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#27

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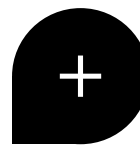
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Printed in Belgium

by Imprimeries Hayez

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HesaMag is a twice-yearly journal published by the European Trade Union Institute (ETUI).

The Working Conditions, Health and Safety Unit of the ETUI aims at promoting high standards of health and safety at the workplace throughout Europe. It provides support and expertise to the European Trade Union Confederation (ETUC) and the Workers' Group of the Advisory Committee on Safety and Health at Work. It is an associate member of the European Committee for Standardization (CEN). It runs networks of trade union experts on issues such as standardisation (machine safety and ergonomics) and chemicals.

Logo FSC

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The ETUI is co-funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the ETUI. Neither the European Union nor the ETUI can be held responsible for them.



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🔄 Cover photo: Belgian workers take part in a training session on the correct use of protective equipment for asbestos removal. Photograph taken on the premises of Embuild on 31 May 2023.
Photo: © Martine Zunini



Cost-benefit analyses and OSH: a marriage of convenience?

Marian Schaapman
ETUI

Policymaking at EU level comes with cost calculations. Occupational safety and health (OSH) may be a fundamental human right, guided by the principle that OSH measures must be taken to protect workers no matter the cost – but, in a world of often scarce financial resources, it is not immune from these calculations. Cost-benefit analyses are part and parcel of today's EU policymaking processes and, for the foreseeable future at least, they seem here to stay. In the OSH community, we'll have to deal with them, so better to try to shape the rules of the game than shout from the sidelines. Trade unions should engage in these studies and scrutinise the ways in which they are being undertaken in order to co-determine their questions and methodologies, and thereby also their outcomes.

However, some fundamental complexities need to be taken into account. The first difficulty with cost-benefit analyses, especially in the field of OSH, is that they compare essentially disparate categories. To place the value of human life and health on equal footing with the cost to industry of implementing a risk reduction measure is not only morally questionable, it is also extremely difficult to realise in practice. Exactly how much are we willing to pay for a human life? How much to prevent years of life quality being degraded by disease or disability?

Next, while costs are generally easy to monetise, benefits are not; they mainly pertain to health and are thus 'intangible'. This often leads to a 'status quo bias', in which policy measures driven primarily by cost considerations lead to a reinforcement of the status quo rather than to positive change. Furthermore, exactly what risks and consequences are being taken into account to 'measure' the benefits? If, for example, we only take the carcinogenic effects of certain substances into consideration and disregard other adverse effects, then the total picture will be an underestimation of reality.

Cost-benefit analyses are part and parcel of today's EU policymaking processes.

Finally, costs are usually incurred immediately whereas the benefits of OSH measures often occur in the future. Traditional cost-benefit analyses usually apply a ‘discount rate’ to compute all relevant costs and benefits in present-terms values. But shouldn’t human suffering in the future be given equal weight in policy decisions as human suffering today? A clear comparison to environmental policies presents itself here: if we were to give less weight to the lives of future generations, climate change mitigation policies would seem less beneficial than they actually are.

In the light of these (and more) pitfalls, trade union involvement in cost-benefit analysis is indispensable. However, such traditional kinds of analysis, used to decide which policy options are the most profitable, are not the only kind. Two other types of study in particular deserve mention here, and warrant some consideration from trade unions.

The first is the so-called ‘costs of inaction’ study. This differs from cost-benefit analysis in the sense that it does not calculate the costs of different policy options, but rather calculates the costs of a certain situation if no action is undertaken. Two ETUI studies from recent years, one on the costs of occupational cancers and one on the costs of psychosocial risks (PSR), are good examples of this¹. These costs-of-inaction studies are intended to motivate policymakers to take action in order to avoid costs (or rather to generate benefits) in the future.

Trade unions should engage in these studies and scrutinise the ways in which they are being undertaken.

The second type is exemplified by a recent study from the statutory agency Safe Work Australia (SWA)² which, rather than simply calculating the costs of occupational diseases and accidents over a certain period, estimated the broader positive economic impact of their total absence. Using a model recommended by the World Health Organization (WHO)³, SWA was able to show that non-occurrence of occupational diseases and accidents would lead to a higher GDP, more and better jobs, and higher wages – both in the directly impacted sectors and along the supply chain. This type of analysis, which could be termed a ‘benefits study’, may also suffer from methodological problems (e.g. what datasets are taken into account, or how to deal with under-registration and non-recognition of occupational diseases) but it is important for the story it tells us: safer and healthier workplaces automatically lead to a wealthier society, to the benefit of us all. And this is a story we need.

1. Vencovsky D. et al. (2017) The cost of occupational cancer in the EU-28, ETUI; Sultan-Taieb H. et al. (2022) Burden of cardiovascular diseases and depression attributable to psychosocial work exposures in 28 European Countries, European Journal of Public Health, 32 (4), 586-592. (One more peer-reviewed article and one more ETUI report are foreseen for this project in 2023.)
2. Deloitte Access Economics (2022) Safer, healthier, wealthier: the economic value of reducing work-related injuries and illnesses, Safe Work Australia.
3. The Computable General Equilibrium (CGE) model.



'A perfect storm': why UK midwives are at the end of their tether

Bethany Staunton
ETUI

The trauma of the pandemic, reduced pay in the context of inflation, and the weight of years of austerity in government health spending. Under these combined pressures, midwives in the UK National Health Service are choosing to leave the occupation entirely – leading to critical shortages in the workforce.

'I've had shifts where I've gone home crying, it just felt so unsafe.' Heidi¹ has been a junior midwife for two and a half years, and she's already had enough. Unluckily for her, she began her career in a north-western English hospital at the height of Covid. The extreme short-staffing, intensified by the pandemic, was a brutal introduction to the profession. 'Take the postnatal ward, for example,' says Heidi. 'There should be three midwives and three support staff present. But I've worked days when there were just two midwives, and that's it. When you think of the near misses in those conditions, it's just terrifying, the weight of responsibility.'

The image of the calm, smiling midwife accompanying parents-to-be through one of the most challenging (and hopefully rewarding) experiences of their lives is one that is strong in the public imagination, and it undoubtedly attracts many young people (mainly women) to the profession who are passionate about caring for others. Yet despite continued recruitment of new midwives, recent years have seen maternity

services across the National Health Service (NHS) – the UK's publicly funded healthcare system – struggling to retain them, leading to critical shortages in the workforce. NHS England figures for September 2021 to September 2022 show that the annual number of midwives leaving the profession actually outstripped those joining it – this was not even the case for other health professionals like doctors and nurses, despite attrition being an issue across the healthcare system.

'Around 18 months ago, we began to consistently see each month a year-on-year fall in the number of midwives in post,' says Sean O'Sullivan, Head of Health and Social Policy at the Royal College of Midwives (RCM), the main trade union organisation representing midwives in the UK. 'This data has been collected since 2009 and it's the first time we're seeing this. In December 2022, for example, there were 100 fewer midwives compared to December of the previous year. The NHS has actually recently put funding into creating more posts, but it's not managing to fill them.'

Covid-19: the straw that broke the camel's back

Covid-19 undoubtedly had a big impact on staffing and the accompanying stressors, with many midwives not able to come into work, often leaving a too small number to man the fort. However, when it comes to the current rates of attrition, it is clear that the pandemic merely inflamed multiple underlying issues. Heidi emphasises that while the effect of the pandemic was 'massive', 'staffing levels turned out to be not just about Covid. We thought it'd just be a short-term thing but it's still going on. These aren't new problems. It's always been understaffed, it's just getting to the point now where people are struggling to handle it. We lost staff at my hospital, people had just had enough. They know we can cope with it, but it doesn't mean we should.'

¹ Name has been changed to protect anonymity.

