

# Yasmine Motarjemi: The untold facts about the Nestlé case

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*In mid-February, a landmark judgment was handed down in Switzerland: Nestlé must pay 2 million francs for the loss of earnings caused by eight years of reduced professional activity, as well as 100,000 francs in legal costs to its former food safety manager, Yasmine Motarjemi, for the harassment it subjected her to. For several years, humanrights.ch has been following this case, which is a real strategic dispute. Contrary to what Nestlé claims and to what the media may have reported, the case is not a mere labor dispute, but concerns the health of millions of people. In our interview, Yasmine Motarjemi takes another look at the background of the trial and her battle.*

**«Finally, after years of lies and manipulation, I needed the truth to be told loud and clear. By sharing my experience with the world, I wanted lessons to be learned for the future.»**

YASMINE MOTARJEMI  
FORMER FOOD SAFETY MANAGER  
AT NESTLÉ



**Ms Motarjemi, in mid-February, a landmark judgment was handed down. Nestlé must pay you 2 million francs for the loss of earnings caused by eight years of reduced professional activity, and 100,000 francs for legal costs. What is the meaning of this judgment?**

This judgment concludes that Nestlé management was responsible for my harassment. Not only did the court recognize that Nestlé management did nothing to protect me, but it also found

that they were complicit in the harassment, for example by forcing me to accept a punitive transfer and by conducting a false and biased investigation, three years after I had first filed a harassment complaint. The court also confirmed that Nestlé had failed to take action in response to my health warnings, even though it was a corrective action that needed to be taken. By ignoring my warnings, Nestlé discredited me. For me, who was concerned about the proper safety management of Nestlé products, this was a source of suffering and an additional act of harassment.

**Nestlé is not taking the case to the Swiss Supreme Court. Why not, in your opinion?**

Nestlé is not lodging an appeal to the Supreme Court, probably because its chances of success are minimal, and a decision by said Court has a much greater media and legal impact than a ruling by a cantonal court. Moreover, jurisprudence established by the Supreme Court on the notion of harassment would have strengthened employees' protection against harassment. In a way, I regret that Nestlé did not appeal, because I would have liked society to benefit from my battle. I think a law on the prevention of harassment is now more essential than ever.

**How did the legal proceedings unfold?**

The judgment handed down by the Civil Court of Appeal of the Vaud Cantonal Court is the result of a long process that included six stages. First, there was a conciliation procedure in which the court tried to find an agreement between the parties. The first-instance trial took place between 2011 and 2019, delayed by various demands and delaying tactics on the part of Nestlé – in particular a complaint that the multinational filed against the judge before the hearings even began. I then appealed to the Civil Court of Appeal of the Vaud Cantonal Court, whose decision of January 7, 2020 challenged the judgment of the District Court of Lausanne, and condemned Nestlé based on the facts. In February 2020, Nestlé filed an appeal to the Supreme Court. However, as the appeal was lodged even before the Cantonal Court had handed down its final verdict, it was quickly ruled inadmissible.

In 2021, the court of first instance ruled on my damages and legal costs. Its decision was unfair. We therefore had to appeal again to the Civil Court of Appeal of the Vaud Cantonal Court, which handed down a final, more equitable judgment on November 29, which was notified to me on December 27, 2022.

**Does the compensation paid cover all the costs?**

Nestlé has to pay a large part of my taxable loss of earnings, as well as a contribution to my legal costs. However, this sum does not cover the financial losses I suffered, because Vaud law reimburses costs according to a flat-rate amount that does not take

into account the real costs incurred in a battle against a multinational company.

### **Were you pressured to drop the case?**

During the entire procedure, they tried to exhaust my resources, whether it was my time, my energy or my money. For example, my legal insurance company AXA sided with Nestlé and asked me to sign a settlement with the multinational. As a result, in 2011, I had to initiate an arbitration procedure against AXA, which I won in 2012. However, Nestlé appointed AXA's CEO, Mr. Henri de Castries, to its Board of Directors, and AXA appealed against this decision at the federal level. However, AXA lost again.

In addition, the Nestlé Pension Fund filed a complaint against me before the Social Insurance Court, considering that my various scientific publications called into question my entitlement to a disability pension. Fortunately, I also won that case. Moreover, Nestlé filed a complaint about my interview on French-speaking Swiss television, although I had only explained the subject of my lawsuit, as well as the differences of opinion with my superior that led to my dismissal. Finally, they also tried to push me into concluding an out-of-court settlement.

