

**THE TURIN COURT OF APPEAL CONFIRMS:
HEAD CANCER CAUSED BY MOBILE PHONE.**

Judgment of the Turin Court of Appeal, 904/2019 of 3.12.2019, published on 13.1.2020, Romeo c. *INAIL*.

The Turin Court of Appeal fully confirms the 2017 Court of Ivrea judgment, judge Fadda: it is true that the **acoustic neurinoma** was **caused by the working use of the mobile phone**.

According to the Court "***there exists scientific evidence supporting the statement of the causal link according to the 'more likely than not' criteria of probability. P.33.***

"Epidemiological data, animal testing results (not currently contradicted by other similar testing), the duration and intensity of exposure... which become particularly relevant in consideration of the ascertained - from a scientific point of view - dose-response relationship between exposure to cell phone radio frequency and the risk of acoustic neuroma, as well as the lack of any another factor which may have caused the disease".

All the case's scientific and evidential materials have been re-examined and re-analysed by two new **technical consultants appointed by the Court of Turin (Carolina Marino, Angelo D'Errico)**. The Court of Appeal fully accepts their conclusions and rejects *INAIL's* appeal, stating that the court-appointed experts have provided "***sound evidence in establishing a causal role between the respondent to the appeal's exposure to mobile phone radio frequencies and the disease that has arisen***".

- This is the second appeal judgment in favour of workers after that of Brescia in 2010, concluded with the confirmation by the Cassation Court in 2012, the *Marcolini vs INAIL* case. In that case, the Court of First Instance of Bergamo had rejected the application.
- Therefore, the Romeo vs *INAIL* case is the first in world judicial history to have had two consecutive merit judgments in favour of employees.
- In 2019, the Monza Court also ruled in favour of the worker's application.
- More than 100 million mobile phones are used every day in Italy.
- Scientific research shows that the risk of harm to health is not confined to the head.

Principles on which the expertise and the judgment were based.

Scientists financed by the telephone industry, as well as ICNIRP members, are less reliable compared to independent scientists.

*"A large part of the scientific literature excluding the carcinogenicity of radio frequency exposure, or anyway claiming that research having reached opposite conclusions cannot be considered conclusive ... **is in a position of a conflict of interest**, which, by the way, is not always stated: cf. in particular, on page 94 of the report, the observation of the appeal respondent's defence (in no way disputed by the other party) according to which **the authors of the studies indicated by INAIL, listed by name, are ICNIRP and/or SCENIHR members, who received, whether directly or indirectly, financing from industry.** P. 33.*

The Turin court-appointed experts declare the following: *"It is believed that **studies published by authors having not stated the existence of conflicts of interest should be given less weight.** In the case in question, **situations of conflict of interest may arise** with respect to the assessment of the effects of radio frequencies on health, for example:*

1. *in those **cases where the author of the study has provided consultancy services to the telephone industry or has received, from the telephone industry, funding to carry out studies***
2. ***the case where the author is an ICNIRP member.***

*In fact, the ICNIRP is a **private organization**, whose guidelines on radio frequencies have **great economic and strategic importance for the telecommunications industry**, with which, moreover, **several ICNIRP members have links through consultancy relationships** ... Apart from potential links with the industry, it goes without saying that ICNIRP members **should refrain from assessing the health effects of radio frequency levels** which the ICNIRP itself has already declared safe and therefore, not harmful to health.*

In relation to such a conflict, the Court of Appeal states: *"the court-appointed consultants' **approach is fully acceptable**, as it is clear that the investigation, as well as the conclusions, of independent authors provide greater guarantees of reliability than those commissioned, managed or financed, even if partially, by entities interested in a study's outcome.* P. 35

On the other hand, *"Therefore, the extensive scientific literature quoted and applied by the court-appointed consultants must be considered reliable, as well as the conclusions it has reached at the epidemiological level".*

Principles on which the expertise and the judgment were based (continued).

Animal testing: Ramazzini and NTP studies, published in 2016-2018.

Epidemiological data: based on Hardell's team, Sweden, then Interphone 2011 "*risk of developing AN (almost 3 times greater in exposed subjects compared to non-exposed subjects), ... in the highest class of exposure ... overall use greater than 1,640 hours (which corresponds to average exposure times of ... half an hour a day for 8 years)*", judgment p. 13, and Monografia Iarc 2013, etc.

Work exposure, based on the statements of former colleagues: "*the Court believes that, in the context of the preliminary investigation, it is possible to consider the evidence of a very high radio frequency exposure, which, according to a conservative estimate, should be quantified as about 4 hours a day for the whole period considered in the appeal. P. 8. Mobile phone usage time for work of 840 hours/year (4 hours x 210 working days), with an estimated **total usage time during the 15-year interval between 1995 and 2010 of 12,600 hours** (840 hours/year x 15 years) (see page 51 of the expertise).*" p.11

Furthermore, the Court declares: "*At the time, **there were no tools allowing a user to avoid the mobile phone being in direct contact** with their face, such as headphones or earphones*" p. 8

Moreover: the fact that people tend to use the phone, exclusively or almost, by placing it on the ear of the "dominant" side of their body, is a notorious fact, since it's common experience. P. 14

Moreover: "**76% of mobile phones examined emit radio frequencies greater than the maximum limit recommended by the ICNIRP for head and trunk exposure**", French data from national public agency ANSES 2019, p. 32 (so-called Phonegate).