Kay King, movement director of the White Ribbon Alliance, a global non-profit alliance advocating for women's health rights, agrees that the problems in the profession are both far-reaching and a long time in the making. 'I'm a bit hesitant to link it to the pandemic,' she says. 'It's significant, but the crisis in midwifery is not due to the pandemic: it's the culmination of a perfect storm. Midwives have been going above and beyond, as they always do. But people are burning out. The main word coming out of recent reports is "coping". They're not calling it a calling anymore.' King, who has also been working as a doula for the past 12 years, is on the steering committee of 'March with Midwives', a campaign group that was created to raise awareness about the crisis in the profession. 'In 2021, a midwife called Paula Cleary posted a comment on Facebook simply saying "I'm sick of it", and that if others would join her, she would be holding a vigil in her town.' Many did join, with the movement soon taking off to hold multiple protests, or 'vigils', across the country, which thousands attended. 'We need to address what can only be described as a rippling frustration in the birth community,' declares King.

48.1% said they often thought about leaving their organisation.

The annual NHS England staff survey for 2021-2022 found that midwives – along with paramedics and ambulance workers – reported experiencing particularly high rates of work-related stress amongst the various NHS occupations, at 62.8%. When it came to the question of work pressure, midwives were the occupation the least likely to agree that they were ‘able to meet all the conflicting demands on their time at work’ (only 20.3%), while 81.4% said they worked additional unpaid hours. 48.1% said they often thought about leaving their organisation. As an occupational group, the rate of nurse and midwife respondents who reported feelings of burn-out was 39.7%, the second highest after ambulance workers, while the same group has incidentally shown a steady decline in pay satisfaction since 2019. For midwives in particular, only 14.1% claimed to be ‘satisfied’ or ‘very satisfied’ with their pay in 2022.

The NHS was hit by a widely publicised cross-occupational pay dispute and industrial action over 2022-2023 in the context of the cost-of-living crisis. But according to RCM Head of Policy Sean O’Sullivan, there are wider key issues beyond pay that also need to be tackled if the NHS wants to do better at retaining its midwives. These include providing greater opportunity for professional development (many midwives simply do not have the time to take advantage of learning opportunities) and more flexible working. ‘Many have care responsibilities, or they just want a life outside of work,’ he says. ‘And some employers are very rigid.’ This chimes with the NHS staff survey results. On the question of work-life balance, only 31.9% of midwives felt satisfied with opportunities for flexible working patterns.



↩ Strikes have hit the UK's National Health Service over the past year, including midwives.
Photo: © Belga

‘Midwives are looking after numerous people in labour, which has all kinds of potential consequences for safety.’

Not like on TV

Even at full staffing levels, being a midwife in the NHS is no walk in the park. ‘I do three 12.5-hour shifts a week,’ says Heidi. ‘I never get a break, sometimes not even my lunch break, and I never go home on time. And it’s the same everywhere.’ The intense rhythm can already begin at the study stage. Midwifery students have to do (unpaid) ‘placement blocks’ in maternity services as part of their degree, and there have been reports of them having to fill absent places, which Heidi confirms from personal experience as well as what she has learned from her peers. ‘Surveys have shown that 96% of students have had mental health problems and are already at burnout stage. My own coursemates have already left or moved to other services.’ They have a financial headache too, since the midwifery study bursary was abolished in 2017 and tuition fees were introduced at 9,250 pounds a year.

Kate Pearce, midwifery lecturer at the University of Greenwich, is unambiguous about the practice of filling places: ‘It is not allowed. Students should be supernumerary. Lines can become blurred when there is short-staffing, which there almost always is.’ Pearce believes that several popular British TV shows of recent times, such as the drama series *Call the Midwife* (BBC) and the documentary series *One Born Every Minute* (Channel 4), have potentially played a role in attracting many young women to the profession. ‘But once they’re on the course, they realise how hard it is.’ While no longer at the coalface, Pearce loved her time as a midwife, but she admits that ‘there does seem to be more pressure than there used to be.’ Along with many midwives (including the retired), Pearce came back briefly to practice during the pandemic. But these midwives are now leaving again.

Soo Downe, Professor of Midwifery Studies at the University of Central Lancashire, suggests that some changes in the working conditions of NHS midwives over the years could be contributing factors to what she describes as a situation of ‘burnout, moral distress, compassion fatigue, and, eventually, disillusionment’ experienced by some staff: ‘The change from 7-8 hour shifts with relatively long overlaps between them to 12-hour shifts has had some negative effects in my view. When the 7-8 hour shifts were operational, the overlap allowed for multidisciplinary training, for sitting and talking over cases with colleagues, for time to learn from others while chatting about the events of the day, and, as a consequence, gave the opportunity to build effective teams. In addition, when breaks cannot be taken in a 12-hour shift, this is much more draining (and possibly an increased safety risk) than when breaks cannot be taken in a 7-8 hour shift.’ Such conditions, she says, may have helped to create a ‘downward cycle’, ‘where loss of staff means more pressure on those who stay, who then leave due to the pressure of being short-staffed’.

When it comes to healthcare, a degradation of working conditions evidently creates a double layer of concern, with an impact that goes beyond the employees themselves to touch the wider public. Leah Hazard is both a practising NHS midwife of 10 years in Scotland and an author of several books about midwifery and reproductive health. ‘It used to be the gold standard and common practice that women would have one-to-one care in active labour,’ she says, choosing her words carefully. ‘...And that does still happen most of the time, in most places... But increasingly it’s not happening, and midwives are looking after numerous people in labour, which has all kinds of potential consequences for the safety of

the birthing person and the baby. It’s very difficult to provide the care that you know you’re capable of giving when you just don’t have the human resources to do that.’ In 2022, a UK parliamentary report on ‘Baby Loss and Maternity Safe Staffing’ concluded: ‘The evidence that we have collected in this report paints a bleak picture of maternity and neonatal services that are understaffed, overstretched and letting down women, families and maternity staff, alike. [...] For many, crisis mode is now the norm.’

A changing profession

Many view the current crisis in midwifery as indicative of problems that run much deeper than either the short-staffing created by the pandemic or the recent NHS pay disputes, and that in fact go to the core of the profession itself. ‘I think the vast majority of midwives would agree that it has the potential to be an incredibly rewarding role,’ says midwife and author Leah Hazard. ‘But there seems to be a real consensus across the board that this is not the job that it used to be. And not just in the quantity of work but also in the quality – or the nature – of it. Staffing is a big part of it, but I think it’s also generally the feeling of working in this huge industrial machine that are the maternity services: very high rates of intervention, fear of litigation, less time to be with women, and less ability to individualise care to each person.’

These are elements that come up in all interviews: that the practice has become more interventionist, with far higher rates of caesarean births and inductions than in the past. This has been accompanied by what many describe as experiencing a ‘medicalisation’ of the profession, with the word ‘machine’ popping up multiple times. Midwives also describe treating an increasing number of more potentially complicated pregnancies, with developments in medicine enabling a wider range of women to give birth, including older women and women with riskier medical conditions. An increased use of obstetrics can also mean additional resource pressures in terms of both labour and funding needs and an ensuing shift of maternity professionals away from birth centres to hospital labour wards, thus offering less flexibility for women regarding their birthing options. The UK parliamentary ‘Safe Staffing’ report stated that ‘maternity and neonatal services require substantial and sustained investment’: ‘We are seeing midwife-led units and home-birth services close in order to pool staff

'I don't know one person who wouldn't strike. And if I could I'd be on the frontline – but who has the time?'

in obstetric units. We are seeing women's choices curtailed, and antenatal and postnatal services squeezed.' Or as Kay King of the White Ribbon Alliance puts it: 'When the system is under pressure, the first thing to go is community practice.'

The evolution of the territory in which midwives are operating can have very literal consequences for the day-to-day reality of their working life. Midwifery Professor Soo Downe, cites, for example, an 'increase in paperwork due to the demands of organisational reporting and accounting (for both internal

and external purposes)' which 'has resulted in less and less time for midwives to spend with women in labour and during birth.' She continues: 'The increasing fear of litigation in the maternity services has also increased the general sense that spending time on record-keeping is a critical activity for both midwives and doctors, since these records are the basis for defence if there is such a case.'