### **What was the determining factor for you to take up this battle? What was the purpose of the lawsuit against Nestlé ?**

I have had a horrible experience with food safety management, personnel management, and alert management. I couldn't accept that one of the largest food companies in the world, with millions of consumers around the world, should act in that manner. I felt that we were facing three public health issues: food safety, employee harassment and management of alerts.

I had a vital need to inform the authorities of my experience and findings and to get their views. I could not afford to conduct one lawsuit for harassment and another one in parallel dealing with the issue of food safety management, so, as a strategy, I filed a lawsuit for the case that concerned me personally. It was brought before a civil court, because in Switzerland, harassment is not a criminal offence. Concerning food safety, I decided to send reports to the health authorities of the different countries. Unfortunately, the national whistleblowing systems did not function, and my reports were not processed.

### **Why didn't you agree to an out-of-court settlement that would have spared you this legal battle?**

On several occasions, Nestlé offered me a so-called «out-of-court settlement». Even the judge of the lower court encouraged this form of dispute resolution. But the settlements I was presented with always had one condition attached: my total silence about my food safety experience at Nestlé, as well as the amount I

would then have been offered. Furthermore, Nestlé was not willing to acknowledge its guilt over my harassment, its failures in managing product safety, or its lack of response to my warnings.

Without this recognition, I considered that Nestlé's practices remained a public health issue, in terms of both product safety and employee harassment, the latter of which is in fact closely related to the former. Finally, without such a public disclosure, social problems would have been swept under the carpet, and in my view, bribery and corruption would have been encouraged.

It is high time to realize the need for full transparency in areas that affect public interests, such as consumer health and safety. Although this principle is recognized in theory, it is not put into practice.

### **Did you refuse such an agreement to defend a social cause?**

Many people pressured me to sign an agreement with Nestlé and turn the page. I refused such an arrangement because it was not in line with my philosophy of life and the principles and values I have fought for throughout my career dedicated to public health. I could not suddenly renounce my convictions, under pressure from Nestlé, or even from my circle of family and friends; especially since such an agreement would have deprived me of my freedom of speech, and I would not have been able to give society the benefit of my experience. Today, looking back, I see that I was right. In Iran, during the revolutionary movement driven by the slogan «Women, Life, Freedom», young people are ready to die to obtain a little more freedom. Here, I am being pressured to sell my freedom of speech.

### **Why didn't you accept the internal transfer that was offered to you, when you could have continued to receive a good salary?**

The job offered was a demotion, although it would have been well-paid. In court, the former Executive Director of Nestlé Operations, Mr. José Lopez, described the job as «thankless». I refused at first, then I accepted on the sole condition that Nestlé would audit our food safety management department. Without an audit of my department to expose the dysfunctions, I did not want to stay in the company.

### **Why did Nestlé refuse to do the audit that you had requested?**

I don't know, that's a question Nestlé has to answer. I think that the audit would have revealed a series of failures and violations that Nestlé wanted to conceal. For example, it would have exposed how, and on the basis of what competencies, this manager, who was guilty of harassment and protected by the hierarchy, had been appointed to his position. It would have highlighted the

lack of human resources, the negligence and possible trickeries, or the violations in the management of food safety.

### **What did the harassment you experienced consist of?**

The harassment I experienced took three forms of action. On the one hand, there were acts that were directly aimed at me, such as humiliation, denigration, exclusion, withholding of information, not following up on my work, forcing me to undertake impossible tasks, as well as sowing discord with my colleagues and acts that discredited me. These actions had an impact on my work. But, on the other hand, I was also harassed by directly disrupting my work, such as by blocking my instructions, refusing to follow up on my work, stripping me of my projects and dismantling my team, or by sabotaging the measures I had put in place to help the plants manage risks.

There was also the harassment I received from management by ignoring my warnings, thereby helping to discredit me, and by taking the actions mentioned earlier, such as the punitive transfer or the sham investigation. Finally, when I requested an interview with former Nestlé CEO Paul Bulcke to inform him of the situation, he fired me.

However, the harassment also continued after my dismissal, through strategic lawsuits (SLAPP) as I mentioned before, lies and humiliations in court.

