Autumn 2020 Special report Occupational health in the courts ● Europe Work, a blind spot in the Covid-19 crisis ● History from below Workers’ sacrifice: the construction of Colombia’s railways ● From the unions Amazon in the time of coronavirus
In an exciting new departure, your biannual magazine on occupational health and safety *HesaMag*, launched in 2009 as the successor to the printed newsletter *HESA*, has received some changes to its format and sections. As you will see, there is plenty that is new inside the covers of this issue. But several things remain constant: the magazine continues to offer you high-quality content about working conditions, and we are still firmly committed to making complex academic information and sometimes highly bureaucratic European jargon accessible to workers, in a journalistic style that allows time for reflection, not to say digestion.

Still sent out free of charge by post on request to our subscribers around the world, the new *HesaMag* is aiming to enhance its European identity with multilingual content (articles are available online in the original Italian, Spanish, Dutch, etc.) in addition to the bilingual content (French and English) available in printed form. The link between the paper version and the online version of the magazine, entitled *HesaMag Plus*, will also be strengthened with photo, audio and sometimes video reporting whenever we have original content we want to share audiovisually with our international readership as an extension of the paper-based experience.

However, there is another departure to announce, of someone that we will miss very much: our colleague Laurent Vogel, senior researcher at the ETUI and editor of *HesaMag*, is retiring.

After completing a degree in law in Brussels and a doctorate in Nantes, Laurent spent some 10 years as an activist in Latin America and Italy before joining the ETUI in 1990. He was first responsible for setting up the Trade Union Observatory on the implementation of Community directives, and from 2008 to 2013 he was Director of the ETUI Health and Safety Department. It was in this period that Laurent, together with Denis Grégoire, founded this magazine. Since its creation in 2009, *HesaMag* has sought to spread the word about occupational health and safety, an issue which today, with viruses back in our lives, seems so much closer to home. As well as being a researcher eminently respected by his peers, Laurent is also particularly valued as a colleague for his commitment to his work, his literary abilities, his listening skills and his legendary modesty. The topics that have continued to be the focus of his attention over the years range from occupational cancers to international union struggles, not forgetting gender issues. It is primarily because of him that this magazine has come to be a prized reference source for unions, the occupational health sector, and specialists in European aspects of this subject. It is also thanks to him that *HesaMag* is embarking on the next stage of its journey with this new format, new sections, new online features and new colleagues – but of course still with the same emphasis on quality. He will officially retire in November 2020 but, knowing him, it is likely to be a very active retirement.

We would therefore like to thank Laurent for all he has given to the ETUI, to *HesaMag* and to us, and wish him all the best for his retirement. And even though we are parting ways, it’s not really a goodbye, because we will still be counting on his regular contribution to our future section “Carte blanche”.

Please do not hesitate to send us a message with any thoughts or feelings you may have about all these changes taking place, at etui@etui.org.

We wish you all an enjoyable read of this new issue of *HesaMag*, and of our web exclusives on *HesaMag Plus* (etui.org). The adventure continues!

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ETUI colleagues
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HesaMag+  
Head to our website, www.etui.org, to read articles from this issue in their original languages:

— our new history section, ‘History from below’, in Spanish
— Angelo Ferracuti’s article in Italian
— and the articles by Pien Heuts and Marian Schaapman in Dutch
The Covid-19 crisis is like a magnifying mirror, reflecting some of the defining characteristics of our societies in a particularly harsh light. It has a biomedical dimension: the emergence of a new virus, its rapid spread in the human population, the challenges of treating it, and the search for an effective vaccine. But biomedical factors alone cannot explain the extent of this catastrophe. The pandemic also has a social and political dimension, and it has highlighted the glaring issue of social inequalities: most particularly, those of class and gender.

It is still too early to carry out a full appraisal of the situation, but what we know so far already tells us a lot. Among the people who have fallen ill with Covid-19 and died of it, the overwhelming proportion come from the most disadvantaged social groups. In Brazil, according to a study published in August 2020, the fatality rate of the virus was twice as high in the poor districts of Rio de Janeiro as it was in the rest of the city, even though a lower proportion of elderly people live there. In different ways, social inequalities in health have increased all around the world. They obey complex dynamics involving the interaction between working conditions, forms of employment, income, accommodation, access to healthcare, social security cover, and pre-existing comorbidity conditions partly attributable to occupational and environmental exposure. And social inequalities are no less glaring in other areas where the consequences of the Covid-19 crisis have been felt: job losses, descent into poverty, the aggravation of other health problems, and the impact on education systems. This is a landscape in which social inequalities seem to single out victims for the virus, and in turn its impact exacerbates these inequalities.

In a sense, this crisis tells us that the threat is by no means an external one. The enemy of the human species is not a virus. The enemy is among us, in societies where material and scientific resources have never been so plentiful, and yet apparently also so vulnerable.

There are losers then, evidently, but there are also winners. A report published by Oxfam in September 2020 shows that wealth distribution has become even more unequal than it was before the Covid-19 crisis. The report highlights the increased profits of a number of multinational
companies: just between mid-March and the end of May, the world’s 25 richest billionaires saw their wealth grow by 255 billion dollars. The subordination of political institutions to the interests of these winners is one of the factors that prevented a faster, more efficient response to the virus.

Class inequalities are interlinked with gender inequalities. Since the start of the crisis, women have been at the forefront of catering for vital needs, in both paid and unpaid work. A whole, ill-defined occupational domain, sometimes referred to as “care”, is very largely populated by women, and particularly women from working-class backgrounds. Capitalism systematically devalues these activities compared with the production of material goods. They are lower paid, they are tied to particular locations, and the skills they require are often regarded as a natural propensity, mainly gender-based but sometimes also according to ethnicity. This results in low wages or unpaid work, trivialisation of work-related hazards, and forms of employment that are often insecure and informal. The austerity policies pursued for over 30 years have had a particularly crippling effect on essential common goods such as public health. With Covid-19, beyond care work it is the multitude of “menial” jobs that have proved to be as irreplaceable as they are devalued: public transport, street cleansing, food production and distribution, cleaning, and so on.

The obsession with cost-cutting in essential activities goes hand in hand with the concentration of wealth amongst the privileged classes. Strict limits have been placed on increases in public spending on healthcare, education and culture, while air transport and e-commerce have seen a boom.

This crisis, which is far from being just about health, prompts the fundamental question: what should our world look like post-Covid-19? It is something that every human being has probably been wondering throughout this crisis. There is a whole range of issues to be considered: both very personal, as a result of the experience of distressing situations, and very communal, because the crisis has confirmed the extent to which we are social animals, completely undermined by isolation. Our individual life plans make sense only in a society that can accommodate them. The post-Covid-19 question has not yet been settled. For leaders, the answer appears to be self-evident: a return to normality with a few adaptations. But this is not the case for everybody. In the spring of 2020, finding themselves in situations of unprecedented difficulty, nurses displayed large signs on the façades of hospitals which read: “Today caring for patients, tomorrow out on the streets.” This appeal resonates in every language. If it is heard widely enough, it becomes the key to another possible response: mass mobilisation for a society built on egalitarian foundations.

“Today caring for patients, tomorrow out on the streets.”
In Europe, there have been, in broad terms, four stages to the authorities’ responses to the Covid-19 crisis. The first three stages hold numerous points of comparison with the rest of the world. In the current, second lockdown phase, it is too early to identify what might be peculiar to Europe and what might in fact be a taste of future situations elsewhere.

The first phase: strong denial and “mild flu”

It began with denial, perhaps most brutally on the part of Chinese authorities at the start of the epidemic. The virus first appeared in Wuhan, an industrial conurbation peopled by millions of workers, many of them with a precarious status as “internal migrants”, constantly monitored by the state and housed in factory dormitories. The authorities’ initial response was to order them to keep quiet and carry on working. There was a clampdown on whistle-blowers such as Li Wenliang, an ophthalmologist in Wuhan’s central hospital, who was summoned by police on 3 January 2020 and forced to back down. He contracted Covid-19 on 10 January and died on 7 February 2020. For several crucial weeks, the Chinese authorities first denied and then downplayed the human-to-human transmission of the virus. But the upsurge in the epidemic among medical staff in Wuhan left no room for doubt. On 14 January 2020, the World Health Organization (WHO) was still saying that “preliminary investigations conducted by the Chinese authorities have found no clear evidence of human-to-human transmission”. In a sharp about-turn, however, Wuhan was placed in quarantine at 8 p.m. on 22 January. The experience of this quarantine was perhaps most poignantly described by the novelist Fang Fang in her diary, published under the title *Wuhan Diary: Dispatches from a Quarantined City.*

In Europe, the basis of the initial denial was different, instead guided to a significant extent by a neoliberal vision of public health. This was then exacerbated by the effect of austerity policies and a hierarchy of priorities in which collective prevention was at the bottom. Most of the preparedness plans developed after the H1N1 flu pandemic of 2009-2010 were abandoned without discussion. The most visible manifestation of this error was the failure to replenish strategic stocks of protective masks. The almost complete stoppage of funding for fundamental research on coronaviruses was part of the same trend. This research had first taken off after the pandemics of SARS (severe acute respiratory syndrome) in 2003 and MERS (Middle East respiratory syndrome) in 2012. In neither case were there more than 1,000 deaths worldwide. If research priorities are decided on the basis of return on investment, it would seem ridiculous to grant substantial resources to a threat of this kind. But this argument draws only from the past. The actuarial calculations of insurance companies were not the only way to assess the risks. The environmental crisis is exposing us to virus reservoirs present within animals in a much more widespread and direct way. The industrialisation of meat production has created huge livestock units that are particularly vulnerable to pathogens. Mass use of air transport has helped increase the risks exponentially. Although there was no way of knowing when...
and where SARS-CoV-2 (the virus that causes Covid-19) would appear, the alarm had already been raised by various research bodies on the inevitability of far more aggressive infectious pandemics emerging in the future. The public health system, for its part, is focused on hospitals, and neglects both primary health care and intermediate levels, such as outpatient treatment. It is becoming common for very elderly people to live away from the rest of the community in care homes increasingly run by private groups, despite the evidence from countries such as Denmark that non-segregated alternatives improve their quality of life.

When the threat in Europe became undeniable, the influence of employers was a determining factor in the delays that ensued. Italy is the most telling example. This was the first European country to be extensively affected. The first cases detected were two Chinese tourists on 31 January 2020, but, from the second half of February, numerous new cases appeared without any direct link to China. The internal circulation of the virus was particularly evident in the industrial regions of the northeast (Lombardy and Veneto). Employers embarked on a large-scale media campaign to avoid any lockdown measures. In Bergamo, which was to become the most tragic epicentre of the pandemic, Confindustria (the Italian employers’ federation) launched a video on 28 February insisting, against all the evidence, that “Our businesses have not been affected, and they will carry on as ever.” Throughout March, the employers’ hashtag, #yeswework, banged the drum on this issue. It took massive strikes to get the Italian government to finally close down some industrial plants.

The first lockdown: back to basics?

Starting in the second half of March 2020, lockdown measures were adopted in most of the European countries that had been hardest hit by Covid-19. These measures were justified on the grounds of the very rapid spread of the virus, the absence of effective treatments or vaccinations, and the rising death toll. But the state of disrepair of public health systems, afflicted by decades of austerity, also played a role. The health system was at breaking point. This is the background to the tragedy of the mass fatalities in care homes. Throughout 2019, strikes and demonstrations by care home staff in France had highlighted the deterioration of working conditions as well as management methods that were based on a kind of industrialisation of care work, which was incompatible with its real purpose. Staff shortages, intensified and standardised work, insecure employment conditions, and no workplace democracy: these deadly ingredients were all already present.

Never in the history of humanity have such demanding public health measures been introduced anywhere within such a short space of time.
During lockdown, a double standard emerged between health measures in public places and health at work. In public places, drastic rules of prevention applied. Never in the history of humanity have such demanding public health measures been introduced anywhere within such a short space of time. As far as work was concerned, essential activities were maintained, including in situations where prevention was inadequate. In Europe, the downplaying of workplace risks first came to light in the protective mask crisis. Rather than acknowledging their responsibility for the failure to replenish the strategic stocks built up in 2009-2010, for weeks most governments went on insisting that wearing masks was pointless or even counterproductive in most situations. On 2 April 2020, Anthony Smith, a labour inspector in France, was dismissed by his line management for trying to have masks delivered to the staff of an association providing home care. For several weeks, work went on in hospitals in Denmark, although the inspectorate stopped carrying out checks, considering that this would expose its inspectors to an excessive risk.

The definition of what constituted essential activities was a divisive issue. No one questioned the need to keep the health sector or food production going. But governments adopted criteria that were too broad, to keep industrial sectors such as aircraft manufacture operating or to allow e-commerce giants like Amazon to carry on their activities. Where it was possible, teleworking became mandatory or strongly recommended, depending on the country. Teleworking is an effective factor in protecting against the spread of the virus. But it does have another side: the major inequalities arising from the possibilities of adapting practical activities to this mode of operation; housing conditions and access to both suitable equipment and high-quality connections; and difficulties when paid work and unpaid family work overlap. This last factor weighed particularly heavily on women. The closure of schools and the suspension of many services for disabled, sick and elderly people seriously worsened women’s double working day. Psychological strain and the “return” of large numbers of men to the home full-time contributed to an exacerbation of domestic violence.

There were two options in the case of non-essential activities where teleworking was impossible: temporary lay-offs with specific social security support, or the continuation of certain non-essential activities subject to compliance with hygiene rules (often reduced to social distancing alone). Failure of the exit strategy: were young partygoers to blame?

From mid-May 2020, most governments in Europe opted for a gradual return to normality. Lockdown had produced encouraging results. The virus reproduction rate (Ro) had dropped below one. Hospitalisations and deaths had fallen very substantially. At the end of May 2020, the prevailing impression was that Europe was coming out of the most critical phase, even though some members of the scientific community were warning against over-optimism. At that time, it was mainly on the American continents that the pandemic was rife. This was partly exacerbated by political factors. The presidents of the continents’ two most highly populated countries (the US and Brazil) were holding on to attitudes of denial that were far more radical and enduring than those of their European counterparts.

There is a striking contrast between the trends in scientific data and the inadequacy of prevention at the workplace.

More than anything, it was the existence of very marked social inequalities that magnified the impact of the illness. In Latin America, for tens of millions of impoverished workers in the informal sector, going into lockdown meant they could not afford to eat. The few specific welfare mechanisms introduced were insufficient. In the US, the shortcomings of the social security system left many workers without pay if they took time off sick. This made it difficult to place people in quarantine as soon as the first symptoms appeared. The more substantial influence of social inequalities may help to explain the contrast between Europe and America. In Europe, lockdown brought about a very marked drop in mortality within a few weeks. On the other side of the Atlantic, it fell more slowly. The US, where there was a strong fall in mortality from the end of April to mid-June, was out of sync with the rest of the Americas, where the death toll continued to rise until August. The situation in Asia and Africa was not uniform: there were particularly critical zones (India, the Middle East and South Africa) and then there were areas where the pandemic was continuing at a relatively low level or seemed to have been contained.

In Europe, although the spread of the virus had slowed down, the pandemic was still very much present and spreading geographically, with outbreaks in the Balkans, central Europe and Portugal, where its impact had been low during the preceding period. All through the summer, the part played by working and employment conditions cropped up again and again. But these alarm signals were consistently ignored. Government policies tended to look elsewhere: towards partygoers and the admittedly animosity towards partygoers and the admittedly antisocial behaviour of a great many people wanting to relieve the anxieties of the period just passed. Hard data on infections seemed now to be framed by a moralising narrative. Recreational activities were seen as hotbeds of infection, demonstrating the immaturity of many young people, while workplaces faded into the background. But infections at work remained at a high level in all sectors involving public-facing roles. This is clearly the case for healthcare but also for social services, prisons, the police, public transport, and so on. From September 2020,
Breakdown of the human toll of the pandemic

Daily deaths from Covid-19 by country/region: 21-day moving average

SOURCE — Adapted from Johns Hopkins University data.

Education was also added to this list. And the proliferation of virus clusters in other sectors came down to the interaction of infection with poor working conditions and precarious forms of employment. In Poland and Czechia, work in the mines was at the source of major local or regional clusters. All over the world, abattoirs were flagged as breeding grounds of the disease. And agricultural seasonal labour, which is characterised by the extreme precariousness of its working, living and transport conditions, was also at the origin of many local clusters. The refusal to regularise undocumented workers unconditionally in Europe played a role in the spread of infection in this sector, as it did for domestic workers.

There is a striking contrast between the trends in scientific data and the inadequacy of prevention at the workplace. From February onwards, studies raised the alarm about the persistence of the virus on surfaces. Airborne transmission had also been affirmed by various studies as early as April. On 6 July 2020, 239 scientists issued an urgent appeal to the WHO asking it to take account of this risk in its recommendations. In practice, when it came to prevention practices within companies, these risks were rarely taken into consideration.

If we look at the mortality curve in Europe, this peaked around the middle of April 2020. It then dropped sharply, only to climb again gradually from the second half of August, before going out of control in October. During the last week of October, the milestone of 1 000 deaths a day was passed again, despite a significant improvement in the treatment of severe cases.

The desire to resume economic activity at any cost was not accompanied by the technical and human resources needed to track and trace the contacts of people diagnosed as positive. Many policymakers communicated the illusion that downloadable computer applications could replace painstaking human work of observation and investigation – work that would also have been an opportunity for discussions about the precise circumstances of infection at work, at home or on transport, etc.

Prevention compliance suffered as a result of the proliferation of conflicting signals. Work was generally presented as posing few problems, whereas the day-to-day experience of work, as it really was, gave the lie to these optimistic claims. Moreover, people were rightly being asked to be cautious in the rest of their daily lives, from festive occasions to interpersonal contacts. If rules were rarely adhered to at work, why would they be in other activities? This question raises a more fundamental issue which cuts across all the phases of the pandemic: a highly authoritarian approach to prevention.

Partial return to lockdown

From the start of October 2020, there was no longer any doubt about the reality of a second wave in Europe. This was attested by a rise in hospital admissions, and then deaths, in Spain from August onwards. The second wave spread over larger areas than those which had been seriously affected by the first wave. The spectre of the collapse of hospital services loomed again with the added concern that the damage arising from inadequate treatment of other disorders had been recognised. Most European governments resigned themselves to new lockdown measures. As far as work is concerned, this time everything appears to have been reduced to a dichotomy between activities that can be performed remotely and those that require a human presence. When activities have been suspended, the rationale for these measures is not the protection of workers as such, but the limitation of contact with the public (closure of non-essential retail outlets, gyms and cultural locations, partial recourse to distance learning, etc.). If the transition to teleworking in March took place in a rush, without proper provision in law or coverage by collective bargaining, the situation was hardly better six months later.

4. Before the borders within the European Union were opened, derogations were granted so that large numbers of agricultural seasonal workers could be brought in, in particular from Romania.