And in such a challenging role, those in the profession thus feel it even more sharply when they perceive their work as not being valued. 'The government really hasn't recognised us as having acute frontline responsibilities, and it has consistently underfunded the maternity services across the UK,' says Leah Hazard. 'Add to that the mass exodus of older midwives, and you really have a perfect storm. There is recognition that the NHS is struggling, but maternity is well past crisis point.'

Is there a gender dimension to this lack of recognition? Hazard thinks so: 'Historically, midwifery has been a service provided generally by women and for women. There's a perception that this is just a 'soft' or 'nice' part of the NHS, and that there's a lot of hand-holding and cuddling. That's just really not the case. There's a real

lack of understanding of what we do and how acute the service can be. And I think there is an element of sexism around that, definitely. And this issue of public perception has been quite problematic for us in terms of fighting for our fair pay and conditions.'

'No one does this for the money,' says junior midwife Heidi. 'But when you see all your friends getting a decent salary and bonuses in corporate jobs... We are keeping people alive. A pay rise is essential if only because of the stress involved. I'm furious about it. I don't know one person who wouldn't strike. And if I could I'd be on the frontline – but who has the time?'

Like Heidi, Hazard has also seen a lot of her colleagues leave, either for less challenging positions or to quit midwifery entirely, along with many who took retirement the minute it was offered. 'And I've thought about leaving as well,' she admits. 'I've had a really tough time and I still don't know if this is a sustainable career for me in the long term. I definitely can't do it until I'm 67, the pensionable age – and I'm hearing that across the board from all of my colleagues. The foundational issues are so deep now that it just feels like the challenges are constant.' ●

↳ Midwifery today:
'a constant challenge'
Photo: © Belga





Back on track: are we seeing a renaissance of collective bargaining in Romania?

Stan De Spiegelaere

Director of Policy and Research
at UNI Europa and guest professor
at Ghent University

Late last year, just months after the European Union declared the strengthening of collective bargaining to be one of its policy aims, Romania passed a new law that does just that: enables and facilitates not only collective bargaining but also trade union organising and social dialogue. This law has not appeared out of thin air but against a background of years of trade union innovation in social dialogue, critique from international organisations, and economic pressure from the EU. Romania shows how a positive overhaul of social dialogue is possible and, as such, sets an example for other EU countries.

This new law goes some way to re-establishing the age-old tradition of strong social dialogue in Romania.

A new law on social dialogue in Romania, which came into force in December 2022 as Law 367/2022, promises a new chapter in the country's industrial relations: unionisation has been facilitated, the right to strike extended, sector and cross-industry collective agreements enabled, and rights to information and consultation broadened. Collective bargaining is now obligatory in companies with more than 10 employees, following a valid initiative from one of the social partners (although it must be noted that coming to an agreement is not obligatory). The new law also reduces the minimum threshold for union establishment from 15 members to 10. On the company level, a union can now bargain if it represents 35% of employees, instead of 50%+1 as previously. At the sectoral level, meanwhile, unions can gain recognition if they represent 5% of workers.

Multi-employer bargaining has been facilitated, and sectoral agreements (which are multi-employer agreements negotiated by representative social partners) can now be made generally binding for the entire sector. The law strengthens the obligations for local information and consultation of employees, and employers are now required to invite representative unions to meetings of the board of directors if the matters discussed concern professional and social interests. Finally, the new law makes cross-sector collective agreements possible again, and it provides for more flexible conditions for calling a strike.

Following the severe limitation of social dialogue in 2011, in part due to pressure from the European Union (EU), this new law goes some way to re-establishing the age-old tradition of strong social dialogue in Romania. It was passed, interestingly enough, just months after the EU agreed on a Directive for adequate minimum wages, with a clear objective: 'promoting collective bargaining on wage-setting'. EU Member States will soon be obliged to make national action plans to increase collective bargaining coverage, with a special focus on sectoral bargaining. The EU has once again been putting pressure on Romania, but this time to change its regressive Social Dialogue Act in favour of collective bargaining rights – first through recommendations and then by making it a condition for recovery funds. High time, therefore, to take a closer look at the Romanian story.

The backstory: European assault on social dialogue

Aurora Trif, professor at Dublin City University Business School, is clear in her opinion: 'The new law corrects a lot of damage caused by the provisions of the Social Dialogue Act adopted in 2011 by the centre-right government with the support of the Troika [eurozone crisis decision group].'

Before 2011, Romanian trade unions were powerful actors. Roughly one in three workers were members of unions and there was a strong tradition of collective bargaining at the national, sectoral and company levels. That all changed when, struggling with increasing public debt, the government had to call for international help. The Troika provided relief funds, but with strict conditions. One of them was a complete overhaul of industrial relations, which had a seismic impact. Cross-industry collective bargaining was prohibited, sectoral agreements were no longer extended and barely enforceable, and high thresholds were put in place for trade unions to access collective bargaining rights. In the words of Trif, the 2011 'so-called' law on social dialogue was nothing less than a 'frontal assault'.

The consequences of these changes were as predictable as they were dire. As early as 2013, the International Labour Organization (ILO) concluded that the reform had led to over 1.2 million workers being 'effectively excluded from collective bargaining with an immediate impact on wage levels and on working conditions in general'. Labour inspectorates observed an almost immediate increase in undeclared work. The conclusion of the ILO expert study says it all: 'Ultimately, the reforms have had detrimental social impacts and not delivered the economic benefits promised. Workers and their representatives have lost a wide array of entitlements, leaving them in a very precarious working situation. There has been a decline in both the quantity and the quality of work and employment.'

Sectoral bargaining in a hostile legal environment

However, collective bargaining did not completely languish during these wilderness years. In between the political developments that bookended the past decade, Romanian trade unions have made serious attempts, within a hostile legal framework, to re-establish sectoral bargaining from the ground up. The success of the banking sector unions in doing so is a case in point.

'We trained over 130 trade union leaders and surveyed thousands of workers in the Romanian banking sector'. For Adrian Soare, president of Sindicatul UPA, the trade union active in the bank UniCredit Romania, 2018 was a very busy year. Together with the other finance trade unions and the Federation of Insurance and Banking Unions (FSAB), he managed to conclude an agreement covering six of the seven largest banks in Romania, effectively setting sectoral standards and reinventing collective bargaining. 'Luckily I didn't have a child yet in that period.'

In 2018, social partners in the banking sector were facing a number of challenges. Employers were dealing with a tight labor market, leading to worker poaching between banks, and banks with company agreements were being undercut by others without them. In addition, certain banks were trying to gain a competitive advantage by extending opening hours, which put pressure on other banks to match their hours and led to a deterioration of labour conditions. Added to the mix were several CEO bonus scandals that cast the sector in a dim light.

↓ Protest called by union confederation Cartel Alfa against wage cuts, Bucharest, 2017.
Photo: © Belga



Despite the ‘frontal assault’ described by Professor Trif, Romania’s history of strong collective bargaining meant that the idea of sectoral agreements remained fixed in the imagination of Romanian social partners and trade unionists. The banking sector social partners increasingly began to regard a general collective agreement covering all banks as the solution they needed. ‘There have always been discussions on sectoral bargaining in the banking sector,’ says Florentin Iancu, president of the SITT union of ICT workers, who was involved in the banking sector campaign at the time. ‘There was good cooperation between the employers and the union federation and so the evolution towards real sectoral bargaining was natural.’

This didn’t mean there were no obstacles to overcome however. First of all, there was a problem on the employer’s side. The traditional employer organisation of banks, the Romanian Association of Banks, is not mandated to negotiate collective agreements. They only engage in a form of a social dialogue on skills development. Therefore, with a push from the trade unions, a number of branches of multinational banks decided to set up a new employer organisation in 2014: the CPBR (Romanian Banking Employer’s Council). This organisation had a much more positive approach to collective bargaining, partly because most of its members already had company-level agreements in place. Establishing sectoral minimum standards would thus be beneficial for them.

