



LEGAL PROCEEDINGS SCHEDULE CONCERNING RECYLEX S.A.

10 September 2019



Summary



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1. Legal proceedings against Recylex S.A.



Legal proceedings against Recylex S.A.



Claims for damages for dismissal without fair cause filed by 554 former employees of Metaleurop Nord S.A.S. (launched in 2005) – ENDED

- Recylex S.A., considered at that time by the courts as co-employer, paid 100% of the damages and costs granted to 554 unprotected former employees under its continuation plan (2005-2015), i.e. approximately €16.3 million.

Legal proceedings against Recylex S.A.



Claims for damages for dismissal without fair cause and/or prejudice of anxiety filed by 193 former employees of Metaleurop Nord S.A.S.

■ **15th January 2013:** the Lens Labour Court:

- rejected the claims of 6 former protected employees. The Douai Appeal Court confirmed these decisions on February 21, 2014 ; and
- considered that Recylex S.A. was the co-employer of 49 former unprotected employees of Metaleurop Nord and granted as damages for dismissal without fair cause €50,000 to 48 of them and €30,000 to one of them, as well as €300 to each of them as costs (totaling €2.4 million). Recylex lodged an appeal against these decisions.

■ **3rd May 2013, 10th May 2013 and 10th September 2013:** The Lens Labour Court considered that Recylex S.A. was the co-employer of:

- 2 deceased former employees and granted respectively €30,000 and around €55,000 as damages, as well as respectively €300 and €400 as costs, to their heirs;
- 136 former employees and granted damages between €15 000 and €50 000, as well as €300 as costs, to each of them (representing a global amount of €4.6 million).

Recylex lodged an appeal against these decisions.

- **31st January 2017:** The Douai Appeal Court did not considered Recylex S.A. as co-employer but nevertheless condemned Recylex S.A. to pay to 187 former employees of Metaleurop Nord S.A.S. a sum between €16,000 to €53,000 as damages for loss of opportunity and €400 as costs, i.e. a total amount of around €7.8 million. These decisions being enforceable, Recylex S.A. paid these damages but lodged an appeal before the *Cour de cassation*.

Legal proceedings against Recylex S.A.



Claims for damages for dismissal without fair cause and/or prejudice of anxiety filed by 193 former employees of Metaleurop Nord S.A.S. (continued)

■ **24th May 2018:** The Cour de Cassation has:

- Firstly, confirmed the Douai Appeal Court decisions considering that Recylex S.A. was not the co-employer of the former employees of Metaleurop Nord S.A.S.;
 - Secondly, reversed and cancelled the decisions of the Douai Appeal Court to the extent that they had ordered Recylex S.A. to pay damages to these former employees for loss of a chance to keep a job, referring these cases to the Amiens Court of Appeal concerning this last point.
- 91 claimants among the 187 former employees claim before the Douai Appeal Court complementary damages for prejudice of anxiety and breach of security duty for a total amount of €5.6 million (partially provisioned in the accounts). These claims for prejudice of anxiety are linked to the administrative procedure concerning the inclusion of Metaleurop Nord's Noyelles-Godault plant on the list of facilities eligible for the early retirement allocation for asbestos workers. In this respect, the administrative court of appeal decided that such inclusion must be cancelled, by its decision of 2nd March 2017, which is now final (see p. 14).

Legal proceedings against Recylex S.A.



Claims for damages for prejudice of anxiety and/or breach of security duty and/or prejudice arising from the cancellation of dismissal authorization for protected employees and/or for dismissal without fair cause filed by 455 former employees of Metaleurop Nord S.A.S. (global amount claimed approximately €26.5M of which €4.3M are provisioned)