5. Data of variable quality on reported deaths attributed to Covid-19 are available. Using overall excess mortality rates recorded in 2020 compared with previous years, the analysis can be refined, and better account can be taken of the limitations of the recording of deaths from Covid-19.
A common blind spot

The public health policies adopted have been focused on barriers: distance between people, mask-wearing, disinfection. And more often than not, they have been dictated by the authorities. The allocation of roles between policymakers and experts has rarely been transparent and has often been contentious. One of the basic lessons learned from the battle with AIDS has been swept aside, giving way to a strong comeback of a hygiene-based approach that is highly averse to accepting non-expert knowledge from the people affected. In most of the groups of experts advising decision-making bodies, there is minimal representation of the social sciences.

From this viewpoint, work is reduced to a place where individuals congregate, like a religious ceremony or a sports activity. In the case of Covid-19, transmission through the respiratory route necessarily implies that work must be regarded as a major channel for the spread of the virus. It is an intrinsically collective activity involving multiple interactions between people and materials. It is not enough simply to bolt on hygiene rules designed to establish barriers within spaces. Some rules are unworkable, while others would require major changes to the organisation of work, productivity standards and the room for manoeuvre that workers have in their activities.

Statistical mechanisms play a major role in managing the pandemic. As much as they describe reality, they also construct it. Data gathering has been modelled by the WHO. It covers individual data (sex, age, place of residence, comorbidity factors, admission to hospital, death – if applicable – etc.) and does not include any data on the occupations of the people affected or other socio-economic indicators. It is as though it was a question of managing a socially undifferentiated mass of individuals who might transmit the virus from one person to another. Data on the occupational dimension have emerged only gradually, and very unequally from one country to another, sometimes in combination with other factors relating to social inequalities in health.7

In our view, there is a close link between these limits and the political will to avoid placing the issue of social inequalities at the centre of prevention measures against Covid-19. Linking prevention with the specific nature of work means interfering with the power balance between workers and employers within companies.

Two diametrically opposed perspectives

There are two sides to the opposition movements that have emerged. One is reactionary and based on conspiracy theories. This involves a mixture of racism (against Asian communities, particularly during the early weeks of the pandemic), the claim to individual freedom as an absolute right, macho glorification of risk-taking, a cult of gross domestic product (according to the academic version of this discourse, a drop in GDP would cause more deaths than Covid-19) and an instinctive distrust of expert scientific opinion. The political parties on the extreme right have generally not managed to harness these responses, except possibly in Spain, where Vox, bolstered by its regional alliances with the classic right-wing, has played a more active role than the Italian Lega or the French Rassemblement national. This opposition feeds on justified criticisms of the inadequacy of welfare mechanisms (particularly in Italy) and the authoritarian approach to crisis management. It does not offer any alternative for society. It is an aggressive call for a return to the old order.
The other opposition has come from the world of work. It is potentially radical. All over the world, women have been at the forefront of the battle against the pandemic, in hospitals, care homes and supermarkets. They have often had to fall back on their own devices in disastrous prevention conditions and they have helped others to survive, often at the cost of their own health. Some people, declaring them to be heroines, have tried to masculinise this situation. But, in reality, the resilience of medical staff is based on prior struggles that forged collective identities.

The hygiene-based vision adopted by the authorities is constantly at odds with the requirements of work in the real world and employers’ demands to keep productivity up. An analysis of the clusters that emerged after lockdown was lifted shows that, in certain activities, the protection offered by simple hygiene barriers is illusory. In other activities, work has to be done differently. Teaching, acting or driving a bus while keeping to the personal protective measures often involves unsustainable situations and destabilises professional identities. To a large extent, it is work itself that is feeding a huge potential for resistance.

This has been demonstrated intermittently and unequally from one country to another. It first appeared on 1 March 2020, at the Musée du Louvre in Paris, where staff exercising their collective right to stop work on the grounds that their lives were in danger led to the introduction of a minimum level of preventive measures. In northern Italy, numerous strikes broke out in March, bringing some factories to a standstill, while a desperate revolt took hold in some prisons. Some weeks later, there were new conflicts in France about determining what is, and is not, “essential” from the workers’ viewpoint. Sometimes, judicial decisions garnered publicity for these struggles, as in the case of the Renault plant in Sandouville and in various Amazon logistics centres. In Belgium, meanwhile, an overwhelming majority of bus and tram drivers of the Brussels public transport company (STIB) exercised their right to stop work in May. Management had challenged the need for some prevention measures in preparation for the increase in passenger numbers when lockdown was lifted. Other collective struggles also developed, in particular among agricultural labourers in Italy on the regularisation of undocumented workers. The common factor in these movements is the concern to ensure that occupational health requirements dovetail with the needs of public health.

As events unfold in the next few months, democracy in the workplace could occupy a special place in the surrounding debates – but this still remains a challenge rather than a certainty. In the real world, work cannot be reduced to a simple space where hygiene barriers can be blindly applied. To acknowledge this is to allow groups of workers to take control over the conditions of production, draw on their experience, and reshape work in all of its aspects, taking account of both the health imperatives and the actual benefit that their work represents for society. Beyond Covid-19, this is about the essence of democracy: giving people the right to discuss and decide how to carry out their work on a day-to-day basis.

6. The role of working conditions in certain comorbidity factors, such as pulmonary disease, has not been systematically researched to date. However, it is an important potential factor of inequality in relation to deaths.

7. The European Trade Union Institute will shortly be publishing a report on the available data on Covid-19 as an occupational risk.
Workers' sacrifice: the construction of Colombia's railways

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In the industrial countries of the 19th century, the train symbolised all that was modern: a rich network of iron pathways linking one town to another, undermining the supremacy of the horse. In 1850, Latin America accounted for only one twentieth of the world’s railways, but by the outbreak of the First World War, that figure had risen to over 22 per cent. Such technical achievements, however, were built on the back of hard labour and came at a high human cost – particularly in Colombia.

Colombia’s first railways

Colombia emerged as a republic at the beginning of the 19th century after gaining independence from the Spanish Empire. During the first half of that century, the country’s economic foundation rested mainly on two things: mining and agricultural output from farming. Links to international trade were weak owing to poorly developed domestic markets, few means of communication, the dominance of unwaged production and the low productivity of the workforce.

The national elites were aware of the changes that industrialisation was bringing to European countries. They succumbed to pressure for an international division of labour that would position Colombia as an exporter of agricultural produce. Throughout the century, there were various bonanzas in tobacco, indigo and vegetable ivory, until coffee became established as the chief export. In 1870, the working population chiefly comprised arable farmers, cattle farmers and fishermen (71.4 per cent), followed by craft workers and manufacturers (10.4 per cent), servants or domestic workers (8.3 per cent), traders and muleteers (3.7 per cent), and miners (2.3 per cent).
1. Vegetable ivory, or tagua nut, is extracted from the fruit of an Amazonian palm tree. It has long been used to make clothing buttons.

2. When work began, around 400 Irish workers were hired in New York, but the poor conditions quickly cost many of them their lives, leading over 100 of them to go on strike. The company responded by cancelling their contracts and sending them back to New York.

Sometimes recruited under false pretences, they worked in conditions of semi-slavery.

The construction of railways was presented as a national project that aimed to modernise Colombian society, chiefly in order to connect farming areas to the international market. And the first to be built was located in the former department of Panama, which was part of Colombia until 1903.

The high human cost of the Panama Railroad

The construction of the Panama Railroad to make crossing the Isthmus of Panama (a strip of land between the Caribbean Sea and the Pacific Ocean) an easier process was the world’s fourth completed railway construction project. The conditions faced by the workers were even more challenging than those later encountered in the construction of the Panama Canal. Both projects cost the lives of thousands of workers, but the railway is less familiar to the general public than the canal. The railway was completed in a record time of five years, between 1850 and 1855.

The pioneering initiative was linked to the conquest of the North American West. The discovery of gold in California in 1848 sparked a “gold fever”, and in less than 10 years, 300,000 people had migrated to California. At the time, the transcontinental railway in the US was yet to be completed. One of the alternative routes was a 120-day sea voyage around the coasts of the American continent, from the North Atlantic to the Pacific, via the tip of South America, Cape Horn. One way of shortening the voyage was to travel by sea from New York to Chagres, on the Atlantic coast of Panama, cross the region in three to four days using a 300-year old road, and to board another ship from Panama City to California. This complex trip would cut the journey time to California to 60 days.

In order to make the journey across Panama shorter and easier, the Panama Railroad Company, based in New York, began building the first Colombian railway in August 1850. It would cross only 75 kilometres of terrain, but those 75 kilometres included tropical jungle. A huge number of workers were involved, from Cartagena (Colombians), Europe (Irish, Italian, Germans and Portuguese), and the West Indies (Jamaicans and Martinicans), as well as slaves from Africa, but the bulk were from China and India. Sometimes recruited under false pretences, they worked in conditions of semi-slavery. Contemporary records note inhuman working conditions. The navvies frequently worked in chest-deep water or in torrential downpours. Most of them had no means of identification, and the company did not keep detailed records, so there are no data even on the number of deaths that occurred, although estimates put it at between 6,000 and 12,000.

In addition to the high accident rate, workers suffered from conditions such as yellow fever, malaria and cholera – tropical diseases that would also beset the construction of the Panama Canal, although at the time of the railway construction, knowledge of how to control them was even poorer. Health became one of the company’s major challenges for two reasons: first, in order to persuade people to accept employment as construction workers; and second, to keep enough of them alive to complete the project successfully. As a result, health services became an integral part of the project, although access to hospitals and clinics was not equal for direct employees and contractors, and there was blatant racial discrimination. Workers of Chinese origin had high suicide rates; they were also reluctant to use western health services, placing greater trust in traditional Chinese medicine.

The construction of the Panama Railroad was completed in January 1855 at great human and economic cost. After it opened, it generated enormous profits for investors because of the high numbers of passengers and amounts of freight it transported at high prices, at least until the Panama Canal became operational half a century later.

Workers’ health in Colombia’s many railway projects

Despite the weakness of the Colombian state finances in the nineteenth century, which had deteriorated further as a result of the internal wars that erupted during the period, a further 13 railway projects were promoted. The aim was to overcome internal communication difficulties and to facilitate the trade in exports and imports. Colombia’s colonial inheritance was a fragmented territory: the country had a dispersed population, its main cities were high in the Andes Mountains, and there were extensive areas of unexplored jungle in the Andean mountain valleys. The railways were pushed as a means of creating a communications network. Given the difficulties of the topography and the economy, the first choice was to attempt to connect each region to the Magdalena, a river that crosses the country from south to north, used as an important communications route since colonial times.
The railway construction projects can be divided into three groups. First, the projects that sought to connect the Magdalena River to the Caribbean Sea, where the main ports were located: the Bolívar Railway between Barranquilla and Puerto Colombia, which was begun in 1869; and the Cartagena Railway, between Cartagena and the Magdalena River, begun in 1890. This region was also the location of the Santa Marta Railway, which played a different role, as its chief function was to transport bananas from the area controlled by the United Fruit Company – known for the massacre that occurred in the 1920s, as referenced by the Nobel Laureate for Literature Gabriel García Márquez in his masterpiece *One Hundred Years of Solitude*.

A second group comprises the projects to connect the Andean cities to the Magdalena River. These include the La Dorada Railway between the towns of La Dorada and the tobacco-growing area of Ambalema, begun in 1872; the Antioquia Railway between the cities of Medellín and Puerto Berrío on the Magdalena River, begun in 1874; the Puerto Wilches Railway between Puerto Wilches and the city of Bucaramanga in the east, begun in 1881; and the Girardot Railway, also begun in 1881, which aimed to connect Girardot, another town on the upper reaches of the Magdalena River, first to the town of Facatativá, and from there to Bogotá via the Sabana and Cundinamarca Railway, and secondly to two branchlines, one to the city of Neiva and one to the city of Ibagué, as part of the Tolima-Huila Railway begun in 1893.

The third group of projects covered other locations and had a regional emphasis, for example the Pacific Railway connecting the port of Buenaventura on the Pacific coast with the city of Cali, begun in 1882; the Cúcuta Railway in the north-east of the country extending to the border with Venezuela, on which construction began in 1882; and finally the Northern and Southern Railway lines (1889 and 1895 respectively) linking each of those two areas to Bogotá.

These projects share some similarities with the construction of the pioneering Panama Railroad, but there are also some differences. They occurred under the protection of legislation that imposed a limited number of requirements on investors as well as providing for significant benefits such as land grants, favourable tax arrangements, and special privileges including a monopoly over transport, supported on occasion by the misappropriation of public funds. From a financial point of view, their development was leveraged by finding foreign investors (chiefly from the UK and the US), with support from the Colombian state and, in some cases, direct state investment. Where technical matters are concerned, like the execution of the works, responsibility for the preliminary studies lay with...
foreign experts, although participation of Colombian engineers grew steadily. A high proportion of the materials used were imported (especially rails and machinery).

Texts on the history of the construction of the Colombian railways in the 19th century devote little space to the workers. Initially, foreign workers were involved in railway construction, but generally they were far fewer in number than was the case for the Panama project. The process generally began with geologists drawing up the plans, and was followed by logging, the raising of embankments and the construction of bridges and tunnels, the production and placement of girders, the laying of rails and the operation of locomotives. This entire process was supported by transporting materials by mule, the construction of stations and the development of activities to meet workers’ needs for accommodation and food. Although the contracts and rules in force at the time placed the construction companies under no obligation to provide medical care, it was nonetheless part of the projects, mainly because the foreign workers demanded it and it incentivised recruitment among Colombian workers, who were reluctant to be part of projects that crossed disease-ridden areas, especially in the jungle skirting the Magdalena River.

Reports reveal the gruelling working conditions: 10-hour days in a harsh climate under the foremen’s strict control. The camps were devoid of any sanitation whatsoever. There were frequent reports of snake bites, various kinds of accidents, and non-specific diseases blamed on miasmas. No registers were kept of the deaths, and since many of the workers had no next of kin, in the main their deaths went unremarked by the outside world. Where medical services were concerned, at first they merely involved tending injuries and caring for the sick, but over time they took on a broader public-health role.

There is a record of a strike in November 1878 by the Pacific Railroad workers demanding better working conditions, which may be related to the major strike movement among US railroad workers in 1877.

The emergence of a new age for labour

The development of train transport incorporated technologies previously used in mining (such as the use of travelling wagons on wooden supports) and in steelworks (the use of rails) – in particular, use of the steam engine, which meant having energy available that could gradually increase the speed of travel. This changed people’s experience of space and time and encouraged the enlargement of internal regional borders, market integration and the distribution of goods, all of which drove expansion of industrial output.

For the working population involved, the project exacted a high toll in human lives and health. But it also led, by necessity, to new means of organising labour – faced with a management that increased the pace of work and the length of the working day – and kindled the first glimmers of proletarian struggle that would burn more brightly in the first few decades of the 20th century.

The law at the time contained no rules on health and safety for the working population, and health and safety was not a matter covered in the public railway construction contracts. However, the railways did see the development of some worker-focused services, although there was significant discrimination between direct employees and the majority who were employed through contractors.

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The construction of Colombia’s railways in the 19th century thus made a significant contribution to the definition of occupational health as a field of medicine, something which would then benefit a significant number of workers across the country.
The tech giant was one of the few companies to benefit from the national lockdowns imposed across the world to contain the Covid-19 pandemic. However, with orders coming in thick and fast, many of Amazon’s warehouse workers found themselves at risk due to inadequate health and safety precautions. Labour struggles consequently broke out on both sides of the Atlantic, with mixed results.

When the pandemic hit, Amazon was one of the corporations that was better equipped to handle the soaring volume of online orders. It had a clear market advantage over other platforms due to its extensive logistics network and supply chain, headed by Jeff Bezos. Investors eagerly observed its growth, which fuelled more investment. Its share value almost doubled during the health crisis, from 1600–1800 dollars per share in March 2020 to almost 3500 dollars by 1 September 2020. However, as orders and performance pressure increased in the warehouses, even this market leader faced a labour shortage in face of the ever-growing demand. Amazon decided to hire more workers and temporarily increase hazard pay to an extra two dollars/pounds/euros per hour. As a consequence, in the US alone 100 000 new workers were hired in March and an additional 75 000 the following month.

One thing was clear: Covid-19 had created an opportunity for Amazon to consolidate its power and market share to an even greater extent. This boom time for the corporation was not, however, void of labour disputes and struggles. Amazon’s growth did not go unnoticed. At times it was celebrated for its expansion, but at others it was scrutinised over its working conditions, including performance pressure and workplace surveillance, and its anti-union corporate culture. The daunting increase in online orders during the pandemic only served to exacerbate these issues, necessitating new health and safety measures at the company. Amazon claims to have, at an early stage, adopted thermal cameras, provided protective personal equipment, encouraged social distancing between workers, and increased both warehouse cleaning and the number of breaks.

When the pandemic struck, it was difficult to halt the spread of the virus in and across the warehouses.
Labour struggles in the US: a risky business

The US presents the largest market for Amazon as well as a national terrain of political and economic conditions that leave workers vulnerable, unprotected, easily terminable, and often without the right to paid sick leave. This explains why the first-ever Amazon strike did not take place in the US but instead across the Atlantic, in Germany in 2013. Since then, however, performance pressure has also pushed workers in the US to voice their demands and organise walkouts, as we witnessed with East African workers in Minnesota in 2019, who received support from the Awood Center, a workers-led community centre.

When the pandemic struck, it was difficult to halt the spread of the virus in and across the warehouses, despite the measures Amazon had implemented, such as paid sick leave for those quarantining or who had tested positive, as well as unlimited unpaid time off. This is because many workers continued to go to work as a result of limited access to testing. By early April, the number of warehouses that had reported at least one case had reached over 50, though the increase became more difficult to track as Amazon stopped disclosing the case numbers. Recognising the limited access to testing, the corporation expanded its paid sick leave policy to cover suspected cases or those caring for others who had tested positive, though workers reported that this was not always known or applied.

As increases in both orders and workers were not necessarily met with sufficient protective equipment and proper implementation of health and safety precautions such as social distancing, workers began to organise walkouts across the country, from California and Minnesota to Chicago and New York. Some workers report consequently receiving disciplinary write-ups and even...
being dismissed. One such worker, who received a great deal of media attention, was Christian Smalls. He had helped organise a walkout at the Amazon warehouse in Staten Island, where workers were demanding stricter health and safety measures and the temporary closure of the warehouse for deep cleaning after some workers had tested positive. Amazon claimed that Smalls violated his quarantine and put his co-workers at risk, as he had been sent home after a co-worker had contracted the virus. Smalls argued, however, that he was singled out by the corporation for voicing his concerns, as he was around this worker “for less than five minutes” compared to others who had been in contact for “ten-plus hours a week”.

