disposal facility. The other two accused will be charged with

complicity in the unlawful operation of the waste management plant.

Some 22 former Envio workers will be represented as plaintiffs in the proceedings by Reinhard Birkenstock, an attorney from Cologne, who declared to the assembled media that he intended to claim a high compensation for the victims, an “atonement in deeds, not words”.

But the victims had to fight for the right to legal representation in the proceedings. While Neupert is able to appear in court with three attorneys, the plaintiffs had difficulty financing even one. Only after the above-mentioned father had published an open letter to his trade union, the IG Bergbau, Chemie, Energie, in various local and online newspapers, did the union agree to cover the legal fees.

However, it remains to be seen to what extent Birkenstock will be prepared to go into the details of the state authorities’ deep involvement in the case. In an interview with the *Westfälische Rundschau* newspaper, he stressed that joint plaintiffs should not set themselves up as “watchdogs of the public prosecutor and the court”. According to Birkenstock, the task of a joint action was to approach the trial “with the objective humility” appropriate to the code of criminal procedure.

Like the other supervisory authorities, the prosecution only opened investigations into Envio, when the Dortmund population’s anger and outrage over the firm’s business practices continued to mount—and then only hesitantly. Newspapers reported that, during a raid on the firm, the chief public prosecutor—to the astonishment of accompanying detectives”—only took “selected documents” and left important evidence behind.

In general, the proceedings give the impression that the prosecutor’s office is reluctant to investigate and explain the whole situation. Metaphorically speaking, unless the media leads it by the hand to investigate, it does nothing. All procedures unrelated to Dirk Neupert and his immediate milieu have been closed. Nevertheless, the investigation of Neupert and his associates has brought to light other circumstances, making the complicity of official supervisors even more apparent.

Envio received capacitors from the hazardous waste underground storage site in the Herfa-Neurode, Hesse. In order to be able to dismantle and dispose of them, Envio applied for permission to operate a facility in 2005. In 2006 the permission for such a plant expired and was not renewed. Nevertheless, Envio took delivery of about 8,500 tons of discarded equipment from the underground storage depot from June 1, 2006, to the company’s forced closure in May 2010, and “disposed of” it—a fact that has become the subject of the indictment. All shipments of capacitors from

the Hesse hazardous waste depot are logged by the communal Waste Monitoring System of the Federal States, to which the supervisory authority in Arnsberg has access.

Even when an anonymous letter informed state regulators about the criminal conditions at Envio in 2008, they failed to take any action. Only when the press published the story and the scandal was revealed, did the authorities respond.

As welcome as it is, the trial is taking place against this background as though it were staged. The defendants appear to be “scapegoats”, while others are being spared.

Even the main defendant, Neupert, seems quite untroubled about facing the judiciary. Apparently, he intends to continue the extremely lucrative recycling business model. In October, 2010, Envio Recycling Ltd simply filed for insolvency, which allowed the recycling to be further pursued. However, Envio Ltd is a network of about 20 subsidiary companies, each of which was or is a legally independent, and cannot be held liable for the debts, misdemeanours and conduct of the others. Envio Ltd and its sub-companies comprise in turn a subsidiary of the listed Envio AG joint-stock company.

Neupert and his advisers have exploited this convoluted business structure to such an extent that the state of North Rhine-Westphalia has so far had to expend a sum amounting to €6 million to meet the disposal, redevelopment and security costs, accruing from the contaminated site. Further expected costs are estimated to be in the tens of millions. Rivalling the state of North-Rhine Westphalia in having to pay for Envio’s pollution, the Employers’ Liability Insurance Association has so far registered claims of €4 million at a meeting of creditors.

Meanwhile, Neupert and his business partners have disposed of the name “Envio AG” in order to continue on the stock market—unencumbered by the past—under the name “Bebra Biogas Holding AG”. The business structures are so opaque that it is quite difficult to understand how they are able to continue the lucrative business of PCB disposal.

What is known is that Envio agents in South Korea operate a company that is applying “trial” methods of waste management in Dortmund. When Neupert attempted to make firm’s renaming to “Bebra Biogas Holding AG” more appetising for investors at Envio AG’s final shareholders’ meeting, he also boasted about an order from Macedonia for the disposal of more capacitors containing PCBs.



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