- **14th October 2016:** The Lens Labour Court (Industry section) ordered Recylex S.A. to pay to 73 non-protected former non-managerial employees and 2 protected former non-managerial employees, represented by the CGT union, an amount between €3,000 and €24,000 as damages and €500 pursuant to Article 700 of the French Civil Procedure Code, that is a total amount of €1,000,500. Recylex S.A. lodged an appeal against these decisions, thereby suspending their enforcement. As the claims of 7 former employees were rejected by the court, 2 of them lodged an appeal against these decisions (but the Appeal Court confirmed on June 29, 2018 these reject decisions). On **29th June 2018**, the Douai Appeal Court also decided to overturn the 75 Lens Labour court decisions by rejecting the former employees claims. The former employees lodged an appeal before the Cour de cassation.
- **18th October 2016:** the Lens Labour Court (Management section) ordered Recylex S.A. to pay to 22 former managerial employees represented by CGT an amount between €3,000 and €16,000 as damages and €500 pursuant to Article 700 of the French Civil Procedure Code, that is a total amount of €213,000. Recylex S.A. lodged an appeal against these decisions, thereby suspending their enforcement. On **29th June 2018**, the Douai Appeal Court decided to overturn the 22 Lens Labour court decisions by rejecting the former employees claims. The former employees lodged an appeal before the Cour de cassation.

Legal proceedings against Recylex S.A.



Claims for damages for prejudice of anxiety and/or breach of security duty and/or prejudice arising from the cancellation of dismissal authorization for protected employees and/or for dismissal without fair cause filed by 455 former employees of Metaleurop Nord S.A.S. (*continued*)

- **30th March 2018:** the Lens Labour Court decided to order Recylex S.A. to pay to 13 former employees represented by CGT an amount between €4,000 and €20,000 as damages, along with €500 under article 700 of the Civil Procedure Code, totaling €186,500. Recylex S.A. appealed against these decisions, thereby suspending their enforcement.
- **4th October 2019 (Industry section) and 14th April 2020 (Management section):** next hearings (for pleadings or writing-off) before the Lens Labour Court concerning 330 claims for damages for prejudice of anxiety and/or breach of security duty and/or prejudice for loss of a chance and/or dismissal without fair cause, for a global amount of around €21 million.
- **4th October 2019 (Industry section) and April 14, 2020 (Management section):** next hearings (for pleadings or writing-off) before the Lens Labour Court concerning claims for damages from 14 former protected employees for a global amount of around €1.7 million.

Legal proceedings against Recylex S.A.



Claim for liability filed by the liquidators of Metaleurop Nord S.A.S.

- **17th October 2014:** the liquidators of Metaleurop Nord S.A.S. initiated a claim against Recylex S.A. before the Arras Commercial Court to have it condemned, as co-employer, to indemnify them for approximately €22 millions (not provisioned) corresponding to the statutory employment contract severance payments and indemnities paid to the former Metaleurop Nord employees in 2003 by the salary guarantee fund regime (AGS - French employers' association overseeing guaranteed payment of salaries and wages).
- **11th April 2018:** the Arras Commercial Court ruled in favour of Recylex S.A. The claim from the liquidators of Metaleurop Nord S.A.S. was considered inadmissible as being time-barred since March 21, 2013 on the one hand, and for not having been declared within the scope of the judicial recovery procedure of Recylex S.A. whilst their alleged receivable was born before its opening, on the second hand. The liquidators lodged an appeal against this decision.
- **9th April 2020 :** Hearing (for pleadings) before the Douai Appeal Court.

Legal proceedings against Recylex S.A.



Claim for damages brought by SNCF RESEAU concerning the l'Estaque site (Marseille)

- **20th April 2018:** Notification of a claim from the industrial and commercial public institution SNCF Réseau lodged before the Marseille Administrative court aiming at having Recylex S.A. together with RETIA S.A.S.A.U. jointly condemned to pay the totality of the sums necessary for the “global refurbishment” of the railways public domain of the L’Estaque sector in Marseille. This claim is estimated to date by the SNCF Réseau at a global amount of €70 million and relates in particular to :
 - The restoration works of the totality of the Riaux Tunnel and the Rio Tinto Tunnel up to respectively €17.1 million and €33.4 million ;
 - The demolition and rebuilding of the Vauclair Viaduct (€11.4 million), connecting these two tunnels, which is located on a land belonging to the SNCF and has not been the site of any industrial installation ; and
 - The renewal of the railway line and ballast in these tunnels and on this viaduct (€8.1 million).
- A part of the Riaux Tunnel is located underneath a land in rehabilitation (of a surface of 15 hectares) owned by Recylex S.A. and the Rio Tinto Tunnel is located underneath a rehabilitated land (of a surface of 33 hectares) owned by the company RETIA. Recylex S.A. intends to defend itself vigorously against this claim and to protect its interests in connection with this action, which aims, according to Recylex S.A., at seeking to make the renovation costs of a dilapidated railway line paid by the last industrials having operated the l’Estaque site.