According to a leaked report from Amazon, the company aimed to smear Smalls as “the face of the entire union/organizing movement”, describing him as “not smart, or articulate”.

This case is just one of many examples of Amazon squashing attempts at labour organisation, aiming to eliminate union activity in its warehouses and portray it in a negative light.

While workers received support not only from politicians and legislators but also from unions such as the Retail, Wholesale and Department Store Union (RWDSU), the recent cases of labour struggle shed light once again on the difficulties of organising in the US’s largely anti-union landscape, something which predates Covid-19.

The pandemic has also, however, revealed the willingness of many workers to voice their concerns and even in certain cases to join in collective action, despite the obstacles. It has, above all, shown the current potential for pushing for more labour-friendly changes in the employment landscape.

Amazon was met with a backlash by the media and politicians who critiqued its lack of health and safety measures and its retaliation tactics. Workers and unions pushed for warehouses to be shut down or for Amazon to make it easier for workers to exercise their right to abstain from working while still receiving their wages. Julien Vincent, union representative at the French Democratic Confederation of Labour (CFDT), estimates that around 30-40% of all workers stayed home out of fear and/or due to childcare responsibilities. Amazon responded by offering increased wages to those still working and hiring additional temporary workers.

Labour inspectors revealed that Amazon failed to take sufficient health and safety precautions, while also sidestepping unions and works councils, who it is legally required to consult on these matters. The trade union group Solidaires Unitaires Démocratiques (SUD) took Amazon to court. The court of Nanterre sided with the workers and ruled on 14 April that warehouses were to be inspected according to the French Labour Code. Until Amazon worked with unions to improve its standards it was required to consult on these matters. The workers and ruled on 14 April that warehouses were to be inspected according to the French Labour Code. Until Amazon worked with unions to improve its standards it was to limit sales exclusively to essential items that included medical, hygiene and food products. It would be penalised with a staggering fine of one million euros per day for non-essential sales.

Tatiana Campagne, the SUD representative at the Lauwin-Planque site (northern France), one of Amazon’s biggest fulfilment centres in the country, did not hide her satisfaction: “We’ve been fighting against this giant for three weeks now. For us, this is a great victory. The company has to negotiate with us about putting measures in place. They can’t just continue to act like kings as they have done since the beginning of the crisis.”

Amazon first reacted by appealing and defending its measures. Calculating that the financial toll for violations could possibly reach billions a week, Amazon shut down its warehouses.
down all six of its French warehouses, though it could still deliver from across the border. Despite some attempts made by the company to improve measures, on 24 April the Court of Versailles deemed these to be insufficient and upheld the previous court ruling. The penalty, however, was now to be 100,000 euros per delivery and the list of products now included office, pet, and technological supplies.

During this period, Amazon requested to receive state emergency funds to pay its temporarily laid-off workers in warehouses that were ordered to close following a court ruling, only to be rejected by the Ministry of Labour. Warehouses were only allowed to be reopened on 19 May, after Amazon had invested millions of euros in applying 150 new safety measures, such as a 15-minute reduced shift without wage reduction to allow for smoother shift transitions. Amazon reached a settlement agreement with the unions “after going through a formal clarification and information process with works councils about the extensive safety measures already in place at our fulfillment centers to keep our employees safe.” The additional two-euro hazard pay was to be paid until the end of May. In return, unions dropped the case for the exclusive sale of essential products. As Amazon gradually reopened, unions were consulted over safety measures and their implementation.

The outcome of the labour struggles in France differs from those in the US due to differences in the political-economic and industrial relations contexts regarding workers’ rights to organise and strike. This case demonstrates the potential for regulating the largely unregulated Amazon, should legislators seek to do so, and for Amazon to negotiate with labour representatives, should it be forced to do so.

A crucial moment for labour

The tale of Amazon and its labour struggles is just one of many in the time of Covid-19 that demonstrates the weakened position of workers across the world, who have seen their rights sidelined by the interests of larger corporations and their pursuit of profit. Amazon is not unique in this regard. Yet while it was easily able to hire thousands of workers to meet higher demand amidst a looming economic crisis, the leverage of workers also grew due to the growing dependence on the retail giant amidst national lockdowns. This has once again highlighted the necessity not only for labour to organise, but also for support from politicians, legislators and society at large. Amazon appears to change its treatment of workers when faced with pushbacks from protests, strikes and accompanying media scrutiny, but also when politicians and legislators are willing to push for regulation. As the corporation continues to grow and in the process set trends across the industry, now at an even more accelerated rate, the pandemic provides us with a crucial moment to push for better working conditions and support the rights of workers at Amazon, and beyond.

FURTHER READING

Occupational health in the courts

Special report coordinated by Laurent Vogel and Mehmet Koksal
With 180,000 work-related deaths every year in the European Union and more than 2.5 million worldwide, occupational health is a crucial issue for workers and trade unions. Knowing that, somewhere in the world, a worker dies every 11 seconds because of a lack of proper prevention, you might wonder whether there is any point in campaigning for more employment or better wages if these jobs end up taking workers’ lives. And in more than nine out of ten cases, these deaths are largely invisible, because they result from occupational diseases rather than accidents.

Going to court to demand compliance with preventive legislation is a laborious, costly and infrequently used process. This fact consolidates the image of the world of work as an enclave where the rules of ordinary law do not apply. But should the property rights of business owners really take precedence over the fundamental right to life?

It is clear from historical experience that legal cases play a decisive role in pushing for change. The asbestos ban would probably never have come about without the numerous lawsuits that preceded it. And the fate of glyphosate will be sealed in the near future partly by the actions brought by workers who have fallen victim to this weedkiller, which is still permitted on European soil.

To go to court is to testify that the right to health at work is a fundamental human right, that violating it must be punished, and that there must be compensation for the consequences. This is often a difficult path that calls for individual persistence and collective courage.

This special report on occupational safety cases brings together accounts of emblematic trials from various European countries. We hope that it will also provoke a debate about what kinds of litigation strategies could help to stimulate collective action on the crucial issue of occupational health.
Doctors or soldiers? Romanian healthcare professionals on the front line

Laura-Maria Ilie and Florentin Cassonnet
Journalists

Dispatched to the “front line” in the battle against the coronavirus pandemic without personal protective equipment, Romanian healthcare professionals have paid dearly for such inadequacy: Romania has one of the highest rates of infection among medical staff across Europe. The state and hospitals alike had an obligation to provide staff with the means to protect themselves. But although many of Romania’s doctors and nurses are outraged at having been so fundamentally exposed, few of them dare to lodge a complaint.

During a pandemic, what is the very worst that could happen to a healthcare system? Answer: the entire medical and nursing staff become infected and are no longer able to heal the rest of the ailing population. When the coronavirus pandemic cut a swathe through Europe, Romania experienced that scenario first-hand, especially in Suceava County in the north-east of the country. The nightmare situation suddenly became more real due to the chronic shortage of medical staff: Romanian doctors and nurses had been leaving the country in their thousands since Romania’s accession to the European Union in 2007 to treat patients in Italian, French, German or British hospitals, which provide better conditions than their own healthcare system.

To gain a better grasp of the current situation, it is important to recall the initial peak in coronavirus infections, in spring 2020. According to an analysis conducted by the Solidaritatea Sanitară (Health Solidarity) trade union federation on 7 April 2020, of the 4,417 Covid-19 cases confirmed nationally, 1,087 related to healthcare workers. According to their calculations based on the growth in cases over a two-week period, this accounted for a 0.54 per cent infection rate among medical staff, with a twenty-fold higher infection rate than in other sectors of society. At that rate – applying the mathematical model that calculates the maximum risk faced if no action is taken – the federation warned that all healthcare staff in Romania could potentially become infected in just 27 days.

Spring and summer have been and gone, and the situation has now stabilised, but Romania still has one of Europe’s highest infection rates among its medical staff, not to mention the ensuing life-threatening consequences. “One of our colleagues died today in Slatina; last week, a colleague died in Sighetu, and another died in Timișoara…” laments Leonard Bărăscu, President of the Sanitas Trade Union Federation, during a meeting in Bucharest with Romeo Sandu, the organisation’s Vice-President. “Now the situation has improved: in principle, we have enough equipment. But we have insufficient human resources. The workers are exhausted, but we have no one to replace them. And besides that, tiredness and stress increase the likelihood of mistakes being made.”
Who’s to blame?

In the light of these considerations and the fact that healthcare professionals, like other citizens, have a family and social life outside of the working environment, there is now a joint institutional and individual responsibility for their infection. However, in the early days of the pandemic, this responsibility lay wholly at the door of the institution concerned. “In the beginning, the staff had no protection whatsoever,” Romeo Sandu points out. “Everything was handled in a lax manner.”

In September 2020, Statista published a statistical study, compiled by researcher Justina Sava, on the number of infected employees in the Romanian healthcare system by region and the volume of expenditure on protective equipment per employee and per region. According to her analyses, “The number of employees […] testing positive is inversely proportional to the volume of expenditure on protective equipment.” Sava also found that “Suceava County has recorded 832 infected employees for 3.1 lei [0.66 euros] of expenditure on equipment per employee, while Vâlcea County spent 76.79 lei per employee and identified only 25 infected healthcare workers.” This is not the only factor to be considered, but the direct correlation here is undeniable.

Employers are responsible for protecting their employees in the performance of their duties. Romeo Sandu notes that “Doctors and nurses can lodge complaints against the hospital management if they do not receive the protective equipment needed to carry out their work in complete safety. And we would assist them in their legal proceedings; we could provide them with legal support, but no one has approached us with any such request.” They have received no requests from medical staff nor indeed from any family member of medical staff who have died after contracting the virus at work. It is worth noting at this point that a law recognising the worth of medical
personnel, which was the subject of a Sanitas campaign, was adopted in June 2020. It awards to the families of deceased personnel a monthly benefit of 2,500 lei (approximately 500 euros). Does this compensation in any way dampen the determination of these families to take legal action against the state? “No, but it does help,” Sandu believes. “It would not appease my anger, but it would be something at least.”

Calling in the military

But how do you explain the decision of those healthcare workers infected at work not to pursue legal redress against their employer — the management at their hospital and the state — which has failed to protect them and put their lives in danger? “They would rather carry on in the job and help the patients than pursue a legal battle against the state,” says Sandu, suggesting that they might, as an alternative, take sick leave, resign and/or move across to the private sector. In early April, a spate of resignations were reported at Câmpina Municipal Hospital, Iași Maternity Hospital, Mioveni City Hospital, Orăștie Municipal Hospital, Timișoara Clinical Hospital, Brașov’s Hospital for Neurology and Arad County Clinical Hospital, to name a few. “The doctors and nurses have given up. They are resigned to their situation; they believe they were fighting a losing battle in their legal action. Some of those who had walked out, such as those at Orăștie Municipal Hospital, came back to work a couple of days later. They did not return under duress; they simply realised that there was no one to look after the patients. They recalled the oath they had taken.”

Their return may not have been under duress, but there was at least a collective pressure to come back. Or they came back because they no longer had any say in the matter. In Suceava, the country’s largest coronavirus hotspot where, in early April, the County Hospital stood at the epicentre and recorded 200 positive cases among its medical staff, the hospital was placed under military command by order of the government. Military doctors were dispatched to the scene and took over command of operations. This meant regaining order over a situation which had spiralled out of control and preventing “desertion” among the medical staff. “With Suceava County Hospital under military control, healthcare professionals had no option but to go to work. The state could have taken them to court if they refused to follow orders, just like a soldier refusing to go to war,” Sandu explains.

According to anthropologist Radu Umbreș, “This doctor/soldier association is problematic. Soldiers are recruited on the basis of a contract which expressly lays down penalties for desertion. Medical staff are employed under a different type of contract, namely a service contract. Perhaps the pandemic will force the government to insert a penalty clause in healthcare workers’ employment contracts, if there is a connection with matters of national safety.” As these clauses have not been introduced for the time being, doctors and nurses continue to be regarded on paper like any other worker; on the ground, however, that is clearly no longer the case.

Cowardice or a lack of solidarity?

“Yes, we were like soldiers,” agrees Anica Coriciuc, a nurse at Suceava County Hospital where she also contracted the virus. She recalls the critics who blamed the medical staff for the desperate situation inside the hospital. “There were problems in the hospital management; that was why we were becoming ill, not because we were more foolish that anyone else.” Sanitas President Leonard Bărăscu echoes the anger of personnel deployed on the ground without protection when he exclaims, “Okay, so healthcare staff were dispatched to the front line like soldiers, but what weapons did they have?”

In April, the widespread outrage, the spate of resignations and the criminal proceedings initiated by a group of doctors at Bucharest’s Sfântul Ioan Hospital against the hospital’s management for failure to provide protective equipment offered a glimpse of the prospective deluge of litigation. Six months later, this anger seems to have subsided.

The city of Suceava provides the best illustration of tempers having “cooled”. Manuela Şestac is a neurosurgeon and trade union representative at the County Hospital. Criminal proceedings were to be brought against the hospital’s management for its failure to protect the medical staff. “Everyone wanted to press charges, but when we held the union meeting to vote on pursuing a legal action, the quorum was not reached. Out of 124 members, only 36 voted in favour of initiating criminal proceedings.” When asked to explain that shortfall, he replies: “I think it boils down to cowardice. There was also manipulation involved: someone spread the rumour that those who voted in favour of bringing the action would be summoned to the Prosecutor’s Office, which was entirely untrue because the ballot is conducted in secret and is an internal measure carried out by the trade union. However, the manipulation seemed to have had the desired effect and overpowered any feelings of solidarity.”

In spite of the outcome of the ballot, a criminal investigation was eventually launched against the hospital’s management,
not due to any collective action on the part of the healthcare workers, but as a result of a decision by the Suceava Public Prosecutor’s Office following the enforced militarisation of the hospital by government decree. The investigation focuses on the four members of the management team, as well as General Manager Vasile Rîmbu. It will be essential to establish the management’s responsibilities and to determine, once and for all, whether or not protective equipment was available in hospital stocks. “Confusion reigns: some are saying that there was a supply of protective equipment, while others deny its existence; no one knows the truth,” explains Romică Balan, nurse and director of the Suceava branch of Sanitas. Like most of his colleagues, hecontracted the coronavirus. “He [Mr Rîmbu] didn’t want to cause panic in the population,” Balan explains. “Any attempt to overequip the staff would have created panic: that was the message, the instruction from on high, in the early months of the pandemic at Suceava Hospital.” An instruction from where, specifically, “on high”? From the hospital management? From the local government? From the national government? He doesn’t know. We can well imagine that these proceedings will seek to place the blame at the feet of a few individuals in office rather than point the finger at the system as a whole.

Shaking up the system

This ongoing criminal investigation has probably relieved the anger felt by Suceava’s healthcare professionals, but it will not have assuaged everyone’s fury, not least that of Anatol Burlacioc, a 45-year-old doctor of plastic surgery working at Suceava County Hospital for the past 13 years. Having contracted the virus and subsequently become ill in mid-March, he went back to work on 15 April immediately following his recovery. He instituted legal proceedings on his own behalf along with a few dozen other doctors and nurses, although these individuals one by one withdrew from the prosecution. “They were afraid of upsetting Suceava’s bigwigs,” explains Burlacioc. Now he stands alone in his legal action. He is currently preparing the case with the help of a law firm and will be filing his complaint shortly with the city’s court.

His case is an employment law dispute brought against the hospital management by which he is seeking classification of his infection as an accident at work. “I became ill while I was working and believe that the hospital management is responsible for this.” The general manager, Vasile Rîmbu, is – in his view – personally responsible, but he cannot lodge a complaint against an individual, only against an office, in this case the hospital. By these proceedings, he hopes to bring to light the hierarchical culture created at Suceava County Hospital around Rîmbu, who has held sway for the past 11 years: “Everyone is scared of him and of the system operating behind this person. You see, hospitals aren’t independent bodies; the Ministry of Health imposes the organisational structures and the method of management,” he explains. These proceedings might, in particular, serve as a precedent, paving the way for further litigation by medical workers. They may well have taken an oath at the start of their career, but the safeguarding of their rights and their protection still provide the best guarantee that they will carry out their duties in the most sustainable and effective manner possible.

Military doctors were dispatched to the scene and took over command of operations.
A fight for justice: how Dutch trade unions stood up for chromium VI victims

In recent years, there have been a number of scandals in the Netherlands over workers being exposed to the carcinogenic chemical chromium VI. Hundreds have suffered damage to their health as a result of restoring military and railway equipment. Representing the workers’ cause, trade unions have refused to settle for half measures, demanding an independent inquiry and damage settlements.

Yet another Defence Ministry scandal, thought Anne-Marie Snels, chairman of the military personnel union AFMP (Algemene Federatie van Militair en Burger Personeel). The year was 2014. It had just come to light that Defence Ministry personnel were exposed to the carcinogen chromium VI in the course of their work at NATO’s maintenance facilities. Sanding, grinding and welding work on American equipment led to the release of the toxic metal, which has been used for decades in the paint and steel industry because of its anti-corrosion properties. A fairly large number of these workers had become ill, and even died.

“We immediately demanded an independent joint committee of inquiry from the Minister, independent medical check-ups for victims and a damage settlement for personnel who had become ill,” says Snels. “No stone was to be left unturned.” Under pressure from both public opinion and the Defence Committee of the House of Representatives, the Minister agreed, with the reservation that the Defence Ministry denied any liability. Within a few months, a “goodwill settlement” was agreed on, offering a provisional system of advances of between 3,000 and 15,000 euros, for which all (former) personnel (including agency and flexi-workers) were eligible if they had worked for at least one year in specific jobs and had developed specific health problems. The findings of the inquiry would be followed by a definitive financial settlement.

A system of financial payments was put together to save victims from lengthy legal proceedings.
Scant expertise in Europe

The inquiry lasted a good three years. The joint committee worked closely on it with the National Institute for Public Health and the Environment (RIVM) and a number of experts. According to Snels, also a member of the committee, “The inquiry was conscientious. People who’d left the service a long time ago had to be traced. We held meetings to collect questions from personnel members and, on the basis of those, we set up all sorts of subcommittees. Cause and effect had to be established between certain illnesses and exposure. There was scant expertise in this field. Not in the Netherlands, not in Europe. That made the inquiry extremely valuable.”

In June 2018, the committee of inquiry unveiled a list of medical conditions shown to be potentially caused by chromium VI: lung cancer, nasal cancer, contact dermatitis, allergic asthma and rhinitis, and lung conditions such as chronic obstructive pulmonary disease (COPD). Cancer of the larynx was added to the list later. The committee recommended compensation to (former) personnel or their families of between 5 000 and 40 000 euros (more for comorbidities), monitoring of all personnel involved, improved health and safety measures and two follow-up inquiries, one of them an inquiry into chromium VI exposure across all the armed forces, to be completed by December 2020. In the meantime, it had become clear that some 2 400 workers had potentially been exposed to chromium VI during the period 1984–2006.