A second challenge to be met was on the worker’s side. The existing union federation FSAB had strong unions and company agreements in several banks but had to convince its members to engage in an experiment with sectoral bargaining. With the help of UNI Europa and UNI SCORE (Strategic Campaigns, Organizing, Research and Education), the union started an intensive campaign to strengthen membership and involvement in the union. ‘You can negotiate without support, but then you are very weak,’ explains Soare of Sindicatul UPA. ‘Real bargaining happens when you have thousands of people behind you.’ Membership and union strength in the country was mapped, leaders were identified and trained, and a large-scale workers’ survey was carried out to increase member involvement. All of this resulted in over 1,000 workers becoming members of the FSAB-affiliated union, and most of all, members becoming actively involved in the process and supporting the federation’s efforts.

‘Real bargaining happens when you have thousands of people behind you.’

Last but not least, there was the law. The provisions of the 2011 Social Dialogue Act made it virtually impossible to extend sectoral collective agreements. For this reason, the social partners chose to negotiate a 'multi-employer' agreement which only bound those companies that were members of the employer organisation, not all banks in the sector. In effect, this has meant that the largest player in the banking sector, Banca Transilvania, is not covered by the agreement, and it remains very anti-union in general.

In 2018, the strengthened trade union and the new employer organisation began negotiating a multi-employer agreement that covered approximately half of the employees in the sector. The resulting compromise set minimum wages, and increased severance pay, holidays, and retirement bonuses. Moreover, according to Iancu, the agreement envisaged 'a peaceful lunch [break], with the doors of the banks closed. And even Banca Transilvania which did not sign the agreement installed such a lunch break. This shows the power of the sectoral agreement.'

The agreement was not only significant for the banking sector, it had wider implications. It demonstrated that despite the challenges posed by the current legislation, social partners were still willing and able to come together to negotiate multi-employer agreements.

Pressure from above: the EU changes its ways

One agreement in one sector is obviously not enough to tilt the balance of power. Pressure from above equally contributed. As already mentioned, the ILO took a critical stance towards the 2011 law on social dialogue and continued to push the Romanian government to amend its legislation to be in line with international labour norms.

In a change of tune, the EU also weighed in on the matter in 2016. From that year on, the country-specific recommendations for Romania started highlighting the weaknesses of social dialogue in the country. Starting as a vague statement ('social dialogue remains weak'), the critiques and recommendations became increasingly detailed over the years and called for concrete action from the government. What had changed at the European level was the ambition to be a more social union. Following the 2017 proclamation of the European Pillar of Social Rights, attitudes towards collective bargaining began to shift. From being perceived as a harmful rigidity, it became 'crucial' for fair wage-setting.

'The history of industrial relations in Romania runs parallel to European pressure and initiatives.'

However, the real turning point came with the EU's financing of the national Resilience and Recovery Plans in response to the Covid-19 pandemic. These funds were partially tied to the implementation of country-specific recommendations, including the passing of a new law on social dialogue. As a result, Romania was motivated to take action in order to receive a portion of the EU funds, leading to the passage of new legislation that facilitated the restoration of social dialogue.

According to Trif, the history of industrial relations in Romania runs parallel to European pressure and initiatives: 'During the accession process, the EU pushed for strong social dialogue, which led to a legal framework that actively supported collective bargaining. The change in the EU then led to its destruction during the Troika years, and now, a decade or so later, EU pressure has again contributed to reinstating fundamental trade union rights.'

After lengthy negotiations, the EU institutions agreed in the fall of 2022 on a Directive on adequate minimum wages which explicitly aims to strengthen collective bargaining. This directive requires countries with a bargaining coverage below 80% to enact national action plans to increase bargaining coverage overall. Acknowledging the importance of the European level, the Romanian trade unions actively pushed for this legislation, partly through a six-day social justice caravan in which the national trade union confederation, Cartel ALFA, travelled from Bucharest to Brussels to increase political pressure.

Lessons for Europe

Will this law lead to a renaissance of collective bargaining in Romania? According to Aurora Trif it might, but all will depend on the capacity of trade unions to really make the most of it. Florentin Iancu agrees and sees clear opportunities: 'Several of our unions are ready to capitalise on the new law and start real sectoral negotiations in the insurance, ICT, and commerce sectors.'

While this law alone is unlikely to bring Romania to 80% collective bargaining coverage, it might very well push it in the right direction. It makes Romania the first EU Member State to have radically shifted gears on collective bargaining since the adoption of the new Directive. Others who are bound to follow can learn some lessons from the Romanian experience.

For one, a foundation of engaged trade union membership is pivotal. Without that, collective bargaining remains unconnected to the workers. Rules and legislation should thus facilitate trade union organising, guarantee sufficient access of unions to workers, and provide direct and indirect support. A European strategy aimed at increasing bargaining coverage that fails to address the issue of falling trade union membership figures risks being an empty gesture. Second, institutions matter. Although the banking sector managed to establish a sectoral agreement in 2018, they did so largely in spite of the legislation in place, which disincentivised collective bargaining. European countries not only need to enable sectoral bargaining but also to facilitate and promote it.

The change in Romanian legislation is radical, not cosmetic. Repairing the damage done in the aftermath of the financial crisis and creating resilient and robust social dialogue requires this kind of fundamental change. Romania has picked up the baton, and it is time for other EU countries to follow suit. ●



Special report

Time to act on asbestos

Special report coordinated by
Tony Musu and **Bethany Staunton**



Long regarded as a magical material and widely used in countless applications, asbestos has turned out to be a health disaster. This powerful carcinogen is responsible for the deaths of around 90,000 people every year in Europe, and is recognised as the leading cause of death in the workplace. With the European Directive on asbestos at work currently under revision, *HesaMag* is devoting its special report to this deadly fibre.

Tony Musu begins the report with a clear case for why it is high time for the EU to defuse the asbestos time bomb once and for all. Marie-Anne Mengeot then looks back at the lies told by the asbestos industry and the long struggle of workers to have the substance banned. Pien Heuts next explains why the Netherlands has the most protective occupational exposure limit value in Europe, and Théophile Simon describes the cutting-edge techniques being used to remove asbestos safely. Mathilde Dorcadie investigates a case of faulty personal protective equipment used by asbestos workers, while Tom Cassauwers considers the need to better protect firefighters from occupational cancer risks, including asbestos. The leaders of the European Federation of Building and Woodworkers explain in an exclusive interview what improvements they expect to see in the revision of the Asbestos at Work Directive. Finally, Mehmet Koksall recounts the story of the Tripode building in Nantes, where 1,795 civil servants were passively exposed to deteriorating asbestos for more than 20 years, 31 of whom have now died of occupational cancers.

↑ Photo: © Sadak Souici

Asbestos: a time bomb that needs to be defused

Asbestos has been banned in the European Union since 2005, but this carcinogen is still present in millions of buildings across Europe and it poses a major threat to the health of workers and the population at large. The former are particularly exposed when they work on or in buildings containing asbestos materials, and the risk only increases as these gradually deteriorate. In the light of the climate crisis, the European Union recently embarked on a huge energy efficiency renovation plan for buildings. If we want to avoid a new wave of victims amongst future generations, the question of asbestos removal must be tackled head-on by European and national authorities.

Tony Musu
ETUI

It has been known for more than 100 years: asbestos is an extremely hazardous substance. Inhalation of asbestos fibres can cause asbestosis and various kinds of cancer, including mesothelioma, lung cancer, cancer of the larynx and ovarian cancer. The risks of contracting these diseases increase with the number of fibres inhaled, and there is no exposure level below which health is not adversely affected. In most cases, the symptoms develop only after a long period of latency of 20 to 40 years – this is why experts say that asbestos is like a time bomb. The medical community has been aware of the detrimental effects of this substance since the start of the 20th century, when the first cases of asbestos-associated mortality were diagnosed and documented. Despite this knowledge, asbestos continued to be used, largely because of the scandalous efforts made by the pro-asbestos lobby to

downplay the risks associated with exposure and to prevent essential information from being published in scientific literature and in the popular press. Dishonest industrialists know very well that, as long as doubts persist, there will be no pressure from public opinion or legislation that could eat into their profits.

