

Recognition of occupational cancers: Belgian families' fight for justice

For more than ten years, the Metalworkers' Federation (a member of the Belgian Trade Union Confederation FGTB) has been supporting the families of four workers suffering from blood cancer. Despite proof that the workers were exposed at work to benzene, a solvent known to cause cancer, the public body responsible for paying compensation to people suffering from occupational diseases is contesting the link to their work.

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In contrast to the majority of families of workers stricken by occupational cancers, Franco Gomez's family took the decision to fight against the Belgian system of recognising occupational diseases.

Images p. 32, 34:
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Ten years later, recalling the medical appointment at the Oncology Unit in the André Renard Hospital in Herstal (East Belgium) remains an ordeal for the whole family, and especially young Nydia. ‘She was taking her exams when the disease was diagnosed. My Dad wanted to protect her at all costs, and he tried to play down the consequences’, her elder brother Francisco remembered.

Since 2006, the Franco Gomez family has been fighting an exhausting battle to have the disease which killed their father on 30 May 2011, just a few days after his 59th birthday, recognised as work-related. Francisco Franco Molina spent five years fighting multiple myeloma, a cancer of the bone marrow.

‘The first time I saw the doctor, he told me straight away: *Madame, as you know, we’ve got an excellent palliative care centre here at the hospital*’, his widow Maria-Dolores Gomez remembered. Yet he managed to live a further five years. Five years of repeated stays in hospital, sometimes in a sterile room, five years of chemotherapies, radiotherapy sessions and major surgery. True to his political and union commitments, Mr Franco Molina remained a ‘tough nut’ right to the very end.

Trichloroethylene to wash your hands with

He was just four years’ old when the family left Andalusia, fleeing the poverty there. Back then in 1956, Belgian coal mines were suffering from a shortage of workers. The supply of Italian miners had dried up after the Bois du Cazier disaster in Marcinelle (Charleroi) where 262 miners – half of them Italians – had lost their lives. Belgium thus had to start looking elsewhere for workers for its then flourishing industry.

The Franco Molina family settled in Herstal, in the industrial suburbs of Liege. The father was hired by one of the region’s many mines. At the age of 18, Francisco started work at Métal Profil, a company producing shelving for stores and warehouses. Following restructuring in 1979, the company was renamed Polypal.

In contrast to the mine and the blast furnaces, this company offered young workers a working environment a lot less off-putting than that experienced by the first generation

1. A machine for forming sheets of steel, aluminium, stainless steel or zinc.

2. Called Fedris since 1st January, following the merger of FMP and the Fonds des accidents du travail.

3. Other than the cases of Mr Franco Molina and Mr Soares, one former female worker died from multiple myeloma, while a male worker’s non-Hodgkin’s lymphoma is now in remission.

of immigrants. Nevertheless, they also had to work with dangerous products, without being aware about how toxic they were.

‘On arriving at the factory, the steel coils were greased with mineral oil so that they could easily pass through the roll-forming machines’. We subsequently had to remove the grease from the machine’s drums using petroleum or a benzene-based product’, remembered Pierre Soares, a former colleague of Francisco Franco Molina.

‘We also used trichloroethylene. For us, it was a product just like any other. At that time, nobody associated it with cancer. To get the grease off our hands before the lunch break, we would use it to wash our hands’, the worker remembered. He also recalls that there were no partition walls inside the factory, meaning that everybody was exposed to the particulates emitted by the diesel engines of the fork-lift trucks, to welding fumes, to vapours given off by lead-based paint, etc.

Given 15 days to live

A few weeks after Francisco Franco Molina was diagnosed as having multiple myeloma, Pierre Soares learned that he too was suffering from cancer. ‘When the doctor told me I had non-Hodgkin’s lymphoma, I didn’t react. I’d never even heard of such a disease. The young doctor then said: “*You realise you’ve got cancer?*” I then asked him: “*How much time have I got left?*” Without hesitation, he told me “between 15 days and three weeks”.’

Pierre Soares initially refused all treatment, imagining it to be unbearable and

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useless. But he was finally convinced by a young woman doctor to take part in an experimental protocol. For the next five months, he underwent a particularly painful chemotherapy. ‘During my sessions, my wife would touch me to check whether I was still alive’, he remembered.

With his cancer in complete remission since 2011, Mr Soares can be considered a survivor, with all that this implies in terms of physical and psychological sequels. ‘I’ve got permanent pains throughout the left side of my body. I have to take anti-inflammatory drugs and also benzodiazepines to endure the pain. I’ve had to give up my allotment’, he went on to say. ‘And my children have had to see a psychologist’, he added.