Snels is happy that the independent committee of inquiry was able to penetrate the bastion of Defence Ministry affairs. “They couldn’t keep the lid on this huge scandal. It is appalling and shocking that workers are exposed to a carcinogen. The companies must register hazardous substances on pain of a fixed penalty.

More than 800 people on unemployment benefits were exposed to chromium VI when they were refurbishing Dutch rolling stock. Photo: ©Belga
Defence Ministry knew about the risks. Financial compensation can never make up for damage to someone’s health. And there are people who aren’t covered by the definitive settlement (see box: Henk Coort). That’s very hard. A lot of people have sued.”

Fast financial compensation

During this large-scale inquiry into the chromium VI exposure of Defence Ministry personnel, another scandal was already brewing. In 2016, it emerged that in Tilburg, a city in the south of the Netherlands, some 800 people on unemployment benefits had been exposed to chromium VI between 2004 and 2011 while working on a back-to-work project. They had been employed, on pain of losing their benefits, in a shed where they had to refurbish rolling stock of Dutch Railways (NS) and the Railway Museum (see box: Patrick Hebbelinck on the scandal involving Belgian Railways) – with no protective equipment and under intimidating and strict conditions. “Here too an independent committee of inquiry was set up straight away,” says Marian Schaapman, who was then a member of the committee in her capacity as director of the Occupational Diseases Office of the Dutch Trade Union Confederation (FNV) and has, since 2017, headed the Unit for Health & Safety and Working Conditions at the European Trade Union Institute. “From my experience at the Occupational Diseases Office, I knew what was important: independent medical check-ups, free access to healthcare and ultimately leaving no stone unturned in securing financial compensation for illness and distress. It was disgraceful how vulnerable people – usually refugees and low-skilled individuals – were forced by the city of Tilburg and by Dutch Railways to endure the very worst kind of work conditions, while their employer, the railway company, was fully aware of the risks.” (see box: Natascha van de Put)

In the course of the inquiry, all former personnel quite promptly received medical check-ups and partial payment of their medical insurance costs. In 2019, the independent committee of inquiry ruled that the city of Tilburg had failed in its duty of care and that Dutch Railways had known the risks. The recommendation was that all former personnel should receive a payment of 7 000 euros, whether they were currently ill or not. This was to compensate them for the distress they had had to endure up to the time the inquiry was completed.4

The committee also ruled that a financial settlement (of between 5 000 and 40 000 euros) should be made to those who had developed one of the illnesses scientifically shown to be linked to chromium VI (in the RIVM list) during their work in the shed.

A question of substance

It seems that, when it comes to exposure to hazardous substances, the Netherlands lurches from one incident to the next. Partly because of this, the latest scandals have led to consideration of a general system of indemnification, whereby workers shown to have been exposed to hazardous substances would receive compensation from the government. A settlement of this kind (in the form of a one-off payment of 21 000 euros) already exists for victims of asbestos and workers made ill by organic solvents. An opinion with the title “A question of substance” was delivered to the House of Representatives. “Dutch victims find it hard to get recognition that it is their job that has made them sick,” says Schaapman. As director of the FNV’s Occupational Diseases Office, which provides union members with free legal advice, she conducted countless court cases. “A generic system of compensation will save a lot of people from all that pain, whilst keeping open the possibility of legal liability. Procedures of this kind create legal precedents, which are sorely needed in order to, on the one hand, improve the position of workers and, on the other hand, make employers aware of the risks to which they are exposing their staff.”

4. Read the article by Mehmet Koksal page 39.
5. In 2014, France also adopted an occupational exposure limit value of 1 µg/m³ for chromium VI.
Enforcing the rules

Partly as a result of the chromium VI scandals, the permitted limit value in the Netherlands was set at 1 μg/m³ (microgram per cubic metre of air) in 2017. That is strict compared with the European value of 10 μg/m³, which will be cut by 2025 to 5 μg/m³. In Europe, about a million workers are exposed to chromium VI every day. “Employers must be forced to register their hazardous substances, and the rules on exceeding limit values must be enforced,” says Wim van Veelen, employment standards policymaker for the FNV and member of the chromium VI committees. Dutch law requires employers to register their carcinogenic substances every 10 years and to list the jobs that potentially place workers in danger, but only seven per cent of them do so. For Van Veelen, the solution is clear: “Employers know that countless rounds of cost-cutting mean that the Labour Inspectorate does hardly any checking. They laugh at these strict limit values. We should enforce the registration requirement, on pain of a fixed penalty, and have companies file their risk inventory and evaluations (RI&E) online with the Labour Inspectorate. The Inspectorate can have only a vague picture of actual practice and can check properly only if it has a database of sector-specific information. There should be an online resource of this kind for the whole of Europe. With one click, you’ll then be able to see that someone was grinding down an aircraft or tank at any given time and may have been exposed to carcinogenic substances.”

In Europe, a million workers are exposed to chromium VI every day.

HENK COORT
(62, Netherlands)

Former senior mechanic, Defence Ministry POMS site, Brunssum

“There was dust everywhere, even in your cheese sandwich and your coffee cup.”

“...it was great, exciting work and I loved it. All the American materiel from the Gulf Wars (1980–2003) and peacekeeping missions came in full of desert sand and in a real mess. It was our job to patch them up again.”

He now knows, years later, that those doing the job were exposed to all manner of hazardous carcinogens like chromium VI, depleted uranium, benzene and PX10. “Those tanks were coated in depleted uranium from the anti-tank shells fired at them. And they had seen action in areas where poison gas was used. And, to cap it all, we were exposed for years to chromium VI given off by paints. How were we to know? The Defence Ministry knew, as it later transpired. The danger from chromium paints was known since 1973. We were there the whole day, without any form of protection, grinding, sanding, drilling and welding. We usually blew the chippings away with an air blow gun. There was dust everywhere, even in your cheese sandwich and your coffee cup.”

In 2004, the NATO depot in Brunssum closed, and Coort went to work a few kilometres away at the POMS site in Eygelshoven (South Limburg), which were NATO repair and maintenance centres for American tanks and other military vehicles.

Henk Coort started working for the Defence Ministry in 1976 as a specialist technician. From 1984 to 2006, he was a tank assembler at the POMS sites at Brunssum and Eygelshoven (South Limburg), which were NATO repair and maintenance centres for American tanks and other military vehicles.

“...it was great, exciting work and I loved it. All the American materiel from the Gulf Wars (1980–2003) and peacekeeping missions came in full of desert sand and in a real mess. It was our job to patch them up again.”

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In 2004, the NATO depot in Brunssum closed, and Coort went to work a few kilometres away at the POMS site in Eygelshoven. “That’s when I first started to get problems: painful joints, hair loss and brittle nails. Other colleagues were suffering too. In 2010, I developed problems with my digestion. Esophageal cancer. A major operation to remove my esophagus and part of my stomach went wrong. From November 2010 to February 2011, I was kept in a medically induced coma. It’s a miracle I’m still here.”

After he had recovered, he heard more and more reports from former colleagues about illnesses and problems like cancer, lung ailments, kidney complaints and skin disease. When he too learned indirectly of confidential measurement results that pointed to hugely excessive exposures to chromium VI, the ball started rolling. “The Defence Ministry fobbed me off. So, together with five former colleagues who also had problems, I founded a group for hazardous substance victims called NL-POMS and hired a lawyer to sue the Defence Ministry on our behalf. Last spring, I and three colleagues had our case upheld in a higher court; the Defence Ministry has appealed to the court of cassation. Esophageal cancer is not on the list of the RIVM as an illness caused by chromium VI. I did get compensation under the goodwill settlement, it is true, but that doesn’t make up for the damage I suffered to my health.”
Natascha van de Put
(44, Netherlands)

tROM back-to-work project, Tilburg, January 2006–September 2006

“I won’t rest until justice is done.”

When Natascha van de Put received a letter from the city of Tilburg in 2016, a lot of things fell into place. Along with numerous others, she had been invited to attend a briefing about the carcinogen chromium VI. In 2006, van de Put, who was on benefits, had started work in a shed where old trains were restored. A job which Dutch Railways (NS) offered, between 2004 and 2011, to 800 or so long-term unemployed people in Tilburg.

“It was a big shed in which the men carried out sanding, grinding and spray-painting work on trains from the Railway Museum. The women did cleaning or kitchen work. I had to type up files in a little office. We worked and took our breaks in just one big space; there was dust everywhere. We weren’t given any protective equipment. The conditions were really harsh; it was forced labour, pure and simple. If you didn’t work hard enough, complained or arrived late, you got punished. It was quite normal to have your wages docked. The most vulnerable groups – refugees who didn’t speak the language, people on benefits and ex-prisoners – were treated appallingly. We were ordered about and yelled at."

After working in the shed for eight months, van de Put dropped out sick. “I was at the end of my tether, couldn’t sleep, suffered panic attacks and hallucinations. I later had COPD, asthma, a ruptured diaphragm, stomach and intestinal problems, rheumatism, and arthritis. When it became known in 2016 that we had been exposed to chromium VI, asbestos and heavy metals, the penny dropped. The worst thing is that both Dutch Railways and the city of Tilburg had already known it.”

Van de Put didn’t leave matters there. In 2016, she set up a group of fellow sufferers (the Stichting Lotgenotengroep) and took up the cudgels along with 60 former colleagues. She got the trade union involved, sent letters to the House of Representatives and hired a lawyer. “It is criminal to knowingly expose people to carcinogenic substances and make money out of it.”

While van de Put appreciates the goodwill settlement whereby all those formerly working on the tROM project were offered 500 euros plus 7 000 euros once the inquiry was completed, she is also critical. “The procedure to qualify for additional compensation is complicated. The government [the RIVM] reckons that only a limited number of conditions are related to chromium VI. But any scientist will tell you that you can get very sick from a combination of hazardous substances. Because only six illnesses are officially linked to chromium VI, a lot of victims are losing out. I’m one of them. I am now suing Dutch Railways myself. I won’t rest until justice is done.”

Patrick Hebbelinck
(60, Belgium)

Formerly a general hand working for Belgian Railways (SNCB/NMBS), 1975–2019

“I often lie awake at nights, thinking that maybe I’ll get cancer.”

Patrick Hebbelinck finds it ironic that people have to wear face masks because of the coronavirus, when he was exposed to the carcinogen chromium VI for years with no protection at all. To asbestos too. So far, he has had no symptoms. “I often lie awake at nights, thinking that maybe I’ll get cancer. Chromium VI is a silent killer. Some colleagues from the Belgian site at Gentbrugge got ill or even died, but just try proving that it was due to chromium VI. I’ve worked the maximum number of years and am retired now. I want to enjoy it.”

As a general hand, Hebbelinck did painting and welding work on railway carriages. Sanding, grinding, welding and spray-painting released chromium VI from old layers of paint. “So much dust and vapour was generated that we couldn’t even see each other from one or two metres away. The extraction system was inadequate, and we were not well protected. All we had was safety goggles and gloves. We were reluctant to complain; you want to keep your job.”

According to Hebbelinck, everyone had problems with their noses, breathing and headaches. Because so many people had medical issues, work was halted late in 2015, and tests were conducted by an external inspection service. Four of the five workers involved had too much chromium VI in their blood. Gentbrugge had to close; the work was moved to Malines/Mechelen, which had proper booths for work involving hazardous substances.

“Belgian Railways were adamant that they had not known their workers were exposed to hazardous substances. But the inspectors had given a warning as early as 2008. It was already known then that extra precautions were needed, such as sealed units and booths. We worked behind a curtain. And no risk assessments were done. There was no money for health and safety. We raised this with the union a million times, but in vain. It is downright immoral to expose workers to hazards like these.”

In June 2020, the court in Ghent fined Belgian Railways 210 000 euros for exposing some 60 workers to the carcinogen chromium VI between 2014 and 2016. The judge ruled that the railway company was aware of the dangers but provided inadequate safeguards: “That fine will go straight to the government,” says Hebbelinck. “We get nothing, because, under Belgian law, you can’t sue your employer. The court judgment is useless. The only gain is that the railway company has been rapped over the knuckles and, hopefully, workers will be better protected in the future.”
A scandal over the toxic chemical substance chromium VI at the Dutch Defence Ministry. The national Belgian railway company also found guilty of exposing workers to chromium VI. What role did the law play in these cases? Can the two countries learn from each other, despite their different legal systems? How can trade unions use the law to best effect? And what improvements can be made? Two lawyers offer their experiences and insights.

**A Dutch and a Belgian lawyer on chromium VI and the role of the law**

**Pien Heuts**
Journalist
**Marian Schaapman**
ETUI

**Wout van Veen** is a lawyer and an expert on occupational diseases. Since 2014, he has been part of the interdisciplinary sounding board group set up by the National Institute for Public Health and the Environment (RIVM) to review the inquiry into exposure to and the effects of chromium VI. That inquiry was prompted by the chromium VI cases involving the Dutch Defence Ministry and a back-to-work project for the unemployed in the southern Dutch city of Tilburg. Following publication of the RIVM report, he has also been involved in a number of lawsuits brought by Defence Ministry employees who are seeking compensation via the courts for health problems caused by exposure to chromium VI.

**Jan Buelens** is a member of the Progress Lawyers Network in Belgium and a professor of collective employment law and comparative social law at the University of Antwerp. He was contacted in 2018 by employees of Belgian Railways (SNCB/NMBS) who had worked at a site in Gentbrugge on the reconditioning of old rolling stock between early 2014 and early 2016. He represented those workers in what was to become a criminal case against the railway company. The facts suggest a strikingly large number of similarities with the Dutch cases, in terms of both exposure to chromium VI and of the employer’s failure to do anything about it, even though it was aware of the hazards that the substance represented. The approach followed in the two countries was, however, different.
the rules. The labour prosecutor ultimately brought a criminal prosecution. It was clear to us right from the start that this was an important case and that we'd be up against a powerful opponent, who would spare no effort in hiring expensive lawyers to throw every sophisticated legal technicality possible at us. But we had a number of advantages.

Firstly, it was a big plus point that the case had been referred straight to the courts at the initiative of the public prosecutor. That meant that there was no protracted process of preliminary investigations, with the burden of proof primarily on us – after all, the public prosecutor was basing himself on infringements which the rules. The labour prosecutor ultimately brought a criminal prosecution.

When was something done?

JB — After continued complaints, the external occupational safety and health department finally conducted exposure measurements on 15 December 2015. Five workers were sampled anonymously, using a personal air sampling pump fixed to their work clothing, close to their mouth. Four of the five samples were higher than the permitted limit values, even 13 times higher. At the workers’ request, the unions forced Belgian Railways to halt the work until further protective measures were taken. This development marked the start of everything that came next. The Labour Inspectorate was informed, and it identified infringements of
Labour Inspectorate had identified – and, as a result, judgment was given relatively quickly (final judgment on 30 June 2020).

A second advantage was that the workers were closely and energetically involved in this case. All the workers at the Ghent site chose to be “civil parties” in the criminal case. That is exceptional. Often not a single worker is prepared to do this, because he or she fears losing his or her job, and, in the case of workers no longer with the company, they may have signed an agreement with the employer not to bring any legal proceedings against him. The number of workers involved and their determination to get a result certainly had a positive influence on the case. During the pleadings, counsel for the railway company tried to argue that the case had primarily been instigated by the trade unions, but this cut little ice. Workers and unions were totally singing from the same hymn sheet, and that was good to see.

A third and final advantage was that we had access to the findings of the scientific inquiry conducted by the RIVM into the Dutch chromium VI cases involving the Defence Ministry and the back-to-work project in the city of Tilburg. I had already been in touch early on in the case against Belgian Railways with the Dutch lawyers Wout van Veen and Daphne van Doorn, who were closely involved in the chromium VI cases in the Netherlands. I laid the RIVM’s findings before the court in Belgium, which took the matter very seriously and appointed a group of expert witnesses.

Our main doubts were whether there was enough evidence of contamination by chromium VI. The fact that all traces of it disappear quickly from the human body makes it hard to prove. Ultimately, only a few samples had been taken, and not in the best possible manner. This was, of course, immediately seized on by the defence. Happily, and rightly, the court did not fall for it and went with our arguments and those of the group of experts.

**Was this a Pyrrhic victory for the workers?**

**JB** — Belgian Railways were found 100% guilty and fined 210,000 euros. Our prime interest in this case was to secure a conviction against the company, and, in that respect, we scored a resounding victory.

Unfortunately, the applications to join the proceedings as a “civil party” were declared inadmissible by the court. This has to do with the Belgian system of compensation for occupational accidents and illnesses. Early in the 20th century, Parliament voted in a law which provided that, in exchange for a swift admission of culpability for occupational accidents and illnesses and lump-sum recompense by insurers or the government, the employer would be granted civil immunity, that is to say they can no longer be held liable to pay full compensation, with one or two exceptions. This immunity was extended to cases of occupational diseases in 1927.

We remain of the opinion that immunity in this case was wrongly invoked. No workers have yet become ill (so no compensation has been paid), but they have to live with the fear that they may do so in a few years’ time or even decades later. Consequently, we demanded a reservation of rights in respect of this damage, along with provisional compensation for the distress which the workers are having to endure in the meantime. We shall take the same position in any similar cases that may follow.

Given the robust conviction we secured against Belgian Railways and the modest financial claim of the civil parties, we decided, all things considered, that we would not appeal. Workers who become ill can, of course, still claim compensation under the rules on occupational illness.

**“Goodwill settlements” and the law on liability**

The chromium VI cases in the Netherlands were addressed primarily not by the courts but by committees appointed by the employers concerned (the Defence Ministry and the municipality of Tilburg) to find a solution. Those committees assisted the RIVM scientific inquiry, but they also sought financial compensation arrangements for the victims.

**The Defence Ministry was quite quick to agree a goodwill settlement and – based on the findings of the inquiry – a definitive financial settlement. In Tilburg too, the victims received compensation promptly. Why do you think these employers agreed to this?**

**Wout van Veen** — This was really unprecedented for the Netherlands, but my explanation for the speedy conclusion of these compensation settlements is that the Occupational Diseases Office of the Dutch Trade Union Confederation (the FNV, the country’s biggest labour organisation) has, since it was founded in 2000, significantly raised the profile of occupational illnesses, through countless lawsuits and settlements. This has created a climate in which health and safety, and the prevention principle, are taken more seriously: exposure to hazardous substances is simply no longer considered acceptable by public opinion. The Defence Ministry and the municipality of Tilburg have seen the light. That, I think, is why the Defence Ministry did not argue for claims to be time-barred, even if they concerned the period 1984–2004.

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1. Under Belgian (criminal) employment law, individuals can join criminal proceedings as a “civil party”. This enables them, for example, to bring a claim for damages.
2. See article by Pien Heuts in this issue.
3. On the obstacle course that the path of recognition of an occupational disease can be in Belgium, see the article by Pierre Bérastégui in this issue, page 44.
The case against Belgian Railways was won, in the sense that the employer was punished, but those affected received no compensation or other settlement. Why is this case important for the victims?