2. Legal proceedings initiated by Recylex S.A.



Legal proceedings initiated by Recylex S.A.



Claim for liability filed by Recylex S.A. against the liquidators of Metaleurop Nord S.A.S.

- **19th March 2013:** Recylex S.A. filed a claim for liability before the Béthune Regional Court against the liquidators of Metaleurop Nord S.A.S. alleging the personal fault committed by them within the framework of making former employees of Metaleurop Nord S.A.S. redundant, resulting in damages being awarded to these employees.
- **18th September 2018:** The Béthune Regional Court rejected Recylex S.A.'s liability claim lodged against the liquidators of Metaleurop Nord S.A.S. up to approximately €22 million corresponding mainly to the prejudice suffered by Recylex S.A. as a result of damages it had to pay to more than 550 former employees of Metaleurop Nord S.A.S. As a reminder, these damages were paid to them in order to compensate their loss for dismissal without real and serious cause in lack of search for reclassifications. Recylex S.A. acknowledges the finding by the Court of the personal misconduct by the liquidators of Metaleurop Nord S.A.S. for breaching their legal obligation to seek reclassifications in connection with the dismissal of the former employees of Metaleurop Nord S.A.S. in 2003. However, Recylex S.A. considers that the two legal grounds put forward by the Court to exonerate the liquidators' liability are totally unfounded and therefore lodged an appeal against this decision.

Legal proceedings initiated by Recylex S.A.



Appeal in third party proceedings against the ruling of the Douai Administrative Appeal Court of 13th May 2013

- **13th May 2013:** the Douai Administrative Appeal Court (“Douai AAC”):
 - overturned the ruling of the Lille Administrative Court on July 4, 2012 upholding the decision made on 23rd December 2009 by the French Labour Ministry refusing to add the Metaleurop Nord S.A.S. facility to the list of asbestos manufacturing, flocking and insulating plants ; and
 - ordered the French ministry of Labour, employment, professional training and social dialogue to add said facility to the list of those eligible for the early retirement allocation for asbestos workers for the period between January 1, 1962 to December 31, 1996.
- **1st August 2013:** Since Recylex has never been asked to appear or represented in connection with this administrative procedure, it submitted an application to set aside a judgment adversely affecting its interests to the Douai AAC related to the latter’s 13th May 2013 ruling.
- **21st July 2015:** the Douai AAC confirmed the inclusion of Metaleurop Nord’s Noyelles-Godault plant on the list of facilities eligible for the “ACAATA” (early retirement allocation for asbestos workers) but also decided to reduce the period of registration from 1st January 1962 to 31st December 1989 (vs. 31st December 1996 previously). Recylex lodged an appeal before the “Conseil d’Etat”.
- **27th June 2016:** the “Conseil d’Etat” overturned the 21st July 2015 decision by the Douai AAC, pursuant to which Metaleurop Nord’s Noyelles-Godault plant was included on the list of facilities eligible for the “ACAATA” for the period from 1st January 1962 until 31st December 1989. The case was sent back to the Douai administrative court.

Legal proceedings initiated by Recylex S.A.



Appeal in third party proceedings against the ruling of the Douai Administrative Appeal Court of 13th May 2013 (continued)

- **2nd March 2017:** the Douai Administrative Appeal Court ruled in Recylex S.A.'s favour by deciding to:
 - declare its judgment of 13 May 2013 null and void ;
 - reject the application submitted by the Association *Chœurs de fondateurs* (representing former employees of Metaleurop Nord) ;
 - order the Minister of Labour & Employment, to repeal, within two months of the notification of this judgment, the decree of 5 November 2013 including the Metaleurop Nord's Noyelles Godault plant on the list of facilities eligible for the ACAATA.