### **How do you feel today?**

My feelings are mixed. On the one hand, I am very happy that a court, namely the Civil Court of Appeal of the Vaud Cantonal Court, has recognized the acts of harassment, despite the manipulations and untruths brandished by Nestlé. I salute the lucidity of the court in condemning this powerful company. This is a first in Switzerland. On the other hand, my life and my career have been destroyed, and my family members and social relationships have been affected: all this cannot be repaired. No amount of money can give me back the 17 years of life lost in suffering and a struggle to prove an undeniable reality. I will feel the effects of this battle for the rest of my life.

Today, after 12 years of legal battles, Nestlé acknowledges the harassment that was committed. All Nestlé would have had to do was to conduct a proper investigation to avoid this long court case that continues to plague my life. Is this behavior worthy of a responsible company?

### **What have been the most significant impacts of this lawsuit on your life?**

The impacts that the legal battle had on my family affect me the most. I am still suffering from them today.

In addition to having my career shattered, my health damaged and my professional, social and financial status lost, I have lived in pain for 17 years: day after day, I have experienced feelings of anger, disgust, anxiety, sadness, disappointment and incomprehension. I was shocked and traumatized to the point that I could no longer practice my profession. The poor management of food safety at Nestlé and the silence of my colleagues in the face of the deficiencies I was observing made me more disgusted with my job than the harassment itself. As Corporate Food Safety Manager, I was responsible for the lives of consumers. I was extremely concerned about the shortcomings I was seeing and the obstruction in carrying out my duties, causing me to fear imminent incidents.

As time went by, my life fell apart. I lost the joy of living. I noticed the indifference on the part of the authorities, civil society and food safety professionals to the problems I was raising. This lack of reaction led me to lose faith in society and my trust in others. Everything seemed absurd. My social relationships also deteriorated, and some friends distanced themselves from me.

**The court found Nestlé guilty of harassment. How did they position themselves on the issue of food safety? In the media, Nestlé claims that this case is not about food safety.**

Although the court raised questions in the area of food safety and the judge was even stunned by the answers from Nestlé's management, it did not take a position on the specifics of the facts. The Civil Court of Appeal nevertheless confirmed that Nestlé had not followed up on the audit I had requested internally, which is an essential measure in the event of a health alert. This, in my opinion, is one of the most serious violations a company can commit in terms of product and service safety management.

As for Nestlé's statement, it represents a disturbingly misguided view of food safety management. Moreover, contrary to Nestlé's statement, I must say that my dismissal was motivated by my difference of opinion with the management on food safety management. Thus, even though the lawsuit falls under labor law, the intense and long-lasting harassment that I suffered was indeed a reprisal for the internal reporting that I had done regarding food safety management. In fact, one of the reasons I could not reach an out-of-court settlement with Nestlé was that I would have to keep quiet about their food safety management.

**What are the consequences for society of harassing a food safety manager like you?**

In addition to blocking and sabotaging my work, the "Quality Management" department had internal management problems, such as a lack of communication or wrong instructions from its Director. As a result, some serious incidents occurred: Nestlé was

involved in particular in the melamine incident in China, which poisoned 300,000 people, as well as in the cases of enterohemorrhagic Escherichia coli food poisoning in the United States, which were caused by Nestlé "cookies" and which resulted in serious health consequences in 77 cases. The sabotage of my work also had long-term effects and reduced the means of prevention, thereby contributing to the Nestlé Buitoni pizza tragedy, namely the death of children, and irreversible sequelae for the other victims. Nestlé management treated the warnings by employees in the lead-up to the Buitoni Pizza affair with the same contempt that had been shown to me.

Bullying and harassment of staff, in a context such as product and service safety management for example, is in itself a violation of safety rules for several reasons:

Such actions create loopholes in the system, as staff are no longer able to do their jobs, or may make mistakes. This can lead to incidents in the short or long term. Staff harassment creates a culture of fear. As a result, employees are intimidated about speaking up and reporting potential problems. Thus, it is also a violation of the whistleblowing system, on which many countries around the world have legislated.

When harassment consists of obstructing the functions of the personnel involved in safety management, this has direct consequences for safety. For example, blocking my instructions and sabotaging measures I was putting in place to help plants manage risks contributed to the incidents I mentioned.