JB — It is more than just the outcome of this case that is important. For a long time, occupational safety and health was treated as something of a poor relation in Belgium, but we hope this case will help to change that. I would be very happy if this case led to greater awareness of the dangers of hazardous substances. There are still plenty of them around at the workplace.

First and foremost, trade unionists and lawyers can learn from this case. It has shown that tackling a specific case, especially if public opinion is engaged, can generate a lot of attention. If you take on a case of this kind, it is very important to cooperate. You need solid agreements between victims, unions, any other organisations involved, and lawyers. It is also important that you pay attention to the specific legal procedures required. Collection of evidence is essential: employer testimony, but also photos and in-house reports. You can start gathering these well before a case gets under way. Lastly, it is important that unions and the lawyers assisting them share their experience across borders. In our case, cooperation with the FNV and Dutch lawyers helped us to secure a positive outcome. How invaluable it would be to pool this experience across the whole of the European Union!

Mr Wout van Veen, you say that chromium VI victims in the Netherlands can always use the law on civil liability if, for example, they are not covered by the compensation arrangements or think they are entitled to more generous compensation. That sounds ideal compared to Belgium, where no such possibility exists. Yet you do not find the Dutch system ideal. Why not?

WvW — With an occupational illness or accident, you have to prove that health problems were exposure-related and that the employer failed in his duty of care. Only then can there be any question of compensation. The law on civil liability needs to be expanded in such a way that, even where there is doubt about causality, workers must be compensated. The enormously high level of proof currently required of victims must be lowered. If you are manifestly exposed and sick, compensation must follow.
Humanely and judicially, employment law has to be on the side of the weakest. With the FNV's Occupational Diseases Office, we are currently waiting for a judgment from the Supreme Court (the Hoge Raad, the highest judicial body in the Netherlands) on the minimum criteria that must be met as regards the burden of proof.

You have to remember that, because social security was pared down in the Netherlands at the end of the last century, workers with an occupational illness are victimised twice over. They are sick as a result of their work, and they suffer financially too. Often they have to go to court to get some form of financial compensation. If you are a trade union member, you can do this through the Occupational Diseases Office, which advances all your costs and claims them back only if you win your case, and often only in part. But if you don’t belong to a trade union, you can’t realistically afford to sue.

Collective or individual compensation arrangements?

The issues are similar in both countries: workers are unlawfully exposed to a carcinogenic substance for years or even decades, and some of them develop one or more illnesses linked to that substance.

The significant conclusion is that, however the legal systems in the two countries may differ, both offer starting points for tackling the situation. Both lawyers, using the opportunities afforded by their country’s system of laws, acted creatively to serve the victims’ interests as effectively as possible.

In so doing, they not only did the victims a service; they have also helped to improve the regulation of judicial procedures relating to occupational illnesses. Jan Buelens hopes that “his” case will help to raise awareness of the dangers of hazardous substances in Belgium and that more workers will have the courage to stand up for their rights. Wout van Veen reports that the fact that cases have systematically been handled by the FNV’s Occupational Disease Office since 2000 has led to a climate in which occupational safety and health is taken more seriously – and that climate made it possible to reach collective financial settlements for persons affected relatively quickly.

We can also see that there are many points of substantive agreement in the legal cases (regarding the gathering of evidence, legal arguments, and proof of causality) and that the two lawyers were able to help each other. Large parts of the inquiry by the Dutch RIVM, which formed an important evidential basis in the Netherlands, could also be used in the Belgian case.

Neither of the two legal systems can be deemed “ideal”; both have their advantages and disadvantages. Belgium has a collective compensation arrangement for occupational accidents and illnesses (an accelerated procedure), but individual victims cannot sue for compensation outside this arrangement or in addition to it. In the Netherlands, there are specific collective compensation schemes, but only for particularly extreme situations, such as the chromium VI cases. In principle, each individual case must be pursued through the courts. This is a long and unwieldy procedure but, on the other hand, the individual approach has the advantage that (again, in principle) anyone can bring a case.

And finally: cooperation pays. Cooperation between trade unions and lawyers from different Member States, but at the European level too. Thanks to years of effort by the unions at the European level, the European Carcinogens and Mutagens Directive set a limit value for chromium VI – an important victory, but the pressure will have to be maintained to achieve a limit value that will ensure a more effective protection.

Collective settlements and/or compensation arrangements on the basis of the law on liability are often only an imperfect solution. People can’t get their lost health back. Do you think enough attention is given to occupational safety and health and strict permitted limit values for toxic substances?

WwW – I am all for the prevention principle, meaning that substances are not used unless you are sure they are safe. The system of permitted limit values for hazardous substances takes no heed at all of the individual and his or her suffering. It is ironic to be exposed at work but unable to get compensation for illness because your level of exposure was within the permitted range. Employers exploit this.

The scientific basis for these permitted limit values is flimsy, I think. It is a hindrance in civil liability law. And I am convinced that a combination of multiple exposures, even at very low levels, has a cumulative effect. Dutch Defence Ministry workers employed at NATO sites, for example, were exposed not only to chromium VI but also to depleted uranium, benzene and PX10. They were working on military equipment used in the Gulf Wars. Many of them have a wide range of health problems, such as broken teeth and nails – they are physical wrecks. But these problems are not scientifically recognised as being caused by chromium VI, the victims do not qualify for compensation.

We should look at the person as a whole. And at total exposure, not individual substances and permitted limit values.●
The option to dismiss workers who are permanently unable to do their jobs on health grounds is known in Spanish labour law as “despido por ineptitud sobrevenida” – dismissal on grounds of incapacity. This can occur when a prevention service reports that a worker is “temporarily unfit” to “permanently unfit”. The worker, who was a union delegate at the bus company where he was employed, was then dismissed on grounds of incapacity.

Berta Chulvi
Journalist

In a June 2020 judgment that caught the eye of the Spanish press, a Barcelona tribunal ruled that a prevention service company had exerted pressure on a doctor to change a worker’s health report from “temporarily unfit” to “permanently unfit”. The worker, who was a union delegate at the bus company where he was employed, was then dismissed on grounds of incapacity.

The option to dismiss workers who are permanently unable to do their jobs on health grounds is known in Spanish labour law as “despido por ineptitud sobrevenida” – dismissal on grounds of incapacity. This can occur when a prevention service reports that a worker is “unfit” for his/her post and the business has no alternative post available that the worker could take up. The most scandalous aspect of dismissing someone on health grounds in this way is that it provides no access to any disability or similar pension other than the general unemployment benefit. This regulation has been in place since the 1980s, but it has been
increasingly used by firms that are twisting risk prevention rules to rid themselves of “difficult” staff, necessarily aided and abetted by prevention services.

The Spanish Law on the Prevention of Occupational Risks provides that workers’ legal representatives must have a role in selecting a company’s prevention service. But as a mechanism for oversight, this rule has mostly proved to be worth less than the paper it’s written on because the final decision always lies with the firm. An unscrupulous business is quite capable of exerting pressure on the prevention service and can often persuade it to change its technical and medical criteria to the firm’s advantage. Such are the circumstances that led to the dispute between worker Genis García and the bus company Autocares Meg Bus S.L. of Tarragona. García, a delegate of the trade union Comisiones Obreras (CCOO), and Francesca Fuentes, a union lawyer, won a historic judgment when Social Court No. 33, Barcelona, ruled that the company Quirón Prevención S.L. exerted pressure on a doctor to change García’s health report stating that he was “temporarily unfit” to “permanently unfit”. Autocares Meg Bus then used that report to dismiss García.

A dedicated union delegate

As a CCOO union delegate, García had fought hard to defend the rights of his colleagues in a company where overwork is the norm. “Basically, our job is to drive, although we have to do a lot of admin too: sell tickets, sell passes, check that everyone who gets on has paid, count how many people get on, etc. Given the timetables and routes we have, it’s almost impossible to get through all the admin and run on time. Sometimes you have to work miracles to get to a stop on time. Some workers have even been penalised for arriving at a stop one minute late. Depending on who you are, whether the boss likes you or not, that minute’s delay could mean disciplinary measures or just a reprimand.” In his capacity as union delegate, García has made several reports to the labour inspection authorities, all of which were upheld.

Finding this unacceptable, the company decided to use various means to remove García from his position as union delegate. The first was to use its own business structure to undermine him. The firm where García works as a driver, Autocares Meg Bus, is part of what the court described in its judgment as a “pathological group of businesses”. In other words, they are four businesses operating as a group, for example by swapping workers (“labour lending”), but they are not a group in the legal sense. Antonio Alcazar, the CCOO delegate and Chairman of the Workers’ Committee at Cintoi Bus S.L. explained as much to the court. All four companies (Autocares, Cintoi, Mon Servei Planificació and Hispano Pantorrina) are owned by Francisco Montero. This kind of business jiggery-pokery of “labour lending” was used to weaken support for García as union delegate. In order to prevent García from winning, a few days before the elections the owner moved five of García’s 27 colleagues to another business in the group. And this was not his only strategy to undermine García: he also tried to arrange for another worker to stand as an independent. He failed in that aim because the other major union, the General Union of Workers (UGT), filed a complaint with the Labour Inspectorate, challenging the legitimacy of the candidacy on the grounds that it was not done in time. Ultimately, only the CCOO and UGT contested the election; the CCOO obtained the most votes, and García was at the top of its list.

Health monitoring after an extensive period of time off

Shortly before the election, García had been off work with renal colic. He first started noticing the colic pains while driving, but held out until he finished the drive because he knew how difficult it would be to replace him on the spot. As soon as it was time for his regulatory 45-minute break, he phoned the boss to tell him he was going to hospital because he was experiencing very sharp pains. “Yes, go, but be quick,” he was told. “Don’t be late for your next service.” García took a painkiller and went back to his shift, but the next day was unable to work: the renal colic had resulted in serious lower-back pain, with lesions on two vertebrae that kept him off work for nearly a year.

It is a requirement of Spanish law that, when a patient is discharged following lengthy rehabilitation and then returns to the workplace, a report must be issued by the prevention services. In theory, this is because businesses should “make adjustments” to a job following an extensive period off work in order to prevent the health of a particularly vulnerable worker from deteriorating. García thus paid a call to Quirón Prevención, the external prevention service used by the company, and the largest of its kind in Spain. It is estimated to deal with around 40 per cent of prevention sector business in the country.

The Quirón Prevención doctor first reported that García was “fit”, but a week later García told her about a medication he was taking, and when she realised that it could affect his driving ability, she issued a second report stating that he was “temporarily unfit”. She proposed a temporary change of job while García’s medication was reduced because his GP advised against taking him off it all at once. The company’s reaction was to give García a dressing-down for going to the prevention service before taking up his post again, and he was treated with what could well be described as “bully-boy” tactics. “They made me a passenger for 20 days. I travelled in a bus but had no duties to perform, as if I were a passenger rather than a worker,” he explains. After 20 days of this, the company mooted dismissal,
The doctor’s testimony was fundamental to the judgment, explains Francesca Fuentes, the lawyer for CCOO-Catalonia legal services who brought the case: “There are three medical reports on the worker: in the first, he’s deemed fit; in the second, the doctor advised that he shouldn’t drive because he was taking medication and suggested a change of post until he was off the medication; and a third described him as permanently unfit. In court, I asked the doctor if she had seen the worker again before issuing the third report, and she told me she had not. I then asked how it was possible for her to change the diagnosis without seeing the worker and without any change having occurred in his state of health. That was when the doctor said that the company management had called her to ask her to change the report.”

Fuentes says this was not the first time that CCOO legal services had been approached by a worker with two conflicting reports in succession without having undergone a second consultation, although it was the first time that a judgment had brought this bad practice on the part of a prevention service to light so forcefully. In court, the doctor said in her defence that, at the end of the report, in small font, she had noted “subject to review”. Fuentes adds: “Plenty of witnesses lie in court, but they are under oath to tell the truth, and that’s what this doctor did. She told the true story behind the change of opinion.”

HesaMag contacted the doctor who, at the time of writing, is still working at Quirón Prevención. She declined to make a statement on the matter, which was still sub judice at that moment because the company had appealed to the High Court of Justice, Catalonia. No one has yet made a complaint against Quirón Prevención, despite its apparent liability, not least in exposing the doctor herself to psychosocial risks. Forced by her superiors to act against her better judgement, this was a clear case of what psychopathologist Christophe Dejours describes as “ethical suffering”. Mónica Pérez, the CCOO’s Head of Occupational Health in the province, reports that the situation is doubly serious in this case because “Workers are being used to undermine other workers’ rights. This is not acceptable.”

**Reinstatement and a heavy fine**

In its judgment, the court declared the dismissal void because it found that the reasons upon which it was based were not only false but had been manipulated in advance in order to achieve a fraudulent purpose. Additionally, it was of the view that the worker was being victimised by the business for his union activity, and accordingly it ordered the group of companies to pay compensation of 50 000 euros for breach of fundamental rights, including the right to representation and freedom of association. The court found that it had been proven that the business had received the report before the union elections and had used it only once the union delegate had been elected. The judgment states that “the behaviour of the business has been particularly complex: by necessity, it involved a third business, coerced the will and the professional reputation of a doctor in view of the intended aim of preventing the worker in question from representing other workers, breached the right of the entire staff to freely elect their representatives and, through the dismissal, sent a warning to other union representatives”.

**Blackmail in a time of pandemic**

The clarity of the judgment has not led to a change in attitude on the owner’s part, however, and his victimisation of García continues. On the very day he went back to work, disciplinary proceedings were opened against him for leaving the garage 20 minutes late, which Garcia claims was due to a failure on the part of management to provide him with the correct information he needed that day to perform his job. He received a letter from the company four days later stating that, despite the fact that his conduct (late departure) was a minor fault, in view of the fact that it had occurred on the day of his reinstatement following dismissal, and because he was a workers’ representative, the business was taking disciplinary proceedings against him and imposing a penalty of two days without work and without pay.

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1. In Spain, objective dismissal is a dismissal justified on specific grounds such as medical incapacity or repeated absence, even where such absence is justified on sickness grounds. Compensation for this type of dismissal amounts to 20 days per year of work – less than for an unjustified dismissal.

2. ERTE is the procedure under which a company can temporarily lay workers off. Take-up of this procedure has been massive during the Covid-19 crisis.
García reported this new episode of discrimination to the Labour Inspectorate but was in low spirits: the victimisation was beginning to take its toll. “It’s the first time I’ve been reprimanded in all the years of my working life,” he explains helplessly.

The victimisation did not finish there. In the middle of a pandemic and with the staff on temporary unemployment (ERTE), the company persuaded four workers close to them to instigate a clandestine meeting to overturn García’s appointment. *HesaMag* has been in contact with three workers who confirm that the staff were pressured to sign to overturn García’s appointment, telling the magazine: “They told us ‘If you don’t sign, you won’t work.’” In a staff of 26 workers, 15 voted to overturn García’s appointment.

“We do not trust Quirón Prevención”

Genis García and the entire staff of Autocares Meg Bus speak of being severely exposed to psychosocial risks: amongst other things, authoritarian attitudes, scorn, an excessive workload, and assaults by users when on night services. Marian Rodríguez, the officer in charge of occupational health at the Public Services Federation of CCOO-Catalonia, who is providing support around the clock to García and the other workers, explains: “The situation in the business with regard to exposure to psychosocial risks is very serious. In fact, at the most recent Health and Safety Committee meeting, Quirón Prevención was due to present an evaluation of psychosocial risks that we had commissioned, but we have refused to work with them, and for good reason. In the light of the judgment, we do not trust Quirón Prevención. If they manipulated a medical report, who can be sure that they have not also manipulated the psychosocial risks evaluation? If they are capable of forcing a doctor to change a health report, just imagine what they could do to a risk prevention officer in a risk assessment.”

The union’s court battle continues, and the circumstances of the workers in this group of businesses have not improved. Currently, only the workers who cooperated in the conspiracy against García are working. Chairman of the Workers’ Committee Antonio Alcazar confirmed to *HesaMag* that none of those who refused to sign the document against García have come off ERTE.

On 25 September 2020, the Catalonia High Court of Justice fully upheld the judgment of the employment tribunal in García’s favour. The only option open to the business is to submit a further appeal on points of law to the Supreme Court. According to the CCOO Legal Studies Office, the case law on malpractice in prevention services chiefly comprises six judgments: one from the Supreme Court and five from High Courts of Justice in various regions of Spain. These judgments extended their sentences against employers – for failing to provide adequate protection to a worker from occupational risks – to prevention services and insurance companies. Such legal precedents make it highly unlikely that any appeal to the Supreme Court would call into question the achievements that trade unions have made in this domain through lengthy court battles over the years.

Depending on who you are, whether the boss likes you or not, a minute’s delay could mean disciplinary measures or just a reprimand.
The last battle over coal: the recognition of occupational damage to miners’ health

Retired French miners and trade unionists who were exposed for years to silica dust, asbestos, oils and other harmful or toxic products both above and below ground, are fighting through the courts to have their health problems recognised as occupational diseases.

Listening, drafting, filing, documenting, photocopying, scanning, archiving and starting all over again... a visit to the historic old headquarters of the Lorraine miners’ trade union, the French Democratic Confederation of Labour (CFDT) in Merlebach might seem like happening upon a somewhat forgotten documentation centre on the Franco-German border, but each of the coloured files in question concerns a serious issue: former coal miners who were exposed to a multitude of toxic substances throughout their working lives and want their health problems recognised as occupational diseases.

It is just after three o’clock on a Thursday afternoon in September 2020, and retired coking plant worker Djilali Kendoussi is reading through the Social Security Fund’s repudiation of a medical report on a former worker who is pursuing a claim for exposure to asbestos. “In your case, look at table 30 paragraph 3 where it talks about pleural thickening and folded lung. That’s what you have, an ‘occupational illness caused by the inhalation of asbestos dust’, it says so on page 241,” explains the trade union man, originally from Algeria, as he brandishes a copy of the National Institute of Research and Safety’s (INRS) ‘Guide to the social security general and agricultural scheme’ in front of today’s interviewee.

The Italian ex-worker, dressed in an Adidas jacket and white cap, doesn’t seem to take it in straight away. “Well, you know, when it comes to pay-outs, the fund always uses every possible excuse to drag its feet,” he laments. Kendoussi adds another piece of information which further complicates the work of helping retired miners: “When a workmate dies of Covid-19, we have to prove that he died of more than just the virus, but that the treatment which might have saved him was impossible because of...”
his occupational illness. Recognition of this is very important because it determines the kind of pension his widow receives."