This decision is final since the appeal lodged by the Association *Choeurs de fondateurs* was considered as inadmissible by the Conseil d'Etat.

- **19th December 2017:** Ministerial decree repealing the ministerial decrees of 5 November 2013 and 2 March 2016.
- **February - April 2018:** a claim for annulment of this ministerial decree has been lodged by former employees of Metaleurop Nord S.A.S., as well as a new request aiming at having the Noyelles-Godault plant included on the list of facilities eligible for the "ACAATA". On **26th June 2019**, the Lille Administrative Court dismissed the claim for annulment of the ministerial decree of 19th December 2017.

Legal proceedings initiated by Recylex S.A.



Application to repeal the inter-ministerial Decree of November 5, 2013

- **5th November 2013:** In execution of the ruling of Douai AAC of 13th May 2013, an inter-ministerial Decree includes the Noyelles-Godault facility of Metaleurop Nord S.A.S. on the list of facilities eligible for the early retirement allocation for asbestos workers for the period between 1st January 1962 to 31st December 1996.
- **19th December 2013:** Recylex lodged an application to the Lille Administrative Court to repeal the aforementioned inter-ministerial Decree of 5th November 2013.
- **26th June 2019:** the Lille Administrative Court repealed the inter-ministerial Decree of 5th November 2013 .

Legal proceedings initiated by Recylex S.A.



Application to repeal the inter-ministerial Decree of March 2, 2016

- **2nd March 2016:** In execution of the ruling of Douai AAC of July 21, 2015, an inter-ministerial Decree includes the Noyelles-Godault facility of Metaleurop Nord S.A.S. on the list of facilities eligible for the early retirement allocation for asbestos workers for the period between 1st January 1962 to 31st December 1989.
- **12th April 2016:** Recylex lodged an application to the Lille Administrative Court to repeal the aforementioned inter-ministerial Decree of 2nd March 2016.
- **26th June 2019:** the Lille Administrative Court repealed the inter-ministerial Decree of 2nd March 2016.

Legal proceedings initiated by Recylex S.A.



Appeal in voluntary proceedings before the Douai AAC to repeal the cancellation of dismissal authorization of former protected employees

- **January 2015:** the claims for damages from 16 former protected employees for prejudice arising from the cancellation of dismissal authorization being linked to the administrative procedure aimed at repealing the cancellation of their dismissal, Recylex lodged an appeal in voluntary proceedings before the Douai AAC in order to reconsider this cancellation ruled by the Lille Administrative Court on 2nd October 2013. Recylex had never been asked to appear or represented in this administrative procedure.
- **31st December 2015:** the Douai AAC admitted the appeal in voluntary proceedings of Recylex S.A. but rejected the appeal lodged by the liquidators of Metaleurop Nord S.A.S. and the Labour Ministry against the cancellation ruled by the Lille Administrative Court of 16 former protected employees' dismissal authorization.
- **24th February 2016:** Recylex has lodged an appeal before the “Conseil d’Etat” against the decision issued on 31st December 2015 by the Douai AAC.
- **7th February 2018 and 13th April 2018:** The Conseil d’Etat decided to cancel the decisions taken on 31st December 2015 by the Douai AAC and on 2nd October 2013 by the Lille Administrative Court concerning 15 former protected employees , which confirms the validity of the authorization to dismiss them decided in 2003.

3. Summary of legal proceedings concerning Metaleurop Nord S.A.S.



* These claims are linked to the administrative proceedings aiming at cancelling the inclusion of the Noyelles-Godault facility of Metaleurop Nord S.A.S. on the list of facilities eligible for the early retirement allocation for asbestos workers (see page 13)

** These claims are linked to the administrative proceedings aiming at cancelling the dismissal authorization of former protected employees (page 17)



