

Lawyers from Ambrosio & Commodo Law firm, Turin, Italy, communicate the publication of the decision of the Court of Appeal of Turin n. 519 of 2.11.2022, Board Member Relator Grillo Pasquarelli.

A sentence written by scientists among scientists.

Intracranial tumor caused by the use of a mobile phone. Type of tumor: vestibular schwannoma, or tumor of the VIII cranial nerve, also known as acoustic neuroma.

Physical consequences: "*left deafness, right cochlear implant, facial nerve paresis, balance disorder and depressive syndrome, permanent biological damage 57%*".

Worker formerly in Cogne Acciai Speciali (Aosta, northern Italy) who between 1995 and 2008 used ETACS and GSM for more than 10,000 hours (minimum 10,361 hours, maximum 13,687 hours).

On average, 2 and a half hours a day.

He is now 63 years old.

The Turin Court of Appeal confirms the decision of the Court of Aosta.

It is only the second time in the world that there have been two consecutive sentences of merit in favor of the worker. Recall that the first, Romeo v. Inail became final in 2020, INAIL did not appeal in cassation. In that case, for the first time in the world, a first instance ruling in 2017 affirmed the causal link.

It is a sentence resulting from the close scientific confrontation - the role of jurists is marginal.

In the first degree, INAIL had two medical consultants (Grandi, Bombardi). The worker had two (Levis, Papi) as well as a telecommunications engineering consultant (Palio).

The Court appointed 2 (Marino, D'Errico).

Numerous meetings, sessions, exchanges of memories: the Court consultants not at all convinced of the INAIL arguments concluded for "*high probability*" that the cell phone caused cancer.

The Court condemns in 2020 to pay the pension for occupational disease (350 € per month approx.) And puts the "science" that walks close to the telephone industry under a magnifying glass.

INAIL appeals in 2020 and asks for a new expert witness.

Worker opposes but the Court of Appeal listens to INAIL.

Corte Appello appoints a new consultant (Albera).

The worker on appeal had only 1 (Rodriguez).

INAIL 3 consultants (Grandi, Bombardi, Di Tommaso).

Again: numerous meetings, sessions, exchanges of memories, but the consultant of the Court of Appeal confirms that there is a "*high probability*" that it was the cell phone, and nothing else, that caused the tumor.

Some passages of the sentence that explain the scientificity and the origin in the science of the decisions of Prof. Albera:

"From the point of view of the legal method, the evaluation carried out by the expert witness is perfectly consistent with the criteria dictated by the most recent jurisprudence of legitimacy".

And again from the sentence:

"In the case in question, the CTU adhered precisely to these criteria, having first identified, on a scientific and epidemiological level, the causal law of general coverage, which correlates the specific disease from which the appellant is affected (neuroma of the acoustic nerve left) to dangerous professional activity (occupational exposure, for no less than 10,361 hours from 1995 to 2008, to radiofrequencies from the use of cellular phones with Etacs technology until 2005) and having then compared the general rule with the specifics of the concrete case, coming to provide an explanation of the causal link in terms not of certainty but of high logical probability (qualified probability), also in relation to the exclusion of the intervention of alternative causal factors (here not even hypothesized by anyone, not even by INAIL) and the presence of reinforcing individualizing elements (the onset of the pathology in the left ear, the only one used by Mr. -----for phone calls, due to previous severe deafness in the right ear) ".

Two important issues were debated during the CTU: the conflict of interest, and the quality of the studies that face each other to underestimate, or affirm, the causal link.

The scientist still says: *"the studies that support the poor correlation refer to the INTERPHONE study, which was criticized as it also considers modest exposure to radio frequencies from portable phones and there are doubts about a possible conflict of interest of the authors with the manufacturers ; the hypothesis about the possible correlation, or in any case with cause, between radiofrequencies and tumors, in the specific case of acoustic neuroma, are based on studies by Hardell and collaborators, and is based on studies performed by evaluating exposure more precisely"*.