In the office opposite, his colleague Calogero Liduino has hardly any space left to file the asbestos cases he is handling. "We work with specialised lawyers; files are prepared in meticulous detail to help with the case and, above all, they cover all aspects related to employment in coal mines. For each case, we prepare a lung specialist’s report, an occupational illness certificate, a medical certificate and an official form for the declaration, and the ex-miner is then called in to see the insurer’s consulting physician who validates the medical part of the file. We fight hard to get health problems related to occupational exposure accepted. If the case is accepted, we have to wait to be notified, and then we submit an application, citing inexcusable negligence on the part of the employer, along with three sets of written testimony. We may then apply for compensation from the asbestos victims compensation fund. Few workers realise, but if this is refused we can challenge this decision before the courts, and obviously that is what we do."

A few doors down, one of the prime movers behind the Lorraine CDFT miners’ campaign, François Dosso, shows us other files on former workmates who have died, been exposed or are sick, and whose battle for recognition is still being fought before the French courts. Just by reading the forenames on each box file, he can reel off by heart the type of illness each of these pit workers developed, and whether or not they have been recognised as having an occupational disease.

Mental distress

In its judgment of 11 September 2019, the social chamber of France’s Court of Cassation decided to widen* the scope of compensation for mental distress to cover any worker, whether or not (s)he was currently ill, who had been exposed to any harmful or toxic substance that gave rise to a high risk that (s)he might develop a serious illness. This ruling is consistent with the common law rules on the employer’s duty of care whereby any worker who can show that (s)he has been exposed to asbestos is entitled to claim compensation for any damage suffered as a result.

Mental distress occurs when workers are placed in a situation of permanent anxiety that a serious illness may manifest itself at any time. Redress for this distress is the responsibility of those who profited from the fact that the workers were exposed to dangers at their place of work. Distress in this case equates to non-material damage suffered by the worker. It is a demand for justice, but also expresses a form of inter-generational solidarity. By its deterrent effect, mental distress helps to improve occupational safety and health.


A brief history lesson

We take this opportunity to ask him for a brief history of coal workers’ occupational diseases. Dosso wastes no time in telling us: “The biggest epidemic prior to the 1920s was ankylostomiasis, or miner’s anaemia. This is caused by hookworms – the parasite penetrates the body through the skin and literally eats you from the inside. It is a fatal disease and is still seen in warm, moist regions of the tropics. It is spread by larvae in standing water. The second most prevalent illness in miners was silicosis, the biggest killer, thought to have been responsible for between 100 000 and 150 000 deaths in France since 1945. Just for silicosis in coal mines, the figure is huge! It’s more than it will ever be for asbestos, and yet it is a health calamity that attracts little attention, far less than asbestos. Why? Because asbestos can affect anyone – journalists, scientists, bosses – whereas silicosis is chiefly a disease of coal miners. Back in the 1920s, Dr Jean Magnin battled the mining companies to get silicosis recognised as an occupational disease, with the backing of the International Labour Office. Some countries in Europe began to recognise silicosis as an occupational disease – Switzerland first, then Germany and England. France was one of the last major industrialised countries to recognise it, in 1945 only.”

Why is silicosis the leading disease of miners? “Because coal mining was mechanised using compressed air. By and large, prior to the 1900s, up to the start of the war in 1914, coal was mostly mined in France using picks. And picks don’t make much dust – at least, not as much as pneumatic picks and jackhammers, both of which use compressed air. And since the French mining companies refused even to contemplate that dust can make you ill, they saw no reason to protect against it,” explains Dosso, who is a former pit electrician. “The jackhammer was used to make holes in hard rock and drill three-metre holes. You laid an explosive charge and you blasted. They dug semi-circular tunnels along the lines of a Roman arch to keep the rock stable. You know how much dust it makes when you drill a small hole in a wall in your house. Imagine how much there is when a miner is drilling dozens of three-metre holes. Unless you get your dust out of the hole, you’ll find that your drill rod jams. So you have to remove the dust from the hole regularly, and with a three-metre hole it’s the same, you have to get all the dust out. The inventor of the American jackhammer put a hole in the middle of the drill rod through which water was injected, and the dust was then removed as slurry. The French mining companies said that dust wasn’t a problem so they weren’t going to bother with water, they would inject compressed air instead. As a result, dust was expelled from the hole even more violently and everyone breathed in this highly silicogenic rock dust.”

It is worth noting that the working-life expectancy of miners employed in these underground roadways in the interwar period was two years. The first miners died of acute silicosis. “Yes, if it was like that nowadays, you’d start work today and, by 2022, you’d be dead of acute silicosis, which progresses very fast,” remarks Dosso. “The level of silica inhalation is such that two years’ exposure to the dust is enough to kill you.”

“Girls won’t dance with guys with filthy hands.”
Propaganda in the battle for coal

After the 1940–1945 war, newly liberated France, along with the rest of Europe, waged a propaganda “battle for coal”, glorifying the coal miners’ commitment to the race for coal, which had been deliberately slowed down during the occupation as a sign of resistance. The stated aim was to rebuild the country, tackling the shortages of electricity and fuel needed to keep the population warm.

How was it possible to recognise silicosis as an occupational disease in these circumstances? “There were propaganda campaigns at the time painting the miners as lazy good-for-nothings who were actually depriving families of heating, and depriv ing industry of coal or energy,” explains the trade union man. “The miner who did not kill himself by his work was a traitor to the nation. That’s what they claimed, because coal was absolutely vital. This battle for coal killed thousands, quite apart from silicosis. The real change came with the work of the International Labour Office and of Dr Jean Magnin and his colleagues in France. Not until 1945 did the National Council of the Resistance exert pressure, together with the socialists, communists and trade unions, to get silicosis recognised as an occupational disease.

“Somewhat paradoxically, recent scientific work has shown that the Vichy Government too was moving towards recognition of silicosis even before the liberation.” Why? Because the German Reich had recognised it in 1929. So here in the Moselle region, when we were annexed, Moselle workers became German as of 1 July 1941, and could get coal workers’ silicosis recognised because it was already recognised in Germany. As a result, after liberation, we had a table of recognised occupational diseases, but only a minimum – that is to say, the criteria for recognition were draconian, because the mine bosses were slow to accept it. Nowadays, thanks to modern diagnostic aids like CT scanners and other medical imaging devices, it is easier to detect signs of silicosis. After the national scandal over asbestos, we called for screening programmes as soon as this became possible. Since 2000, the widespread availability of scanners has made all the difference. Diseases can be picked up earlier than they could with radiography.”
"We didn’t have any dust"

Faced with a growing number of demands for recognition of occupational causality, the initial strategy of the mining bosses was to deny that dust was harmful to their workers. Today, however, they can no longer deny this. Instead, they argue in court that “we didn’t have any dust or asbestos”. Now that the mines have closed, the French state has taken the place of the mining employers, in the form of ANSES, the French Agency for Food, Environmental and Occupational Health & Safety. The new defence argument boils down to the claim that there is no asbestos underground in mines. Above ground, there is admittedly very little, and only in a number of well-identified places, but people doing a range of jobs are exposed. And as far as dust is concerned, it was certainly present underground in the pits. Why all this resistance to admitting the damage caused? “The master engineers, those we call in France the corps des mines, can’t imagine ever being wrong – it is inconceivable,” says Dosso. “So, as they are never wrong, they never exposed anyone to risks. In 2006, there was a seminar marking the 100th anniversary of the 1906 Courrières disaster, when 1 099 coal miners were killed. A hundred years on, they questioned these people who have never been wrong, and their general response was that the disaster was just bad luck. That accident triggered one of the biggest protest actions by miners in the spring of 1906. The miners were joined by other occupations, and the resulting strikes led to Sunday being decreed a statutory rest day.”

Our discussion with Dosso then turns to a case currently before the court of Douai, a town in northern France, brought by former CFDT miners for “damage to health resulting from contamination”. “From the outset, the reason behind our lawsuit was that this mining company had to be declared culpable for having exposed its employees to danger. There was mine dust, of course, but subsequent mechanisation also generated toxic substances during the use of hydraulic equipment, which introduced extremely harmful coal tar oils produced in our coking plants. After the Marcinelle disaster in Belgium in 1956, people began to think that flammable oils needed to be removed from underground workings. French Mines, “Les Houillères”, tried to keep their oils by adding lead to improve the oil quality, but also to make them slightly less flammable. Then, under pressure from the German mines and the European Coal and Steel Community (ECSC), research was done which led to transmission fluids being brought in that were 95 per cent water. But these contained additives, often PCBs (polychlorinated biphenyls). When heated, these give off dioxin – and PCBs are also biopersistent. We want this hazardous exposure to be recognised by the courts. We want an admission that they exposed us to toxic substances, because people get ill several years after they have stopped work. If these exposures are recognised, there is a far better chance that the resulting healthcare costs will be covered.”

And the strategy of the other side seems to shift automatically when faced with new evidence, with such arguments as: “We didn’t have this product underground in our pit; there wasn’t any in the workshop either; there was no dust, no formaldehyde and no coal tar oils. And even if there was, this worker didn’t come into contact with it…” Dosso remarks: “We find in court cases that it was strangely always someone else who came into contact with hazardous products, never our fellow-miners… ‘Not him, not in our mines…’ When there’s an appeal concerning musculoskeletal risks, we are told that the victim didn’t work long enough to get sick. Nowadays, we are the last workers fighting this battle, because there is no one to take the baton. In addition to compensation, we want recognition of our past exposures to these various carcinogens. We took 22 carcinogens classified by the International Agency for Research on Cancer (IARC) as carcinogenic to humans. We questioned each of the initial 760 miners, and each of them drew up a detailed table listing what they had been exposed to.

“When one of our workmates dies of Covid-19, we have to prove that he died of more than just the virus.”
to at work. When we started in June 2013, none of these 760 individuals were sick. Indeed, it was a requirement of inclusion in the study that we had to have turned down their case. At the time, the Court of Cassation always held that you couldn’t claim damages for mental distress if you had already been recognised as having an occupational illness. Of the initial 760, who are now 727, no one was sick, and we turned down 500 other people who wanted to be part of the cohort. We had to turn them down because they already had either silicosis, chronic bronchitis, an asbestos-related disease, or cancer. In the end, we won. In 2019, the Court of Cassation widened the scope of qualifying health conditions to include mental distress, whereas to begin with, this was recognised only for asbestos victims. In tandem with this change in jurisprudence, the rules on time-barring of claims also changed. When we first made our demands, in spring of 2013, the relevant period was 30 years. Now, following a judgment of September 2020, it is two years from the date on which the worker became aware that he was at high risk of developing a serious illness. Now, in France, if you want to challenge your employer on issues related to your contract of employment, you’ve got two years to do it.”

Francois Dosso acknowledges that trade union activists in other countries do not always understand this idea of mental distress too well, but he remains upbeat: “Let me assure you, no one understood in France either when you talked about this to activist friends in other companies; their reaction was usually ‘Huh? What are you on about?’ But it is very important because we are talking about non-material damage here: the permanent anxiety of a worker who reflects that he already has three or four mates who

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have died of cancer and that it could happen to him too. It’s a very real fear. I accept that outsiders find it hard to understand this mental distress, but I try to cast my mind back to the conditions we worked in. Put yourself in a pit worker’s shoes. You are in contact with carcinogenic substances all the time. Trichloroethylene (TCE), for example, we didn’t know that was dangerous. As a young electrician working down the mine, I washed my hands in the stuff because I was up to my elbows in used oil. Completely black. Sump oil, and if you add coal dust, you get something that’s really hard to remove... you can’t shift it with ordinary soap. At age 18 when you leave work at 10 or so in the evening and go dancing, you’ll very soon realise that girls won’t dance with guys with filthy hands. We all relate in a very special or particular way to people who aren’t clean. We tried to leave the mine clean, we didn’t know that TCE was toxic. We didn’t know the oil itself was toxic.”

We ask him to tell us more about working conditions underground in the pit. “You have to remember that underground there are no washbasins, and no canteen. You can’t warm up your lunch pail. There are no toilets.* So you do what you have to as best you can. And if your hands are covered in toxic products, you can’t wash them before you eat. In the years 1960 to 1980, there were very few places where you could wash your hands. Things got better later when they introduced drinking water and so on. You could do stuff, but it was very hard. So think about it – the miner who wants to eat has to wrap his sandwich in paper so that he doesn’t touch it, he eats and peels back the paper as he goes. Fine, for a banana! But eating an orange, that’s more complicated. So that was our everyday life. No hot food underground in the pit for 30 years, morning, noon and night.”

What does he expect from the Douai court, which will give its judgment on 29 January 2021 on the mental distress claim of the 727 miners? “Firstly, the Douai appeal court must recognise that we were exposed to toxic and carcinogenic products. Secondly, we want this exposure to be judged negligent, the result of errors and infringements on the part of French Mines, that is to say negligence by the employer.

If the employer hadn’t been negligent, we wouldn’t be where we are. So we laid our evidence before the court, some of it in the form of written documents which show that the employers were aware of certain things and have not changed their opinion. And other things which came to light after 2008, when the records, especially occupational medical records, were moved to the departmental archives. Thirdly, we want it recognised that this exposure to toxic carcinogens causes people mental distress which must be taken into account and thus compensated for as non-material damage, because that’s what it is. Fourthly,” the trade union man says, “the right to damages for mental distress must be widened to include all workers, whatever their employer or employment status, so that they can act before they actually become sick.”

Thinking back to a detail concerning the content of the coloured files seen at the start of our visit, we ask François Dosso what method he uses to memorise each of the occupational illness cases of the former miners on his union’s books. Does he use colour coding, a special sign? No, not at all. His eyes fill, his gaze drops, and after a moment of silence, he replies in a serious voice: “They are my mates... my mates from work and that’s all there is to it. Once, when we were in front of the employment tribunal, the liquidator for French Mines challenged what we had said about people’s life expectancy. He asked me to come to his office to look at all the death certificates. But why would I need to do that? I worked with them. I watched them clock in at work every day. When their occupational illness was identified, they came to the CFDT miners’ info centre. To begin with, they came alone, and then, little by little, I saw them in clothes that had got too big for them as their cancer took hold and the light went out of their eyes. And then, later, they couldn’t come on their own any more; their wives brought them. Later still, the wives came alone because my mates were so ill that they couldn’t come at all. And now they are dead of their disease. I know when they died because I went to the funerals, we looked after the families. Why would you want me to come and look at death certificates? I don’t need to look at those documents.”

In Merlebach, the last mines closed down for good in 2008, but the battle over coal is not really over. The final act has the miners facing off against the French state in the courts, to gain recognition of occupational diseases caused by a type of employment that has left behind more traces than dust. ●

The mechanisation of coal mining using compressed air led to more cases of silicosis.
One doctor’s fight against a dysfunctional system of occupational disease recognition

Pierre Béрастégui
ETUI

On 1 April 2019, the Labour Court of Liège in Belgium ordered the Federal Agency for Occupational Risks (Fedris) to pay disability benefits to two workers from the metal-racking company Polypal. This decision marked the end of the workers’ long legal battle, doggedly supported by trade union medical advisor Dr Jilali Laaouej, to achieve recognition of their cancers as occupational diseases.

Polypal – formerly known as Métal Profil – specialises in the manufacturing of metal racking for shops and warehouses. Until the 1990s, the steel coils were formed into racks with the help of solvents containing the chemical benzene, which is now classified as a proven human carcinogen. In the late 2000s, four Belgian workers at the company developed types of blood cancer; two were diagnosed with non-Hodgkin lymphoma, and two with multiple myeloma. The workers at the company became aware of this ill-fated coincidence during a trade union meeting. They addressed their questions to the occupational physician who, after researching the matter, confirmed that benzene was a potential cause of their conditions. Requests for recognition of the cancers as occupational diseases were submitted to Fedris in 2006.

Fedris rejected the four requests for recognition despite an investigation that produced conclusive evidence of the workers’ exposure to benzene. The workers then decided to apply to an employment tribunal to uphold their rights. According to Dr Jilali Laaouej, trade union medical adviser for the Huy-Waremme branch of the General Labour Federation of Belgium (FGTB/ABVV), what was surprising was that “Fedris did not provide any reasons for its decision.” By providing scientific advice to the victims, Dr Laaouej set in motion a train of events that would ultimately become the Polypal case.1 These initial proceedings marked the start of a long struggle pitting Fedris against a group comprising the families of the victims, trade unionists from the metalworking sector and Dr Laaouej, who was determined to speak up against this public body’s working practices.

The concept of a causal relationship lies at the heart of any procedure for recognising an occupational disease, since it is important to establish whether the disease from which the worker is suffering can be attributed to the activities involved in that worker’s job. The steps involved in doing so include an assessment of the working environment and a clinical examination of the worker, with due regard for the development of scientific knowledge on the disease and its potential causes. To ensure that its findings reflect the most up-to-date science, Fedris provides for two complementary systems of recognition. A similar approach is followed in the majority of EU Member States.2

The “list” system is used if the disease referred to in the request appears on a list of recognised occupational diseases. If an individual is suffering from one of these diseases

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1. The ETUI published an article on this case prior to its conclusion: Denis Grégoire, Recognition of occupational cancers: Belgian families’ fight for justice, HesaMag. No. 15, 2017, p. 36.
2. Only one EU Member State (the Netherlands) operates a social security system that makes no specific benefit-related provision for victims of occupational disease.
and has been exposed to the risk factor referred to on the list, he or she is automatically recognised as a victim of an occupational disease; in other words, there is a legal presumption of causation between the disease and exposure to the occupational risk.

The “open” system was established only belatedly in 1990, even though the EU has recommended a system of this kind since 1966, and applies if the disease does not appear on the list. By way of contrast to the first system, requesting parties must provide evidence themselves of the causal link between the risk factor and the disease. This evidence is used by Fedris to assess whether the request is admissible, and hence whether the party in question is entitled to disability benefits. Fedris almost always rejects these requests. In 2019, it rejected 909 requests relating to private-sector undertakings and approved only seven.

If a request is refused under either of these recognition systems, the worker has no choice but to accept the decision or to lodge an appeal with an employment tribunal. In the latter case, the tribunals find in favour of the workers more than half of the time – a revealing figure that demonstrates a certain stubbornness or even overzealousness on the part of Fedris. Many workers do not challenge the public body’s decisions because they are unaware of the legal remedies available to them or because they are hesitant to embark on long and costly proceedings. For many years now, Dr Laaouej has deplored the failings of a system that “exacerbates a social problem by imposing legal and financial obstacles” and roundly criticised the approach taken by Fedris, which appears to involve counting on the passage of time to discourage victims from taking action, thereby denying them their rights.

### Cases handled in isolation

The four cases were initially assigned to different judicial chambers and handled in isolation from each other. Each chamber appointed an expert responsible for determining whether the disease in question had been caused by exposure to benzene. This approach at judicial level merely reflected the way in which recognition requests are handled by Fedris; the public body considers all requests in isolation from each other, even if they relate to the same company, the same exposure factor and the same type of disease.