Asbestos use reached its peak after the Second World War, when it was employed in ever-increasing quantities in an ever-growing number of products in industry and construction. Its low production costs and its sought-after chemical and physical properties (high tensile strength, resistance to high temperatures, and electrical insulation) contributed to the rapid growth in its use in extremely varied applications: thermal insulation (for pipes and boilers); in fire barriers and ceilings; for the electrical insulation of cables; in trains and ships; and for

the manufacture of piping, gutters, chimney pipes, ventilation ducts, garden furniture, planters, decorative items, and so on, in asbestos cement. It is estimated that between two and four million people have died in the EU since WWII after being exposed to asbestos, the great majority of whom were asbestos workers.¹

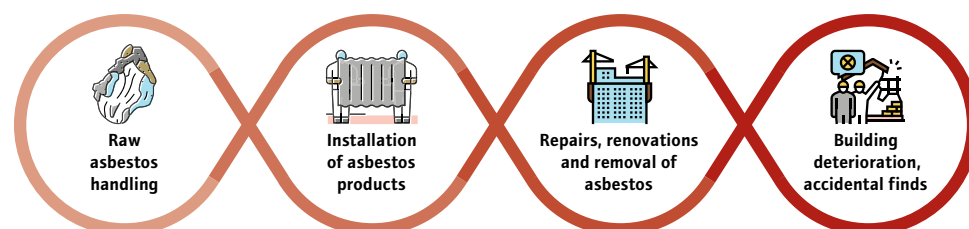
Four waves of victims

A number of epidemiological ‘waves’ of human exposure to asbestos in Europe can be identified (see Figure 1). The first wave consists of miners and asbestos industry workers. The second wave is made up of carpenters, plumbers, electricians, motor mechanics and other people who have worked with asbestos-containing materials. The third wave comprises all the workers involved in repairs, renovations and asbestos removal. The EU will experience a fourth wave of people exposed to asbestos deteriorating over time in the buildings where, or close to where, they work or live. Because of the very long period of latency between exposure and appearance of asbestos-related diseases, these various waves overlap. And as the exposure history of most asbestos victims has not been recorded, it is difficult to estimate the number of deaths associated with each wave.

¹ ETUI estimates.

Figure 1 — The four waves of asbestos exposure

Source — Adapted from DOI: 10.3390/ijerph19074031



In practice, asbestos production in Europe ended after 1985 thanks to the introduction of the first restrictions in national and European legislation, and so we can judge that the asbestos-related cancers that we are seeing today are probably mainly the result of the more recent third wave of exposure, in combination with the very end of the first wave and the waning of the second. We are also beginning to see the consequences of the fourth wave of exposure, evidenced by the increasing incidence of mesothelioma (a cancer almost exclusively caused by asbestos exposure) in patients without a history of occupational exposure.

The manufacture, marketing and use of asbestos was completely banned in the EU in 2005, and considerably earlier in some Member States, yet the number of deaths from diseases associated with asbestos is not falling. Lung cancer and mesothelioma caused by asbestos continue to kill around 90,000 people each year in the EU (see Table 1), and mortality will go on increasing for at least one or two decades. As a reminder, up to 78% of occupational cancers recognised in the Member States are associated with asbestos. Moreover, occupational cancers are avoidable and their cost in the EU amounts to between 270 and 610 billion euros a year, or 1.8% to 4.1% of the EU's GDP.²

The EU Green Deal and asbestos: risk or opportunity?

More than 220 million building units were constructed in the EU before the total ban on asbestos came into effect, so a large proportion of the current building stock still contains this carcinogen. As a result of the climate crisis, the EU has committed itself to ambitious policies to reduce its greenhouse gas emissions. With the adoption of the European Green Deal and the Renovation Wave for Europe strategy, millions of buildings are expected to be overhauled, renovated or demolished. The European Commission's objective is to double the annual rate of energy efficiency renovations by 2030. It must be mentioned, though, that in the construction sector alone, there are already between 4.1 and

2. <https://www.etui.org/publications/reports/the-cost-of-occupational-cancer-in-the-eu-28>
3. Lassen C. et al. (2021) Study on collecting information on substances with the view to analyse health, socio-economic and environmental impacts in connection with possible amendments of Directive 98/24/EC (Chemical Agents) and Directive 2009/148/EC (Asbestos): final report for asbestos, Publications Office. <https://data.europa.eu/doi/10.2767/981554>
4. EUR-Lex – 52022DC0488 – EN – EUR-Lex (europa.eu).
5. COM (2022) 489 final of 28 September 2022.
6. See the article by Pien Heuts in this issue.
7. https://www.europarl.europa.eu/doceo/document/A-9-2023-0160_EN.html

7.3 million workers exposed to asbestos. This number is set to increase by 4% a year over the next 10 years.³ The construction sector is the third largest sector in the EU, with 10% of its workers being cross-border workers, of which the self-employed make up a large part. The proportion of workers from low-pay countries on temporary postings is very high. These workers, who are particularly vulnerable to infringements of health and safety standards, are often unaware of the dangers of this lethal fibre and, in most countries, there are no information campaigns, training or essential safety measures for them.

An entire generation of workers – mainly in the construction sector but in others too, such as firefighters and workers involved in waste processing and recycling – along with the general public, through environmental contamination, will therefore be subjected to an increased risk of exposure to asbestos fibres unless the necessary measures are introduced. To put an end to the third and fourth

Table 1 – Occupational cancer deaths due to asbestos, EU27, 2019

Country	Occupational cancer deaths	Country	Occupational cancer deaths
Austria	1,929	Italy	10,348
Belgium	2,140	Latvia	403
Bulgaria	1,432	Lithuania	611
Croatia	744	Luxembourg	128
Cyprus	184	Malta	112
Czechia	2,349	Netherlands	3,979
Denmark	1,275	Poland	7,292
Estonia	297	Portugal	2,176
Finland	1,163	Romania	3,845
France	12,038	Slovakia	1,114
Germany	18,730	Slovenia	435
Greece	1,733	Spain	8,762
Hungary	1,999	Sweden	2,273
Ireland	1,029	Total	88,520

Source – Institute of Health Metrics and Evaluation, Global Burden of Disease and Injury, IHME/GBD, The Lancet Oct 2020, <https://vizhub.healthdata.org/gbd-compare/>

waves of human exposure to asbestos and to ensure a fair and socially equitable transition in the construction sector, it is a matter of urgency to put a comprehensive strategy and ambitious legislation in place at EU level for the safe removal and disposal of all asbestos.

Amendments to EU legislation

In September 2022, the European Commission published a Communication entitled 'Working towards an asbestos-free future'⁴ and a proposal to revise the Directive on the protection of workers from the risks related to exposure to asbestos at work.⁵ The purpose of this revision of the Asbestos at Work Directive is to reduce the occupational exposure limit (OEL), which is a minimum requirement in all Member States that has remained unchanged since 2003. It would be reduced from 100,000 fibres/m³ to 10,000 fibres/m³.

This reduction is clearly insufficient to provide proper protection for the health and safety of millions of exposed workers in Europe. The Netherlands adopted a national OEL of 2,000 fibres/m³ back in 2017⁶, and the European Parliament, in a resolution adopted in 2021 and only recently in its report on the review of the Asbestos at Work Directive,⁷ has called for the European limit value for asbestos to be

The EU will experience a fourth wave of people exposed to asbestos deteriorating over time in the buildings where, or close to where, they work or live.



↑ An employee of a French company specialising in the dismantling of train carriages.

Photo: © Sadak Souici

reduced to 1,000 fibres/m³, 100 times lower than the current value. This far stricter limit value is also supported by the European trade unions and health professionals.