The CTU says again: *"It is clear that at the moment the aetiology of the acoustic neuroma is not known but that among the contributing factors there is exposure to radiofrequencies if the exposure dose was of sufficient magnitude"*.

Animal studies, confirms the CTU, are *"certainly probative of a pathogenic effect on nervous tissue"*.

INAIL harshly criticizes the draft report, but for all disputes the CTU has an answer:

Are there no certainties for an unambiguous identification of a cause at the origin of the onset of acoustic neuroma? Then one has the duty to question oneself and there is the *"need to identify causal or concausal factors that may determine or favor the onset of a certain pathology"* and RF, he reiterates, are such.

This RF hypothesis must be considered even if *"the exact mechanism of action of radio frequencies"* is still unknown (whether it is heat, or whether it is a genetic mutation).

Why is a *"high probability"* declared, asks INAIL? The CTU's response is that *"In the absence of other possible causes, there is the presence of a single risk factor consisting of prolonged exposure to radio frequencies"*.

A few words on the CTU Prof. Roberto Albera, scientist who led the Court of Appeal.

Full Professor of Otolaryngology at the University of Turin. Director of the SC Otolaryngology from [1/11/2009](#) to [today](#). Director of the Department of Surgical Sciences of the University of Turin from [1/11/2012](#) to 30/10/2018.

Three specializations: otolaryngology, audiology, phoniatics. Author of over 400 publications. He has performed around 10,000 surgeries, including just under 200 neuromas.

Lawyers for Ambrosio & Commodo: Stefano Bertone, Chiara Ghibaudo, Jacopo Giunta.

Consultants: Prof. Daniele Rodriguez; Ing. Davide Maria Palio.

Some comments attributable to Attorney Bertone.

<<Detractors who at every court decision on mobile phones claim that the "*judges take the place of science*" will have to find a different argument: the 3 scientists of INAIL did not have convincing arguments for the 1 scientist appointed by the judges>>.

<< From [today](#), massive exposure to RF enters the etiology of acoustic neuroma (affects 1 in 100,000 people every year). >>.

<< The telephone industry also suspects the concrete danger of electromagnetic fields: the Wind-Tre Risk Assessment Document of the year 2017 identifies the risk from the presence of electromagnetic fields and declares "*every company mobile phone is supplied including a headset, which must therefore be used to keep the device not in adherence to the face. Fixed telephones are equipped with a connection cable between the device and the handset; cordless or similar are therefore not available in the company*". This is the way in which Wind-Tre faces the problem with its 7,000 employees, and we believe it is very significant of the knowledge>>.

<< On the other hand, it is known that Swiss reinsurers do not insure risks from RF >>.

<< The American researchers of the NTP stated: "*We believe that the link between radiofrequency (RF) radiation and tumors in male rats is real*". NTP experienced schwannomas and gliomas, malignant tumors of the brain>>.

<< IARC after the publication of the animal studies by NTP and Ramazzini has included radio frequencies among the agents for which a re-evaluation of carcinogenicity in the 2020-2024 period is considered a priority because *"new biological tests and mechanistic action of the RF) justify a reassessment of the classification"*. A change towards *"probable"* or *"certain"* is expected >>.

<< For anyone who deals with these cases it is important to remind the experts and judges that the literature over the years has been literally invaded by articles, which distract the interpreters and confuse, written by those who are financed by the industry who have opposite interests >> .

<< The greatest danger for the public is the incongruous feeling of reassurance: in fact, RF's, unlike other physical or chemical agents, are perceived only with the use of expensive electrical detectors. On the contrary, we avoid the exhaust gases of a diesel engine or the sharp blades of knives thanks to our sensory perceptions >>.

Comment attributable to Laura Masiero of A.P.P.L.E. association of Padua that also supported this dispute:

<<I point out the appreciation of the CTU for the seriousness of Hardell's studies. In fact, the studies on the basis of which the CTU considered that there is a high probability of a causal link between exposure and disease were considered by him to be well conducted and on which *"no relevant observations on the study methods emerged, unlike what occurs instead in studies that would not demonstrate this causal link or concausality"*.

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