According to Dr Laaouej, “The conduct of proceedings in isolation from each other is detrimental to our understanding of occupational diseases and our efforts to prevent them.” Researchers and lawyers alike are reliant on the collection of a wide range of different pieces of evidence in order to substantiate a hypothesis or a judgment. Multiple myeloma and non-Hodgkin lymphoma are rare diseases, which means that it takes several decades for scientific knowledge about them to advance to the point that definitive conclusions can be reached. Dr Laaouej accordingly stresses that it is a mistake to examine requests for recognition in isolation from each other, and to ignore the lessons that could be learnt from past appeals that resulted in recognition of an occupational disease. According to the medical adviser, it is a regrettable fact that “Fedris makes no use whatsoever of all the case law that has developed over years and years.” The experts appointed by the employment tribunal even produced their opinions in isolation from each other.

![The family of Francisco Franco Molina, who died from multiple myeloma a few days after his 59th birthday, in front of the Polypal plant.](Photo: ©Martine Zunini)
This final report revealed that workers at Polypal were four times more likely to contract cancer than the general population.

The concept of certainty

Each of the expert opinions produced in the four workers’ cases concluded that it was impossible to state with certainty that a causal relationship existed. Speaking in probabilistic terms, the experts believed that the scientific evidence adduced was not sufficient to make such statements with “certainty”. Yet, the concept of certainty is absent from the legislative framework underpinning the list system that is used as a basis for recognising diseases such as those caused by benzene and its homologues. What is more, this system imposes no obligations on workers to demonstrate a causal link. In fact, there is a legal uncertainty about certain diseases covered by the list system; in the case at hand, only the causal agent (benzene) is clearly defined by the reference framework, while the underlying diseases are not specified. This enrages Dr Laaouej: “It’s not our fault if Fedris omitted to mention which diseases are caused by benzene! How can they exclude a causal relationship between a carcinogen and a blood cancer from the very outset? Surely this should, at the very least, raise questions from a medical and scientific perspective?”

During the proceedings, Fedris attempted to argue that the cases should be handled under the open system, which would make it possible for them to demand “direct and decisive” evidence of the causal relationship. If this were the case, only acute myeloid leukaemia – a more common and hence better-documented form of cancer – would qualify as an occupational disease caused by benzene. The lawyers engaged by the workers took care to highlight the cynicism of this defence strategy.

The first victory

In the meantime, the International Agency for Research on Cancer (IARC) had published a new report referring to multiple myeloma and non-Hodgkin lymphoma as diseases caused by benzene.

With these new developments in mind, the employment tribunal, in a ruling handed down on 22 December 2011, ordered that the four cases should be consolidated, and appointed a new panel of experts. “This was a major victory for the trade unions,” explains Dr Laaouej. “To the best of my knowledge, it was the first time in Belgium that a group of workers had succeeded in having their requests for recognition examined collectively.” Unfortunately, two of the four workers died as a result of their illnesses and were denied the opportunity of learning the outcome of the deliberations.

Battle of the experts

On 3 April 2013, the panel of experts submitted a report reiterating the IARC’s conclusions: there is a statistically significant relationship between exposure to benzene and the aforementioned diseases. The employment tribunal endorsed the report, ruled that the two workers who were still alive were entitled to disability benefits, and recognised benzene as the cause of death for the two deceased workers.

In short order, Fedris appealed against the decision and commissioned its own expert to review the scientific literature again. By way of contrast to the reports produced by the panel of experts and the IARC, this new report concluded that there could be no certainty regarding a causal relationship. After comparing the different documents, Dr Laaouej discovered that the report commissioned by Fedris cited additional research studies that turned out to have been deliberately excluded by the IARC and the panel of experts because they had been carried out by Concawe, an organisation representing various petrochemical companies such as Esso, Shell and Total. All that remained was for the Labour Court to be made aware of this blatant conflict of interests.

And, indeed, the Labour Court found these arguments convincing, and appointed a new expert on 6 February 2017. This time, however, it specified the level of evidence necessary to demonstrate causality. According to the judge, since the diseases caused by benzene had been recognised under the list system, Fedris could not request that the burden of proof required to demonstrate causality be similarly demanding to that required under the open system. The Court confirmed that any association, no matter how minimal, qualified as adequate evidence, and the new expert was asked to produce an opinion which differed in this respect from those previously produced.

This final report revealed that workers at Polypal were four times more likely to contract cancer than the general population. In its ruling of 5 November 2018, the Court endorsed this expert opinion and confirmed that the complainants were indeed victims of occupational diseases.

Attempts to minimise payouts

Yet the battle was far from over. The next task was to calculate the benefits to be paid. The Court was obliged to adjudicate not only on the workers’ level of physical disability, but also on the socioeconomic factors likely to influence their return to work, for example their ages or qualifications. The simple addition of these two calculated rates could then be used as a basis for calculating the level of benefits that Fedris would be legally obliged to pay, expressed as a percentage of gross salary.

The expert report highlighted the fact that both workers were experiencing a significant level of physical disability, and provided an insight into the problems they had encountered in finding suitable jobs.
Nevertheless, fresh controversy arose in response to Fedris’ assessment of these socioeconomic factors as “negligible”, and its proposal to award related benefits to the two workers of up to only 5 per cent of their gross salary (in addition to the 25 per cent recommended by the panel of experts to account for the workers’ physical disability). What is more, the public body asserted throughout the proceedings that the socioeconomic rate should, by definition, always be lower than the rate for physical disability. The Labour Court ultimately rejected this argument, which in actuality has no legal basis.

In the end, the two workers were awarded a socio-economic rate of 65 per cent of gross salary in addition to a physical disability rate of 25 per cent, which came as a relief for the victims and their families. The total benefits granted to one of the complainants were, however, capped at 50 per cent in accordance with the wording of the initial claim.

**An emblematic case**

The victims and their families had to wait 13 years before their conditions were recognised as occupational diseases. Fedris’ attitude to the appeals lodged against its decisions can also be traced back to a lack of funding. Its annual budget, which is made up of employer contributions, amounts to around one billion euros. In a report, the International Labour Organization (ILO) estimates that occupational risks cost some four per cent of annual GDP, which amounts to 19 billion euros in the case of Belgium. Dr Laaouej is indignant about the current situation: “That figure is a very long way from the amount we actually spend on occupational diseases and workplace accidents! Employers are the ones who are really responsible for occupational risks, and they should shoulder their responsibilities and increase their contributions.” In reality, the remainder of the bill is currently footed by the sickness and disability insurance funds, or in other words by society as a whole. In turn, Fedris maintains that it has never called into question the basic system whereby its decisions are challenged, and that it is merely defending “its point of view, that is to say, the approach it takes to assessing requests”. As regards budgetary issues, Fedris claims that it does not “operate within a fixed budget, since the amount earmarked is not set in advance”; this amount fluctuates “according to need.”

The Belgian Court of Cassation recently found against Fedris in another case on the grounds of its extremely selective interpretation of the concept of causality, but this time under the open system. This ruling – handed down on 22 June 2020 – is also likely to encourage the recognition of cancers as occupational diseases. It remains to be seen whether this challenge, which is merely one more in a long line, will cause Fedris’ working practices to be put under the spotlight in any meaningful way.
Legal battles have played a key role in securing an asbestos ban in Italy. Behind each of these battles is a human community. In the region of Piedmont, the town of Casale Monferrato, which has suffered more than 3,000 deaths from asbestos exposure, symbolises the collective struggle against this killer mineral, and has demonstrated its resilience in a long series of trials against the management of the multinational company Eternit.

**Giuliana Busto**, President of the Association of Asbestos Victims’ Families.

Photo: ©Angelo Ferracuti

**Journey to Casale Monferrato, the asbestos town**
In the early afternoon of this sunny, late August day, the streets of Casale Monferrato are still empty and the shops’ shutters bolted. What I had imagined to be a rather sombre industrial town today takes on the discreet, distinguished appearance of a ducal city, its grand buildings surrounded by the green hills so loved by writer Cesare Pavese, which he described in his novel The Moon and the Bonfires.

I am staying in a small apartment on the ground floor of a very peaceful old residence. I hurry out soon after arriving, as soon as I have dropped off my luggage, full of curiosity, towards via Roma, under the dark arcades with their shopfronts and traditional-style bars. I follow the street as far as Piazza Mazzini with its equestrian statue of King Charles Albert in the middle and, behind it, the magnificent Cathedral of Sant’Evasio, built in the Lombard Romanesque style. In 1907, at around the same time that Franz Kafka joined forces with his brother-in-law to set up the Hermann & Co asbestos factory in Prague, the multinational company Eternit built the largest asbestos cement plant in Europe not very far from this historic town centre, this little world that time has passed by. With a production area measuring 94,000 square metres, with 2,500 employees constantly in attendance, working without protective equipment and with bare hands in damp, dusty environments, the plant changed forever the destiny of the town’s 35,000 inhabitants. The few surviving workers describe the premises, including the exterior, as grey – and the trees, the landscape and the roads were white as if it had been snowing, so that people soon started calling it the white town. Dust penetrated inside the houses and into the spinning mechanisms of the washing machines, from the workers’ dirty overalls.

Dust penetrated inside the houses and into the spinning mechanisms of the washing machines, from the workers’ dirty overalls.

A paternalist factory

I meet Giuliana Busto, President of AFeVA, the Association of Asbestos Victims’ Families, shortly after my walk in viale Montebello, in the living room of a house full of books and colourful artwork. A small woman with a radiant, expressive look in her eyes, she remembers those days well: “Thirty-five years ago, we knew nothing, we didn’t realise.” But when her brother Piercarlo, a bank clerk who had never set foot in Eternit’s premises, died at the age of 33 leaving behind a two-year-old daughter, she was the first to write on the funeral notice that he had died from asbestos exposure. “Our response was to make it public,” she says. “If you didn’t know before, we’re going to tell you, so the town will finally realise what is going on. We want a better life for your daughter, that’s what it said, and it caused a real sensation.” We are sitting outdoors, and Giuliana speaks softly, without anger. “My niece can’t even remember her father. At first, we put great big photos up in the room, but she only knows about him from what other people tell her.” And of her brother, she says: “He might have had other children. His life story was cut off, a whole life project that never came about. He died within five months – from running as an athlete, he deteriorated to the point where he could no longer move.” She drops her voice to a whisper. “One man killed himself after hearing the diagnosis. He went down into the cellar and shot himself.” Relations with the town were never easy: the Swiss incomers were well established and the paternalist factory, seen as the “Fiat of Monferrato”, secured the townspeople’s loyalty from one generation to the next – there were summer camps for children, a recreational club, spa...
treatments, and a litre of oil every month. "When we went to the trade union to collect signatures, people said: 'Why are you doing this?' They were scared, they'd come in from the countryside. 'We don't bite the hand that feeds us.' They were welcomed with a deadly embrace," she says resentfully.

In the evening, I visit the old warehouses on Piazza d'armi, where all the finished products were stored. The factory was completely decontaminated in 2016, and I am told that the location is now occupied by a park whose focal point is the "Eternot Plant Nursery" monument, created by the artist Gea Casolaro around a handkerchief tree.

**One of few survivors**

The following day, tall, bespectacled Bruno Pesce, the celebrated Secretary of the Chamber of Labour, a tireless and articulate communicator, accompanies me to the place where the factory used to stand, together with Pietro Condello, a worker and one of the few survivors. There are still a few buildings standing, including the sealed-off block of management offices at the entrance, with its smashed windows and peeling plaster. Where the main plant used to be is now a children's playground, and it is striking to see the 18th century surroundings at the edges of this "non-place", a garden that you might find on the outskirts of Milan, Berlin or Hong Kong, with the same slides and identical benches and lawn. The historic gate through which the workers used to enter has disappeared altogether. "Where the park is now used to be the central core of the plant," says Pesce. "This is where they used to make the asbestos sheets, the corrugated roofing asbestos and the pipes." Around the factory, there were cement works because marl was extracted from the surrounding hills. "One of the best in the world," maintains Pesce, "extracted from the quarries. We're close to the river Po, so there's plenty of water." To the right, the yellow hall where the women worked, making joints and piping for the construction industry, still stands. "The plant was abandoned with tonnes of asbestos still inside, broken window panes, asbestos scattered to the four winds, uncontrolled, tonnes of it!" Before becoming a trade unionist, Pesce used to be a goldsmith in Valenza, and perhaps his sensitivity to the asbestos concern comes from his lifelong membership of the environmentalist association Legambiente, and from his father's background. "He used to work for the gas company. He was a stoker, a brutal job, exposed to atrocious heat and smoke. He used to be rotten with sweat when he left the workshop," he recalls, "Completely black. They all died of respiratory diseases: he passed away at the age of 68."

Still dressed in his blue overalls with the yellow Eternit inscription that he has worn at all 66 hearings of the trials, Pietro Condello, the worker who came from Messina in Sicily in search of employment, started working at the plant in 1976 and left when it closed down in 1989. With cropped white hair, a wrinkled face and eyes of the deepest blue, he still speaks an enchanting, heavy dialect that he rattles out at top speed. He used to work in the raw materials section, from where only two of the 30 workers have survived. "There was the loose blue asbestos," he explains. "I was the porter – I used to take the sacks and slit them with a knife and then put them in the hoppers." He has 73 per cent asbestosis, dust in the lungs. "I get breathless," he goes on. "Sometimes I have to use an oxygen cylinder, and at night I sleep propped up on pillows, otherwise I feel as though I’m suffocating." He says there was no ventilation system in the plant, and they used to sweep the floors. "They gave us some flimsy masks, but we had to throw them away after half an hour because they were full of dust. The factory was horribly full of dust," he says. "My wife used to wash my overalls, and she died because of that." Anyone trying to protest was sent to the "Kremlin": not a punitive division, but an assignment of difficult shifts and heavy jobs.

Meanwhile, the company awarded the "dust allowance" of 20 000 lira extra in their pay packet to the most heavily exposed workers. Another worker, Italo Ferrero, whom I saw in the workers' district of Oltreponte, recently found out that he had asbestosis, developed in Brazil, where he had gone in 1949 along with others to set up the Eternit plant. Showing me the framed photos of his relations on a shelf in the dining room, he said of each: “My brother-in-law Giorgio:

The first person to notice what was happening was Nicola Pondrano. He was a “24-year-old rookie” from Montefibre di Vercelli when he arrived in Casale in 1975. When I met him, he spoke to me about the plant as “a frightening place, old premises where you could see the wear on the faces of the workers, a place full of damp and dust.” Reading the funeral notices posted on the marble column at the entrance, he realised that the workers were all dying young, at 52, 54, 56: people who never lived to collect their pension. “I wasn’t intimidated by the social and environmental context,” he explained. “I didn’t have any children to provide for. But when I said there was a problem, I became the problem.” That is why he was never promoted to be a chemist, which was his profession. One day, during a period of temporary layoffs under the Cassa integrazione (redundancy fund) system, he set out to explore the plant, passing through the various sections until he came to the place where the asbestos was processed. He saw an elderly worker sitting on a sack, eating a sandwich. When the man saw him, he said in dialect: “What have you come to do in here? Have you come to die too?” Nicola became the spokesperson for the works council, and later, with Pesce, he set up a steering committee within the union campaigning for zone-adjusted wage bargaining, out of which grew, in 1990, the Comitato Vertenza Amianto (Asbestos Dispute Committee). They began to file claims for compensation. “Workers, hundreds of deaths among local inhabitants,” details Pesce. “But also individual cases, acknowledgment of the harm caused by fear and risk – those who lived in fear that they might contract the disease.” The conviction was upheld on 3 June 2013, and the penalty was increased to 18 years. Finally, in 2014, the Court of Cassation time-barred the offence, because, under a provision of the Rocco Penal Code from the 1930s, the statute of limitations runs from the time the work that caused the harm ceases, irrespective of the rising death toll, which had not yet reached its peak. “I wept with disappointment that day,” adds Pesce as he continues, sitting opposite me at the desk as, feeling deeply moved, I write. “One of them was the workers were my true source of knowledge.” She has a very strong memory of the people she saw in the clinic, both young and old. “They all had the same affliction, finding it very difficult to breathe, even just walking upstairs, and suffering existentially, worried, distressed.”

In Italy, the Chambers of Labour started up at the end of the 19th century on the initiative of the socialist workers’ movement. Banned during the fascist period, they were reintroduced and still form the local interbranch structure of the main trade union confederation, the CGIL.
as people used to say.” So now, Degiovanni is not just motivated by a political passion, but by what she calls “the sharing of a human suffering that involved not only the workers but the whole of their family. I think I’ve seen several generations and entire families wiped out by the disease.” She remembers by heart the first diagnoses of pleural mesothelioma, which served to file compensation claims, including that of her friend Luisa, who died after her father and a brother had already passed away. “She was a really lovely lady, full of the joy of living, who lived near the station and, as a child, used to go and play where the trains from Russia and South Africa came in, carrying sacks of crocidolite asbestos. She died of mesothelioma.” She cannot forget the suffering, and most of all the “suffering from the fear of dying”. Patients with mesothelioma have excruciating pain. “They contort themselves trying to alleviate it,” explains Degiovanni. “They have such pain that, in order to bear it, they will adopt physical postures to help relieve them from the suffering. I used to see them walking along, hunched and crooked.” And still now, the youngest are dying: those who were children when the plant closed 30 years ago, like Daniela Zanier. I am reminded of her as I walk briskly towards the station along via Bistolfi. I saw her yesterday at the AFeVA headquarters, sitting in a row alongside others in the small office where all the files of the 3 000 or so people who have fallen ill and then died are kept. She had some X rays after a bout of bronchopneumonia. Her right lung was cloudy; a huge amount of fluid was drawn off with a syringe and, after the biopsy, it was diagnosed as mesothelioma. “It’s a year since I found out I was ill,” this smiling but gaunt-faced blonde woman told me. “When the oncologist saw the CAT scan, he said I’d been ill for at least 30 years. All of us in Casale are living with this sword of Damocles over our heads, we all know it could happen at any moment.” She confided to me that people think of her as a “dead woman walking”. “I had a tough chemotherapy course, an experimental therapy, but I had to abandon it because I fainted,” she says, and she has so much anger and fear inside her. Of Stephan Schmidheiny, the boss of Eternit, she says sarcastically: “Just think how much meditation he must have done to relieve the stress of those trials.” Grimacing resentfully, she clenches her fists and then looks me proudly in the eye “Damn him.”

A new trial, “Eternit Bis”, commenced in Turin, addressing the deaths that have occurred at the multinational’s various premises, and this will resume in Novara on 27 November 2020.

FURTHER READING


Elected Confederal Secretary of the European Trade Union Confederation (ETUC) at the Congress held in Vienna in May 2019, Isabelle Schömann is committed to many issues, from basic human rights to corporate governance and workers' participation. In her work as a researcher at the European Trade Union Institute (ETUI) from 2005 to 2016, she made significant contributions to the development of a trade union labour lawyer network. In her subsequent advisory capacity at the Regulatory Scrutiny Board (RSB), she had the opportunity to explore “from the inside” how European Union law is drafted. The RSB is an independent body within the European Commission which issues opinions on impact assessments developed in the legislative process. We asked Ms Schömann what we could expect from a legal strategy focusing on the Court of Justice of the European Union (CJEU).

