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RÉPUBLIQUE FRANÇAISE

Work performed without authorization in a riverbed

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Example of judicial proceedings



DDTM
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Triggering event:

- Information on June 30, 2011 of work and withdrawals in Fauge (town of Gémenos) without authorization by the Departmental Federation of Fishing Associations**
- On-site visit by two water police officers on September 8, 2011 (no flow in Fauge in summer)**

Facts found:

- Two riverside residents barred the riverbed and collected the entire flow of the water without any restoration downstream**

Characterization of the offense:

- **The works and activity fall under three headings of the classification:**
 - **Withdrawal from a water course with a capacity greater than 1,000 m³/h or 5% of the flow of the water course: A**
 - **Installation impeding ecological continuity resulting in difference between the upstream and downstream between 20 and 50 cm: D**
 - **Change of profile along a water course over a length lower than 100 m: D**
- **Such works and activity thus fall under an authorization procedure**
- **The facts found therefore constitute an offense under Article L. 216-8 of the Environmental Code**
- **Penalty: two years imprisonment and €75,000 fine**

Follow-up:

- **Commissioned agents, and sworn to this effect, compiled a report to establish infringement for each offender**

Proposal of plea agreement:

- **Article L. 216-14 allows the prefect of the region to offer a plea agreement to the offender as long as public action has not been set in motion**
- **After the agreement of the aforementioned and the public prosecutor, obligations (including the payment of a plea fine) shall be notified to the offender**
- **Public action is ended once these obligations are met**

In this case, the following plea agreement was proposed to each of the offenders:

- Payment of a plea fine of €200

- The removal of facilities

- This proposal was validated and then accepted by each offender on May 25 and June 6, 2012