More generally, a culture of fear, stifling staff voices with the threat of transfer, harassment, or even dismissal, refusing to address employee grievances, harassing or dismissing staff for their opinions, and even working under coercion and violating internal policies are all factors that contribute to an unsafe environment. The mere fact that an unscrupulous manager, now found guilty of harassment by the court, was allowed to remain in office, and that I was fired, says everything about Nestlé's corporate culture and ethics. The experience of all the incidents shows that a negative organizational culture is conducive to safety incidents or other types of violations.

### **What does this judgment mean for people in the same situation as you?**

It gives hope to victims and whistleblowers. It shows them that there are judges who are sensitive to the issue of harassment and who have the courage to condemn the offending company, however powerful it may be.

In addition, this verdict may encourage employers to be more vigilant, and to treat harassment complaints more seriously.

I also hope that it will encourage society and human rights organizations such as yours to think about and work on this issue so that we have a more binding law in Switzerland, because the situation is far from ideal and simple for victims. A lawsuit is very expensive and is not within the reach of all employees. It can take several years, and few people can mobilize their family over such a long period. In addition, there are many difficulties and pitfalls that arise throughout the legal process. Even if the victim wins the case, he or she loses in many respects, including the fact that the legal costs and damages are not reimbursed to the tune of the real costs. In Switzerland, where harassment is not sanctioned by law, we lack effective measures to fight against harassment and mobbing of employees and whistleblowers.

Therefore, I am aware of how lucky I was to be judged by judges who are sensitive to the cause, because I see that many people do not succeed in obtaining justice, either because of a lack of evidence or means, or because of the judges' assessment. Such a situation makes justice arbitrary, because it is then a question of luck. In my opinion, it is necessary to use the experience of victims to evaluate the judicial system and to identify the factors that make justice sometimes unfair or inaccessible to citizens.

**In 2019, you received the GUE/NGL Prize for Journalists, Whistleblowers and Right to Information Defenders, organized in honor of Daphne Caruana Galizia in the European Parliament. What has been the most difficult part of being a whistleblower?**

The most difficult thing has been to confront the indifference and omerta that a subject as important as food safety, which is a public health issue, has generated in society. The lack of solidarity from a majority of my colleagues - so-called food safety or public health professionals - as well as the refusal of the authorities to examine my concerns and to take a stand on Nestlé's practices, were particularly difficult to bear. Finally, after years of lies and manipulation, I needed the truth to be told loud and clear. By sharing my experience with the world, I wanted lessons to be learned for the future, even if it meant subjecting myself to the threat of a lawsuit for breach of professional confidentiality. The majority of the mainstream media ignored or censored my testimony. With a few exceptions, such as my interview on Euronews, my story has been trivialized or reported without analysis. Sometimes, by presenting a mixture of truths and untruths and omitting important facts, the media convey more disinformation than information.

Isn't it strange that in a case involving one of the world's largest food companies, the best accounts of my story are in a women's



newspaper like *Annabelle* or in *La Cité*, a newspaper with a limited circulation, or in cultural media like *France Culture* or a play called *Whistleblowerin/Elektra*?

### **Would a whistleblower protection law have helped you?**

In Switzerland, there is no law to protect whistleblowers, and there are no sanctions for retaliation against them. The core of the problem is that in Switzerland, harassment is considered as a work/labor conflict, whereas it is psychological aggression, a violation of dignity and the destruction of the victims' lives. However, even in countries where legal provisions do exist, they are not always enforced. Moreover, these laws deal mainly with the protection of whistleblowers and do not clearly define the legal measures to be applied when a company or an authority does not follow up on the whistleblowing. Yet this is the heart of the matter: why should a whistleblower risk his or her life if the company or the authorities can refuse to examine his or her information and take a stand with impunity?

### **Is the battle over now?**

The harassment lawsuit has ended; however, the substantive issue remains unresolved. Especially since, according to its comments in the media, Nestlé management does not recognize the mismanagement of my alerts, in violation of the European Directive. Furthermore, they ignore the fact that harassing the Food Safety Manager and refusing to act on her alerts constitutes a violation of food safety. I continue to be disappointed by the reactions within society. Rather than opening up a debate on the reasons for, and consequences of, such a case for society, the media reported the judgment as the epilogue of a court case. The majority of food safety and public health professionals are washing their hands of this case instead of learning lessons from it and making changes to our product and service safety management system.

I realize that one person alone cannot change everything. As the Persian proverb says: «The fool opens the door and the wise men follow». So, I hope that there will be some wise people who will see the reason for and value of this battle, and will help me to make changes to our system.