Rulings by the Court of Justice of the European Union on occupational health are not in huge abundance, and yet the general area of social protection provides the backdrop for the largest number of directives. In practice, only two directives have led to relatively well-established case law, namely the Working Time Directive and the Pregnant Workers Directive. Shouldn't this set alarm bells ringing?

Isabelle Schömann — I agree, this area has been left pretty much untouched. While European Union case law in relation to equality between men and women has played an important role in how matters have developed nationally, it has had only a modest impact in the domain of health and safety. It would be naïve to conclude from this that everything is perfect and that the Member States are applying all the occupational health directives. That would mean that the objectives of the directives had been met. We know full well that this absolutely is not the case, as broadly demonstrated by the 100 000+ deaths per year resulting from cancers caused by insufficient preventive measures in the workplace. The current Covid-19 crisis has also highlighted serious deficiencies in workplace prevention. The EU’s legislative arsenal is an important asset, despite its weaknesses and shortcomings, and must be updated in various areas. European case law would be an even more welcome addition to the arsenal, especially since we have established that the labour inspectorates are in crisis. They have insufficient resources, and their operations are, at times, hampered by the executive. I can recall one particular labour inspector subjected to disciplinary measures in France for having imposed the mandatory supply of masks nursing homes must provide to their staff. He was criticised for failing to observe the latest circulars issued by the Ministry of Labour, even though his actions were broadly based on principles of prevention enshrined in EU law. Let us recall, after all, that one of the fundamental principles of European law is that the Member States must guarantee the application of the law, for instance through the actions of the labour inspectorate.

At a seminar organised by the ETUI in January 2020, three trends became apparent with regard to cases before the CJEU on occupational health. One, the case law is largely focused on working time and...
The implications of any breakthrough at European level are felt throughout the Member States.

pregnant workers. Two, any development in other matters depends very much on whether the trade unions are prepared to devise a legal strategy which also addresses the European dimension. And three, the vast majority of references to the Court for a preliminary ruling come from three countries only: Spain, Germany and the United Kingdom. Let us not forget that, as far as social rights are concerned, the reference for a preliminary ruling is the most frequently used and the most effective form of action. It involves the trade union initiating legal proceedings before a national court, in the course of which it identifies a question on the interpretation of EU law which is relevant for the purposes of resolving the dispute; the national court must then agree to refer the question to the CJEU.

Some will object that these are time-consuming and resource-intensive proceedings...

That is why it is so important to draw up a legal strategy. Clearly there is no need to escalate every dispute to the European level. It is a matter of identifying the most important issues for further promoting our social rights and of choosing the cases with the greatest chance of obtaining a favourable line of judgments. The implications of any breakthrough at European level are felt throughout the Member States. The principle of the primacy of EU law means that, from the seed of a dispute before the national court, case law is created and subsequently enforced in the 27 Member States. The time and resources devoted to proceedings before the EU judicature can therefore have a multiplier effect. On the basis of one individual case, these proceedings can strengthen social rights nationally and, at the same time, contribute to solidarity by providing interpretations of EU law which will be of use in the other countries of the EU. This mechanism was clearly at work in proceedings involving working time. There is no reason to believe that this could not happen in the other areas of occupational health and safety.

In terms of the Covid-19 crisis, can you think of any areas in which EU case law might have a positive role to play?

I will give you just one example: the coronavirus pandemic has underlined the importance of having a powerful tool for action at our disposal, namely the right for workers to withdraw their labour if they face a serious and immediate danger. Disputes have arisen regarding this individual right associated with the perception of risk and the effectiveness of preventive measures. In Belgium, the right of withdrawal has been asserted collectively by 1 300 bus drivers from Brussels’ intercommunal public transport company. A Belgian labour court will, for the first time, be required to adjudicate in a specific dispute concerning this right to withdraw labour. In some other countries — especially in France and Spain — the case law is relatively systematic, thus giving rise to greater legal certainty. At European level, the Court of Justice has never had the opportunity to give a preliminary ruling on a question relating to the right of withdrawal set out in the OSH Framework Directive. Had there been such a ruling by the European judicature, it would have been binding across the Member States whilst allowing for interpretations that would be more favourable to the workers, pursuant to the relevant national law. The Framework Directive sets out other provisions which may be relied upon in relation to the current situation: the risk assessment must be reviewed each time that new circumstances arise, collective protective measures concerning the organisation of work must be given priority, and employers must consult workers and their representatives. So here we have a practical tool like the right of withdrawal, and its use likewise involves the employer’s compliance with all the prevention requirements laid down in European Union law.

In practical terms, what can the ETUC do to support the affiliated trade union organisations’ development of a European legal strategy for occupational health?

We are currently building a support structure. We have called it “ETUCLEX”. It will support legal strategies developed by the national trade union confederations and the European trade union federations from different sectors. ETUCLEX will have various functions, namely to provide advice and expertise, to arrange experience-sharing opportunities, to promote greater coordination and cooperation between the trade unions and to take stock jointly of our experiences, whether positive or negative. Access to justice continues to be a key concern. Without proper access to the court system, many of these rights do not exist beyond the paper on which they are written. ETUCLEX’s activities are not solely concerned with the Court of Justice of the European Union. They cover all courts with a role to play in safeguarding the interests of workers. As part of this, the right of workers to protect their own life and health is a basic human right. Taking action through the courts also conveys the message that businesses must be regulated by public rules and that employers must not be allowed to exercise any discretion in that environment. Our vision is not confined to litigation. We envisage the legal strategy as part of a much broader picture comprising campaigns, petitions and complaints to the authorities. From early 2021, we will be launching a website and organising training opportunities so that our work can move forward into a fully operational and visible phase. ●

* Isabelle Schömann, Confederal Secretary at the European Trade Union Confederation, heads ETUC policy on, notably, fundamental human rights and workers’ participation. Photo: ETUC
Roundup herbicide: Bayer announces multi-billion-dollar settlement

On 24 June 2020, German multinational Bayer announced that it would pay between 8.8 and 9.6 billion dollars to settle 75 per cent of the lawsuits against herbicide Roundup pending before courts in the United States, thereby bringing closure to approximately 125 000 currently filed and unfiled claims.

Roundup is manufactured by Monsanto (now a subsidiary of Bayer) which was marketed for the first time in 1974. Its main ingredient is glyphosate, which has been classified by the International Agency for Research on Cancer (IARC) as "probably carcinogenic to humans". Bayer acquired Monsanto in June 2018 for 66 billion dollars.

An additional 1.25 billion dollars have been earmarked for supporting "a separate class agreement to address potential future litigation".

In Europe, from a legislative perspective, very little has changed. Back in December 2017, the use of glyphosate in the European Union had been approved for a further five years by the European Commission. The critical moment will come, potentially, in 2021 with the long awaited ban on glyphosate across Europe.

Teleworking: an obligation of prevention

France entered a new lockdown period on 28 October 2020. Its population must now work from home, unless the nature of the occupational activity makes teleworking impossible.

An employer’s refusal to set up a teleworking arrangement wherever possible is treated as a breach of its duty of care towards its employees, thereby rendering it liable to a civil penalty or prosecution.

The French government’s current position underscores the importance of employers’ responsibility for protecting the health and safety of their workers. Covid-19 is recognised as being a risk in the workplace, and protocol requires adherence to the general principles of prevention.

As ETUI senior researcher Laurent Vogel pointed out, the telework obligation, within the context of the employer’s duty of prevention, highlights the need for a global and collective prevention initiative involving a reorganisation of work beyond the application of “barrier gestures”.

That said, we must not overlook the fact that working conditions in the home may also pose physical and psychological risks for employees’ health. The UGICT-CGT (France’s General Union of Engineers, Managers and Technicians) has warned that, during the first lockdown, teleworking gave rise to a “disturbing array of psychosocial risks”, in particular because 23 per cent of respondents surveyed said that they did not have access to a quiet place for teleworking.

The OELV proposed by the European Commission for chromium VI was 0.025 mg/m³

European trade unions are calling for the EU legislature to review the current system for determining occupational exposure limit values (OELVs). OELVs are a quantitative benchmark for exposure to hazardous chemicals in the workplace. Employers use OELVs as a tool to assess the risks for exposed workers and select appropriate preventive measures.

In late September 2020, the European Commission launched the legislative process for the fourth revision of the Directive on the protection of workers from risks related to exposure to carcinogens or mutagens at work. While the European Trade Union Confederation welcomes this initiative, a new coherent and transparent system for setting OELVs should, in its view, be included in the revision.

According to ETUI researchers, the new system should be focused on lower risk levels for contracting cancer rather than on a cost-benefit analysis. This methodology is already in operation in Germany and the Netherlands. The new system should also be more transparent and provide specific information for each OELV, including on the residual risks of contracting cancer. For example, in the case of chromium VI, the binding OELV initially proposed by the Commission for the first revision was 0.025 mg/m³. At this level of exposure, the residual cancer risk is one incidence of cancer in 10 exposed workers.

Call for a new system for determining occupational exposure limit values
CJEU called on to rule on the classification of SARS-CoV-2

On 3 August 2020, SATSE (Sindicato de Enfermería), a Spanish nursing union, lodged a case with the Court of Justice of the European Union (CJEU) for the annulment of Directive 2020/739 of 3 June 2020, which classifies SARS-CoV-2, the virus causing Covid-19, as a risk group 3 human pathogen, and not as a group 4 pathogen.

This call for annulment echoes the opposition of the European Trade Union Confederation (ETUC) and of several members of the European Parliament to the controversial classification by the European Commission. The classification in group 3 is disappointing for trade unions in several respects. According to Directive 2000/54/EC, when a biological agent cannot be clearly classified, it must be classified in the highest risk group among the alternatives. Moreover, the possibility exists to first classify a biological agent in group 4, and then, in line with scientific progress, in particular on developing treatments and a vaccine, to reclassify it in group 3.

“As long as no effective treatment and no vaccine against SARS-CoV-2 exist, this virus has to be considered as highly contagious, and as the cause of serious conditions and symptoms among humans,” said Laurent Vogel, researcher at the European Trade Union Institute. “SARS-CoV-2 consequently remains a serious hazard for workers, justifying its classification as a group 4 pathogen.”

Disappointment over the classification of SARS-CoV-2 in group 3

Psychosocial risks: hospitals overexposed in France

On 8 September 2020, the French Ministry of Employment published the results of the psychosocial strand of its “SUMER” survey, conducted in 2016-2017. Originally set up in 1994, the aim of this regular survey is to track the development of occupational risks and assess the effect of prevention policies. The results of this fourth survey reveal worrying levels of work-related stress, particularly in the public hospital sector, where 35% of workers suffer from it.

Looking beyond this academic concept, we need to understand that the hospital environment is characterised by high workloads and minimal employee autonomy – two psychosocial risk factors. When workers find themselves restricted by strict procedures or tight deadlines, workloads become a source of stress. Hospital staff also top the tables for other risk factors, including hostile and contemptuous behaviour, a lack of recognition, and verbal, physical or sexual aggression. Generating stress, these risk factors have major effects on workers’ health. Numerous epidemiological studies have shown that work-related stress can lead to cardiovascular problems, musculoskeletal disorders and depression. According to the French nursing union SNPI, 30% of young nurses leave the profession within five years of graduating.

These results show that the Covid-19 health crisis is unfolding in a sector rife with problems that are only likely to be further exacerbated by the pandemic.
EFFAT rings alarm bell on the meat sector

On 10 September 2020, the European Federation of Trade Unions in the Food, Agriculture and Tourism sectors (EFFAT) tabled ten demands for action at European level to reform the meat-processing sector.

For many years now, EFFAT has been slating the deplorable working conditions among slaughterhouse workers in Europe. EFFAT affiliates report cold and damp workplaces, poor ventilation, overcrowded shop floors and frequent injuries. These workers are often employed through abusive subcontracting practices, as temporary agency workers or posted workers, or forced to accept bogus self-employed status. Moreover, many are forced to live in overcrowded accommodation, either to cut costs or because the accommodation is directly linked to their employment contract.

The Covid-19 pandemic has cast new light on the working and living conditions in the meat sector. In a detailed report, EFFAT establishes a link between the number of Covid-19 clusters associated with meat-processing plants and the working conditions in these plants. The problems affecting this sector transcend national borders, and so EFFAT is calling for a strong and ambitious EU response. Three of its demands are particularly high-priority: a comprehensive EU initiative to regulate the use of subcontracting, ensuring decent housing for all mobile workers, and the introduction of a European Social Security Number (ESSN).

The Netherlands sets lower occupational exposure limit for diesel exhaust emissions

Diesel engine exhaust emissions are made up of a cocktail of hazardous chemical agents, with their composition dependent on different factors, such as the type of engine and the use of filters. Workers in the EU are massively exposed to these carcinogenic emissions, with estimates stating that 3.6 million workers are affected in sectors such as construction, public works and transport, as well as in companies working with diesel engines.

Following an amendment adopted by a large majority in the European Parliament, diesel engine exhaust emissions came under the scope of the European Carcinogens and Mutagens Directive as part of its revision in January 2019. The occupational exposure limit (OEL) value adopted by the European Union is 0.05 mg/m³ (measured as elemental carbon), but such a level leaves a high residual risk of cancer.

On 1 July 2020, the Netherlands decided to adopt a five-times-lower OEL of 0.01 mg/m³, currently affording workers the highest level of protection from these emissions in Europe. The European OELs represent minimum standards, with each Member State allowed to adopt stricter levels to better protect workers’ lives and health. Trade unions in other European countries are seeking to generalise the Dutch’s move.

More than a million workers affected by the revision of the directive on cancers

On 22 September 2020, the European Commission published a proposal for amending the Carcinogens and Mutagens Directive (CMD), including the introduction of two new occupational exposure limit values for acrylonitrile and nickel compounds, two carcinogens that tens of thousands of workers are exposed to. The existing OEL for benzene is going to be reduced to 0.2 ppm (0.66 mg/m³). More than one million workers are exposed to benzene in the European Union.

This is the fourth step in the revision of the CMD, a process which should have begun in the early 2000s but was blocked by the Commission under the two Barroso presidencies in response to employer pressure. In 2015, following a decade of legislative paralysis, the Commission finally announced its intention to revise the directive, with the target of introducing 50 new limit values by 2020. So far, however, only 50% of the committed targets have been achieved: in the first three revisions, 22 new OELs were adopted and 2 existing ones revised.

The opening of this fourth stage will allow the European Parliament and the Council to again take the initiative on the subject and to find a legislative solution for the two main pending issues from the previous stages of the revision process: the inclusion of reprotoxic substances and hazardous medicinal products in the scope of application of the directive.

The new directive is expected to be adopted in the first half of 2021.
to bring about 22 000 departures and 10 000 transfers within three years, out of a labour force of over 100 000. Competition was tough in the deregulated telecoms sector, and the organisation had to be brought up to date and made more competitive and profitable. The management of France Télécom implemented a particularly brutal policy to undermine its personnel and force them either to accept internal mobility or leave voluntarily. Managers were trained to increase the pressure on their teams, reduce their freedom of action, impose changes of jobs or professions, demote the oldest and, ultimately, encourage workers “to accept or resign”. A variable proportion of the salaries of these managerial staff was even linked to their exceeding the mobility and downsizing targets set.

Following a 41-day trial between May and July 2019, the High Court in Paris delivered a landmark decision in criminal labour law: Didier Lombard, his assistant Louis-Pierre Wenès and the head of human resources Olivier Barberot were each found guilty of “moral harassment” and sentenced to a year’s imprisonment, with eight months suspended, plus a fine of 15 000 euros. France Télécom, rebranded as Orange in 2013, was ordered to pay the maximum penalty for a legal entity – a fine of 75 000 euros. The civil parties (43 individual victims or beneficiaries) and the trade unions that brought the case received compensation ranging from 15 000 to 45 000 euros for non-material damage.

In *La raison des plus forts, chroniques du procès France Télécom* (The reason of the strongest: A chronicle of the France Télécom trial), Éric Beynel, spokesperson for the trade union Solidaires, delves into the very core of this historic case. Beyond being just a legal issue, it provided an opportunity for profound collective reflection on managerial violence. Éric Beynel asked novelists, researchers and artists to compile a narrative of the proceedings. These texts were posted online on a daily basis, allowing the case to be followed live. From the perspective of these observers, who became journalists for a day, readers can revisit the many statements, discussions and submissions that marked the proceedings, and gain an understanding of the workings of a business strategy that deliberately sought to create “a threatening atmosphere” and “to impair working conditions”. Employees were mercilessly ground down to ensure France Télécom’s rapid modernisation and increase the value of its shares.

This was a groundbreaking case because a court acknowledged, for the first time, the notion of “institutional moral harassment”, and attributed responsibility for such behaviour to the highest level of the company. The decision also showed that such moral harassment “may be deeply rooted in the organisation of work and forms of management”.

On reading this book, the suffering at work brought about by toxic management becomes painfully clear: a downward spiral of men and women who were proud of their jobs and proud to be members of a public service, and who, because of a toxic work environment, gradually began to doubt their skills and the very meaning of their labour until it made them ill. It is impossible to remain unmoved by the experience of 32-year-old Stéphanie Moison, who threw herself from the fifth floor into the courtyard of a France Télécom building in Paris, or 56-year-old Rémy Louvradoux, who set himself on fire outside a company site in Bordeaux.

It is also impossible not to be sickened and revolted by the cynicism of these captains of industry when they declared, for example, that “this suicide trend has to end”, and by their disdain for the victims and their families. “Not one of them has offered condolences to the family of the young woman who threw herself out of the window in front of her colleagues,” notes an observer.

This is a work that should be given to everyone who fights in our neoliberal society for better working conditions which are more humane and more respectful of people’s dignity. Understanding is always essential for those who want to take action.

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1. For an analysis of this judgment, see Fabienne Scandella (2020) How France Télécom broke the law, *HesaMag* No. 21, p. 47.
Professional organisations, trade unions and patient groups join forces to stop cancer at work

Cancer is the leading cause of work-related deaths in the EU, with more than 100,000 cases each year. A broad coalition of professional organisations, trade unions and patient groups launched the ‘Stop Cancer at Work’ campaign to ensure that the current fourth revision of the Carcinogens and Mutagens Directive includes dangerous medicines that can cause cancer amongst health sector workers. This important modification was not included by the European Commission in its proposal published on 22 September 2020, but such a legislative change would be a key instrument for protecting healthcare workers.

The campaign will continue to run in 2021 and calls for all to show their support by signing a petition calling for the EU institutions to take action.

For more information and a link to the petition, visit the website at www.stopcanceratwork.eu
Orders and subscriptions

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