However, focusing solely on the limit value is far too narrow an approach to address the enormity of the asbestos challenge. The European Parliament has taken the right track. As well as a more protective OEL, it is proposing other improvements to the text of the Directive: minimum training requirements for workers exposed to asbestos, certification of asbestos removal operators, deletion of the concepts of 'sporadic exposure' and 'low-intensity exposure' to asbestos – inappropriate for a carcinogen such as this, which has no threshold for adverse effects – and prioritising the removal of asbestos-containing materials rather than the use of alternative techniques that should be prohibited, such as encapsulation or sealing, and which only postpone the safe removal and disposal of asbestos.

Over and above the provisions of the Asbestos at Work Directive, many Member States have already adopted other measures that help towards asbestos exposure prevention, such as mandatory screening for the presence of asbestos in buildings and the establishment of public

inventories of buildings that contain it. In its Communication 'Working towards an asbestos-free future', the European Commission announced a similar legislative initiative at Community level to improve available information on existing buildings still containing asbestos and asked Member States to prepare national asbestos removal strategies. It also anticipated introducing measures for improving the diagnosis and treatment of diseases caused by asbestos and safer management of asbestos waste. Lastly, it proposed major funding for Member States to help them carry out all these measures.

With the exception of the review of the Asbestos at Work Directive, which is currently before the colegislators and which should materialise shortly, all the other measures are thus far only announcements, and it remains to be seen what will actually come of them. In any case, it is high time to implement this comprehensive European-level

approach for the safe removal and disposal of all the asbestos in the EU in order to protect, now and in the future, all the people exposed (workers, inhabitants and users of the buildings), as well as the environment. This strategy should be centred on acknowledgement of and compensation for all illnesses linked to asbestos and the establishment of a legal framework for national asbestos removal plans, including an evaluation of the scope of the problem, the associated costs, details of the persons who will bear these costs, appropriate public financial support, and a detailed implementation schedule.

The EU has the opportunity to defuse the asbestos time bomb once and for all. If it does not seize this chance now and leverage the potential synergies offered by the Green Deal, the Renovation Wave and the Recovery Plan for Europe (Next Generation EU), the deadly legacy of asbestos will be passed on to the next generations. ●

Focusing solely on the limit value is far too narrow an approach to address the enormity of the asbestos challenge.

Asbestos manufacturing: an industry of lies

Marie-Anne Mengeot
Journalist

Workers used to be in the dark about the risks of asbestos; asbestos manufacturers, long aware of the risks, made every effort to conceal the truth. Over time, however, these risks have become all too clear, especially to those who have faced the associated diseases and even death. Many victims have successfully fought to secure an outright ban on asbestos, but for many others the struggle still goes on in pursuit of justice.

Back in 1977, in the small Belgian town of Auvelais on the banks of the Sambre, an asbestos weaving mill had become insolvent. As a result, the employees lost their jobs – but asbestos already had them firmly in its grip. Kalomira Sutz and her coalmining husband are both Greek. She worked for 10 years at the Feutres et Amiante d'Auvelais factory, five of which were spent spinning asbestos. When the factory closed, she was 40 years old and already suffering from asbestosis, a form of pulmonary fibrosis caused by asbestos, and a disease similar to the silicosis afflicting coalminers. Kalomira became eligible for an 82% disability allowance under the Belgian Fund for Occupational Diseases (FMP). Like her colleagues, she had no idea that asbestos was a deadly poison:¹

— ‘Night after night, I would come home feeling tired, really tired, and I’d immediately take myself off to bed. Sometimes I wouldn’t have eaten and would even go to bed without having a bite to eat first because I was so tired. I really wasn’t well but couldn’t work out why.’

— ‘*Didn’t you ever think it was because of all the dust?*’

— ‘No, not at all, it never crossed my mind.’

The workers at the Auvelais factory received no information and no protection. A lung specialist at the local hospital diagnosed their asbestosis. As in other countries at that time, especially in France and the United Kingdom (UK), the risks of asbestos only became apparent to the workers as they came to face the associated diseases. This situation can only be attributed to the failings of the authorities responsible for risk prevention and the monitoring of workers’ health, as asbestosis had already been recognised as an occupational disease by the UK in 1931, then by France in 1945 and subsequently by Belgium in 1953.

Failings long in the making

The warning signs were already evident by the end of the 19th century, when the manufacturing sector began to use asbestos. In the UK, Adelaide Anderson was appointed to inspect textiles factories, which included asbestos spinning mills where the majority of the workforce were women. In a report

dated 1898, she wrote that she ‘had extensive evidence of the harmful effects of dust [...]’. Examined under a microscope, the dust particles from mineral ores exhibit sharp and jagged features like glass. Even in the smallest quantities, their effects are proven to be harmful.’

In spite of her initial observations, asbestos use continued to increase. Asbestos became the ‘magic mineral’ for every possible application. It played its part in the continuing industrial revolution and was subsequently used on an extensive scale in the two world wars (including for weaponry, for warships and warplanes, and for gas masks) and later in post-war reconstruction operations. Asbestos cement was a material that was easy to use, inexpensive and highly profitable.

Organised silence and intense lobbying

The industry vigorously strove to protect its business by covering up the dangers posed by asbestos use. In the late 1930s, when the Johns Manville Corporation, the leading firm in asbestos manufacturing, was taken to court in the United States (US), the company set about challenging its workers’ pulmonary disease diagnoses and commissioned studies with a view to exculpating asbestos. The results were not what the firm had been expecting. Asbestos was identified in laboratory animals as a carcinogen.

1. The testimonies quoted in the article all come from an investigation on asbestos carried out from 1977 to 2003, which culminated in the film *Le tombeau de l’amiante chronique d’un désastre annoncé* (*Asbestos: chronicle of an announced disaster*) broadcast by RTBF (French-speaking Belgian television) in September 2021.



↩ Film poster for *Asbestos: chronicle of an announced disaster*, by Marie-Anne Mangeot and Nina Toussaint

propaganda more specifically on defending white asbestos (or chrysotile, which accounted for 90% of asbestos production)². They developed the theory of 'controlled asbestos use'. According to the industry, by reducing and monitoring dust levels, asbestos-related diseases would disappear. However, back in 1977, the International Agency for Research on Cancer (IARC) had classified all forms of asbestos as carcinogenic and felt that it was impossible to determine a level of exposure to asbestos below which there would be no increased cancer risk. According to the report by the French Senate, French officials in this field had been 'anaesthetised' by the asbestos lobby, and this anaesthesia on the part of the public authorities was not confined to France. The first European laws on asbestos bore the hallmarks of industry interference: the dust accumulation standards were lenient and often incorrectly applied. In the early 1980s, in a bid to avert a potential requirement to display the skull and crossbones logo, the symbol customarily used to label dangerous products, the industry planned ahead and successfully imposed its own labelling, which purposely made no reference to disease or cancer.

At that time, very few countries held registers of cases of mesothelioma and cancer attributable to asbestos. And what was not recorded could not be seen. The lack of statistical data contributed significantly towards hiding the reality of the damage caused by asbestos.

However, with the complicity of contracted scientists, the results would not be published or would be redacted of all references to cancer. For over 20 years, the asbestos industry would manage to suppress most of the information relating to the cancer risk for those working with asbestos.

However, in the spring of 1964, during the first international conference on the biological effects of asbestos held in New York, Dr Irving Selikoff presented data from the monitoring activity conducted on members of the insulation workers' union. Half of them were dying from cancer – not only from lung cancer but also from mesothelioma, a cancer of the pleura which would become the marker of exposure to asbestos.

Sensing the tide had turned, the asbestos-manufacturing multinationals (the Johns Manville Corporation, the UK's Cape Asbestos and Turner & Newall, and the Belgian-Swiss company Eternit) joined forces to establish the Asbestos International Association (AIA), a powerful tool for disseminating

propaganda. In the main countries of asbestos use, national satellite associations coordinated their efforts in applying the same lobbying strategies. In Belgium, the Benelux Asbestos Information Committee (CIAB) boasted that it was working 'in close and continuous cooperation with official bodies, the scientific community, trade unions, employers and consumer organisations'. In France, the principal lobbying body was the Standing Committee on Asbestos (CPA), an informal committee financed by the asbestos industry which brought together, alongside the manufacturers, doctors, scientists, trade unionists and public officials. According to a report compiled by the French Senate in 2005, 'the CPA has successfully discredited the significance of the risk of exposure to asbestos and has consequently set back as far as possible any ban on asbestos in France'.