The ordeal of being given this diagnosis and then undergoing that initial treatment was compounded by the announcement in summer 2006 that the Whittan Group, the British shareholder of Polypal, was going to relocate operations to the Basque country in Spain.

With the help of an association of doctors sensitized to occupational diseases, the FGTB’s metalworkers’ union compiled a report and submitted it to the FMP (*Fonds des maladies professionnelles*), the Belgian agency responsible for compensating workers suffering from an occupational disease².

Benzene is one of the chemical agents listed as causing occupational diseases. An exposure investigation confirmed that the workers had been exposed to benzene. Nevertheless, the four applications³ to have the Polypal cases recognised as work-related were all rejected.

The families contested this ruling before the labour tribunal, which then appointed new experts. These followed the FMP reasoning, stating that there was no proof of any relationship between the two types of cancer and exposure to benzene.

FMP and the oil industry

A jump to 2009. The International Agency for Research on Cancer (IARC) has updated its monograph on benzene, taking the latest scientific findings into account. Linked to the WHO, this top body with regard to cancer has long recognised benzene as a proven carcinogen for humans, though mainly for leukaemia. The IARC now for the first time established a 'positive association' between exposure to benzene and multiple myeloma and non-Hodgkin's lymphoma⁴.

On the basis of these new findings, the families and their union were able to obtain a new appraisal, leading to a new labour tribunal ruling. This finally recognised the four cases' work-related link and called on the FMP to pay compensation to the victims or their families. Despite this court ruling, the FMP did not give up its position, instead submitting an appeal.

While not contesting the fact that the four former Polypal workers were exposed to

benzene while at work, in its view this exposure was not the main cause of their diseases.

'To be able to speak of an occupational disease, it needs to be proven that the disease is at least more frequent in cohorts of people exposed to a determined harmful influence than in the population at large. The work-related nature of the disease is established at the level of a group, not at that of an individual', the FMP argued.

Not accustomed to having its decisions contested in the courts by workers, the agency commissioned a university professor to conduct further desk research. 'The FMP continues to rely on studies financed by the oil industry', said Jilali Laaouej, the doctor who is providing the victims with scientific support in their struggle against the FMP.

For Esmeralda Cué, a former Polypal worker and now working for the FGTB's Liege metalworkers, the FMP is seeking to gain time and discourage the few victims daring to contest its decisions.

An encouraging ruling

On 7 February 2017, the Liege Labour Court passed down a ruling in the case. Though the new ruling means that the plaintiffs will have to continue waiting, it does open up certain prospects benefiting the victims' families and

4. Benzene, IARC Monograph, 2012, p. 249-285.

possible further victims. The Belgian courts have now come up with a definition of the causal link between work-related exposure and a disease which is diametrically opposed to the one used by the FMP.

'In practice, the FMP is accustomed to only recognise a disease as work-related when it is statistically proven that there are twice as many people suffering from it in an exposed cohort of workers than in a non-exposed cohort', Jilali Laaouej explained.

In the view of the doctor, who represents the FGTB on one of the FMP's scientific committees, this approach has been swept away by the labour tribunal's ruling. The 7 February ruling stipulates that 'a simple correlation between risk exposure and a higher number of cases within the exposed cohort than in the population at large, provided that the correlation is sufficiently high and plausible, would be sufficient to convince the Court that the exposure constitutes the main cause of the disease'.

Put in less legal terms, this basically means that the court recognises a heightened risk of disease vis-à-vis the population at large as sufficient to establish a link between the occupational disease and exposure at work.

According to the doctor, if this interpretation were to become case law, it could upset the whole system of recognising occupational diseases in Belgium.

'It is a scandal that victims of their work in Belgium have to resort to the courts to have the harm incurred recognised. We hope that the outcome of this case will help improve the recognition of occupational diseases, not just of cancers but also the many other mental health problems associated with the degradation of working conditions', said Dr Laaouej.

To determine whether there is a heightened incidence of non-Hodgkin's lymphoma and multiple myeloma among former Polypal employees vis-à-vis the population at large, the tribunal has appointed a new expert, this time a haematologist and professor emeritus of the universities of Namur and Louvain.

Through the appointment of this new expert, who still has to familiarise himself with the whole case, the Franco Gomez family feels it is back at square one. 'We still can't see any light at the end of the tunnel. Six years after our father's death, we still can't mourn for him properly. But whatever happens, we will continue fighting to the end', said Francisco Franco Gomez. ●

The family of Mr Franco Molina in front of the former buildings of Polypal in Herstal.