Furthermore, the occurrence trend of the disease is increasing, due to the spread of mobile phone use: "***the trend of the pathology it causes (schwannoma of the VIII cranial nerve) shows an increase, in conjunction with the spread of mobile telephony, of this disease over the past few decades. ... an increase in the incidence of AN in the Leyden region of more than 3 times over an 11-year period between 2001 and 2012; an increase in the incidence of AN in Minnesota, USA, more than 2 times in 11 years between 1995 and 2016; again, in the US, the Central Brain Tumour Registry ... doubling of the annual incidence of AN ... Danish cancer registry ... increase in brain tumours, with an increase of 40% among men and of 29% among women between 2001 and 2010,***" P.22

NTP and Ramazzini animal studies contradicted

"Tests on the carcinogenicity of agents or substances are usually carried out on animals, such as rodents, as they have elements of similarity with men, therefore it is not possible to deny on a preliminary basis the scientific value of these studies' results; p. 24.

In addition: cardiac schwannomas (found in lab rats) are of the same histological type as acoustic nerve neurinomas ... these studies provide evidence that exposure to radio frequencies can cause a neoplastic transformation of Schwann cells, a process that both benign tumours and malignant tumours have in common; p. 26.

Furthermore: the probability that it is just by chance that three independent analyses have found a significant increase in developing tumours of the same histological type and in the same anatomical location is very low; p. 27.

ISS is also criticized:

the ISS August 2019 reassuring study is criticized by the Court of Appeal consultants since *"it inappropriately utilises data on the incidence trend of brain tumours ... does not consider recent experimental studies on animals"*, and, whilst declaring that there is uncertainty on the effects associated with intense and prolonged use of mobile phones, *"it has not issued stricter recommendations on the limits of radio frequency exposure, in particular for children and teenagers"*.

The lawyers recall that two of the signatories of the ISS survey, Carmela Marino and Maria Rosaria Scarfi, are, respectively, a member and the other a consultant of ICNIRP, and therefore in a position of conflict of interest according to today's ruling.

Statements.

Avv. Stefano Bertone: *"From a legal point of view, we were mostly interested in the confirmation that industry-funded 'denier' studies could not be the basis of, affecting it, the reasoning of court-appointed consultants in cases involving mobile telephony. The Court of Appeal agrees with us with a concept as simple as it is decisive: since **the industry has an interest in the outcome of the studies, those who work for it, or do so using their money, end up expressing less reliable opinions compared to those who do research without profit**"*.

Avv. Stefano Bertone continues: *"**I hope that the news of this decision, in the absence of information from the public sector, will encourage parents to carefully reconsider their children's relationship and closeness with their mobile devices**"*.

Laura Masiero, A.P.P.L.E. : *"once again, a worker has become ill because he had not been informed about the risk associated with a prolonged use of the mobile phone on the ear and about the need*

for protections such as handsfree or earphones with cables. The judges are issuing an exemplary judgment."

Laura Masiero continues: *"Icnirp or ex Icnirp members are still part of the Italian institutions responsible for health protection (ISS). Institutions which are continuing, despite scientific evidence, to deny any carcinogenic and biological effect from radio frequencies, by inappropriately using existing data and selecting it in an instrumental way. They are absolutely guilty of leaving the public in doubt without informing them, as should be their duty, of the potential risks associated with the prolonged and massive exposure of workers, students, citizens and, above all, the smallest and most fragile categories, such as the electrosensitive. And this, despite the Lazio TAR judgment which called for the competent Ministries to carry out the widespread information campaigns provided by law 36/2001. **We wonder what will happen with the arrival, which is nonetheless opposed by more than 120 municipalities, of 5G: mandatory and ubiquitous irradiation from the earth and space over all of us. A slap in the face of democracy, of our data security, and of our personal safety, with the risk of an increase in exposure limits from 6 to 61 v/M. On behalf of A.P.P.L.E. and Prof. Levis who, together with Dr. Papi was the consultant for Roberto Romeo's party, I congratulate Studio Ambrosio & Commodo in the persons of Lawyers Renato Ambrosio, Stefano Bertone and Chiara Ghibauda, whom I will never be grateful for enough for their great commitment and passion which bring, as you can see, good results"***.

Court of Appeal of Turin appeal section Labour: Pres. Rita Mancuso, Rel. Silvia Casarino.

Court Consultants: Carolina Marino, Angelo D'Errico.

Mr. Romeo's lawyers: Studio Ambrosio & Commodo, Stefano Bertone, Renato Ambrosio, Chiara Ghibauda.

Mr. Romeo's consultants: Angelo Levis, Mariella Papi

Association promoting the dispute: A.P.P.L.E., Padova.

Ivrea Court Judge: Luca Fadda

Ivrea Court Consultant: Maurizio Crosignani

INAIL Lawyer: Loretta Clerico.