Although manufacturers eventually agreed to discontinue their use of blue asbestos (crocidolite), which was considered more dangerous, they did so to focus their

2. When the European Union prohibited asbestos in 2005, Canada was spurred into action: until 2013, the Canadian authorities would fund the Chrysotile Institute, a propaganda and disinformation tool in support of Quebec's chrysotile asbestos mining industry. Even today, Russia still claims that chrysotile is not dangerous. In 2020, Russia produced 720,000 tonnes of asbestos, which accounts for almost three quarters of global asbestos production (approximately 1.14 million tonnes). India is the main consumer of Russian asbestos.



↑ Stills from documentary film *Asbestos: chronicle of an announced disaster*.

The victims have their say

The fact that asbestos cancer lies latent in the body, only to manifest itself often decades after the original exposure, also suited the manufacturers' agenda. The truth finally came out in the early 1980s. In the UK, Alice Jefferson gave a very public account of her ordeal in a television documentary. At the age of 47, Alice was now dying, having developed mesothelioma. At the tender age of 17, she had worked for nine months in a Cape Asbestos factory. The documentary made the headlines in the UK, and the British parliament was then forced to address the issue of asbestos.

The resilience shown in challenging the asbestos lobby differed from one country to the next, depending on the jobs, market and policies involved. As far back as the early 1970s, for example, Denmark had reduced and then completely banned the use of asbestos, with the exception of asbestos cement production. That exception was eventually abolished in 1986, following publication of the results of a study on workers at the Eternit factory in Aalborg. A former employee, Karl Mueller, made no effort to hide his resentment in his testimony dating from 1989:

- 'Karl, your wife says that you go for hours, days even, without uttering a word. Is that right?'
- 'Yes, that's true.'
- 'Why is that?'
- 'I don't know, I can't explain it.'
- 'You can't?'
- 'I'm angry at myself, I can't help it.'

- 'And you blame yourself?'
- 'Yes.'
- 'Do you think that's fair?'
- 'Maybe not, it's hard to say.'
- 'Do you know who's at fault?'
- 'Yes, but they won't hold their hands up. That's the sad part of this sorry story. If they had just said "Alright, we made a mistake, we'll make it right" ... it wouldn't have given us our health back, but you might say that it would've put our minds at rest.'
- 'So you would have been less angry at yourself?'
- 'Yes.'
- 'If the factory had acknowledged ...'
- 'Yes, if they had said "we did wrong, we hold our hands up" ... but no. Instead, it's as if we were the ones to blame!'

In 1986, the Belgian-Swiss group Eternit closed its factory down in Casale Monferrato, northern Italy³. Researchers from the University of Turin had demonstrated the excess mortality of the factory workers due to respiratory cancer and an abnormally high number of mesothelioma cases in the town's population. The local trade unions decided to take up the fight on behalf of all the victims. At that time, Bruno Pesce, the local trade union representative, declared: 'We want justice, but this is also a fight in the public interest which must help to inform everyone, especially the authorities, that we must stop processing and using asbestos, not just in Italy but in every country of the world. We want an outright ban on asbestos.'

Campaigns and court cases

As a result of the campaign fought by Casale's citizens, Italy prohibited asbestos in 1992. Then, in 1995, French public opinion was rocked by the scandal created by the discovery of asbestos at Jussieu University in Paris, France's largest scientific university hub. Professor Henry Pézerat had spent 20 years there exposing the pollution problem generated by the degradation of asbestos flocking. The impact of the movement established by Pézerat and his colleagues would be felt throughout France and would lead to the prohibition of asbestos in 1996, the creation of the Asbestos Victims Compensation Fund (FIVA) in 2000 and a whole raft of legal actions on the grounds of gross negligence. In France, an employee may successfully prosecute his employer if the latter is found to have committed gross negligence, having failed to protect his employees even though he was aware of the dangers of asbestos or should have known the dangers given the latest scientific knowledge. Thousands of gross negligence lawsuits were brought against employers in France before social security tribunals, thus allowing victims or their dependants to obtain compensation in addition to social security payments.

3. Read the article by Angelo Ferracuti, 'Journey to Casale Monferrato, the asbestos town', in *Hesamag* No. 22, p. 48.

In that same year, 1995, Belgium was likewise shaken by scandals involving the removal of asbestos from the Berlaymont building in Brussels, the headquarters of the European Commission. Belgian public opinion finally took heed that asbestos was a hazardous substance and realised that the risks did not end at the factory gates. In 1998, the majority of uses for asbestos were prohibited. Two years later, a brave mesothelioma sufferer called Françoise Jonckheere took the multinational Eternit group to court. Her husband, who had been a manager at Eternit's factory in Kapelle op den Bos, near Brussels, had died from mesothelioma several years earlier. Françoise had never worked in the factory, but the family home was located nearby. On learning that her sons also had lungs full of asbestos, Françoise was outraged and turned down the financial deal offered by the company in exchange for her silence: 'I said no. I don't want it. Someone told me at one point that I was the tree that hid the entire forest. That is so true. And so now I can't simply stand by and say nothing ...' After Françoise's death, her family would continue the legal proceedings that she initiated, setting up the Belgian Association for Asbestos Victims, one of whose main demands would be met in 2007 when an Asbestos Fund was created for the purpose of compensating both occupational and non-occupational (environmental) victims.

The lawsuit initiated by Françoise was a civil liability action. In Italy, and more specifically in Casale Monferrato, the victims' associations campaigned tirelessly for a criminal prosecution⁴. As testified by the wife of one of the victims, 'the incongruousness of the situation is that, in order to be able to work, you at the same time had to risk contracting an illness. That is a frightening prospect that cannot be allowed by a modern state, a state based on the rule of law, a social state, and we should all rise up against it. And yet again, here we are in Casale, the families of the victims, we are the ones who have to fight.' *'Il grande processo'* (the big asbestos trial), as it was known, ended in February 2012 with a 16-year custodial sentence for the two former directors of the Eternit factory in Casale, the Swiss Stéphane Schmidheiny and the Belgian Louis de Cartier de Marchienne. However, in November 2014, those convictions were overturned by the Court of Cassation on statute of limitations grounds. Other legal actions are still pending.

In 2017, the court in the civil action initiated by Françoise Jonckheere ultimately found against Eternit. The Brussels Court

of Appeal upheld the judgment by the court of first instance, ruling that 'the manufacturers had been aware of the dangerousness of asbestos' since the early 1960s at the very least and that 'they had actively sought to cover up its health risks'. But that symbolic victory did not, unfortunately, signal the end of the tragedy.

A story without end

Despite its ban in the European Union in 2005, asbestos continues to claim more victims every year: over 90,000 deaths were linked to asbestos in 2019, and the death toll has still not reached its peak.

Of Françoise Jonckheere's five sons, two died from mesothelioma, both at the age of 42. A third son, Eric, President of the Belgian Association of Asbestos Victims, was struck down by the same disease in 2021. In Belgium, if victims choose to accept the compensation offered by the Asbestos Fund, they cannot then have recourse to the courts unless it is to establish the company's 'wilful misconduct'. In 2022, Eric Jonckheere and his lawyer brought a new action against Eternit. They are absolutely determined to demonstrate that the circumstances leading to his exposure and subsequent illness could be classified as wilful misconduct. A wilful misconduct ruling against Eternit would also represent a victory for all the workers who had fallen victim to occupational illness and had been subject to the same rules.

The fight goes on in France too, where some 1,800 victims and their dependants are still awaiting, some 26 years after the first complaint was lodged, for the start of a criminal trial against 14 people – managers, senior civil servants, industrialists and doctors – who stand accused of having acted on behalf of the Standing Committee on Asbestos (CPA) and delaying the banning of asbestos in France by disseminating false information. For these victims, justice has still not been delivered. Will it ever be? ●

*'Do you know who's at fault?'
'Yes, but they won't hold their
hands up. That's the sad part
of this sorry story.'*



FURTHER READING

International Ban Asbestos Secretariat <http://www.ibasecretariat.org>

Jolly P. (2023) *Amiante : la tenue d'un procès pénal toujours en suspens*, Le Monde, 10 March 2023.

Mengeot M.-A., Musu T. and Vogel L. (2014) *Preventing work cancers: a workplace health priority*, ETUI.

Nay S. (1997) *Mortel amiante*, Éditions Vie ouvrière.

Roselli M. (2008) *Amiante et Eternit : fortunes et forfaitures*, Éditions d'En bas.

Traullé F. (2023) *Amiante : la dissolution, une alternative possible à l'enfouissement des déchets*, Le Monde, 10 March 2023.

⁴ The aim of a criminal case is to convict the perpetrator for an offence (with the punishment of a fine or prison sentence). It is carried out by magistrates of the public prosecutor's office. A civil case is a private action, aimed at obtaining recognition of damage in order to obtain compensation for economic, physical or moral injury. It is brought by the injured party before the civil judge.



HesaMag+

*This article is available
in the original Dutch
at www.etui.org*

Why does the Netherlands have the lowest asbestos occupational exposure limit in Europe?

Since its ban in 1994, the Netherlands has set the benchmark in Europe for a low occupational exposure limit (OEL) for asbestos, a known carcinogen. In 2017, the country reduced the OEL even further to 2,000 fibres per cubic metre. Compared to the current European standard of 100,000 fibres per cubic metre, and even to the European Commission's latest proposal to lower the limit to 10,000, the Netherlands stands out. How did unions, employers and national authorities together achieve this drastic reduction, and is it working in practice?

Pien Heuts
Journalist

Wim van Veelen, policy adviser at the Netherlands Trade Union Confederation (FNV), has no trouble explaining why the Netherlands has the lowest OEL value in Europe when it comes to occupational exposure to asbestos fibres. 'Along with the UK, we are sitting on the largest asbestos mountain in Europe,' he explains. 'More than 800 people still die each year from mesothelioma as a consequence of exposure to asbestos. Before asbestos was banned in 1994, we used it absolutely everywhere. Not only was it nice and cheap, but it was also durable as an insulating and fire-resistant material. It went into roofs, doors, stairs, walls, ceilings, installations, brake linings and in shipping too. What *wasn't* it used in? And because we know that asbestos is one of the most dangerous killers in the workplace, we've done everything we can to drastically reduce the number of fibres that workers may be exposed to and still work as safely as possible. In any case, the Netherlands is generally strict when it comes to exposure to carcinogenic substances in the workplace.'

After a ban on the use and marketing of asbestos came into force in the Netherlands in 1994, a limit of 10,000 fibres per cubic metre (fibres/m³) was included in the Dutch Working Conditions Decree. This decree contains rules that all employers and employees must obey in order to counter occupational risks and to create a working environment that is as safe and healthy as possible. Even with its national OEL of 10,000 fibres/m³, the Netherlands was the frontrunner in Europe. Most countries just adhered to the (ten-fold higher) European standard of 100,000 fibres/m³, and still do.

Wrangling over the exposure limit

Every four years, the Health Council of the Netherlands, an independent scientific council that advises the country's lawmakers, considers which hazardous substances need to be examined more closely and whether the existing OELs are still sufficiently protective from the point of view of exposure and the health impact. In 2010,

the spotlight was again placed on asbestos. The council found that the health risks of asbestos were far more serious than expected, making the limit of 10,000 fibres/m³ no longer adequate. As a result, the Health Council recommended that the threshold be lowered from 10,000 fibres/m³ to 2,000 fibres/m³ for chrysotile asbestos and to 420 fibres/m³ for amphibole asbestos¹.

However, lowering the level of exposure on paper does not automatically create safer working conditions or reduce risks. The exposure reduction needs to be achievable at the workplace and the OEL needs to be technically measurable. Jody Schinkel, business development manager at the TNO, the Netherlands Organisation for Applied

¹ Chrysotile asbestos (curled fibres) is less potent for the induction of mesothelioma than the amphibole forms of asbestos (straight, needle-like fibres).

↳ A specialist team cleans asbestos from the railway following a fire in 2014 in Roermond, the Netherlands.
Photo: © Belga



‘Along with the UK, we are sitting on the largest asbestos mountain in Europe.’

Scientific Research, knows all about this. He is responsible for the asbestos dossier at the TNO. When asked by the Ministry of Social Affairs and Employment to investigate whether the proposed lower thresholds could be achieved, the TNO assessed eight hundred personal exposure measurements collected from asbestos remediation companies. ‘We investigated the levels of exposure during the removal of asbestos. We looked at what safety measures and personal respiratory protective equipment could be used and whether the OELs were measurable. During the study, we explored whether the recommended threshold was achievable for both types of fibre: chrysotile (2,000) and amphibole (420). We found that this was the case for the first type. With the amphiboles, however, it was technically impossible to reduce the fibre concentration in the air to 420 fibres/m³ using existing methods. What’s more, such a low concentration is barely measurable with the available analysis techniques.’

The results of the TNO investigation were discussed by employers and employees on the Committee for Occupational Exposure Limits for Substances in the Workplace, which was set up by the Social and Economic Council of the Netherlands, an important advisory council for the country’s lawmakers. In 2014, social partners agreed on the OEL reduction at 2,000 fibres/m³ for chrysotile asbestos but the employers’ and workers’ representatives could not agree on the limit for amphibole asbestos, so it remained at 10,000 fibres for a few more years, against the FNV’s wishes.

Three years later, employers and employees finally agreed on the reduction of the OEL for amphibole asbestos and a favourable recommendation was then presented to the minister and set down in law. ‘We did wrangle a bit about the introduction of the lower limit,’ says Wim van Veelen, who has represented the FNV, the largest trade union in the Netherlands, on that committee for many years. ‘Employers complained

bitterly, of course, that they might have to close down or move to another country. And we, as employees, stressed the importance of a safe and healthy workplace. After all, we’re talking about this most carcinogenic substance that has taken the lives of far too many workers. Employers are well aware of this in the Netherlands, but certainly don’t always behave accordingly.’

In 2017, a legal value of 2,000 fibres/m³ was thus introduced for all types of asbestos. It was considered that at this level of exposure, the residual risk of developing mesothelioma or lung cancer in exposed workers was sufficiently low and acceptable.

European standard

The national OELs for asbestos vary from one country to another in Europe. Many countries apply the European standard of 100,000 fibres/m³, which the European Commission wants to lower to 10,000,

The residual risk of an exposed worker developing asbestos-related cancer is ten times lower with an OEL of 1,000 fibres/m³ than with an OEL of 10,000 fibres/m³.

matching that in countries such as France and Germany. The European trade unions are targeting 1,000 fibres/m³. The residual risk of an exposed worker developing asbestos-related cancer is ten times lower with an OEL of 1,000 fibres/m³ than with an OEL of 10,000 fibres/m³.

One of the TNO's conclusions is that a harmonised European approach would contribute to a level playing field. Uniform methods for measuring and analysing would be part of this. Schinkel, who emphasises that the TNO's input is purely scientific and has nothing to do with policy or health advice, says: 'It would be good if everyone in Europe could adopt the same approach to measuring and counting fibres. Right now, different countries apply various methods that produce a range of results. Asbestos removal should be carried out in the same safe manner everywhere, under the same conditions. With 2,000 fibres/m³, the Netherlands has taken a positive step, and one that is achievable in practice.'

'It really is crazy for Europe *not* to follow the example of a country where, thanks to the most advanced techniques, low exposure to a really dangerous substance is the norm. This is in the health interests of workers. The lower the exposure limit throughout Europe, the safer the workplace,' says the FNV's Van Veelen, angry because the current differentiation across the continent flies in the face of the fact that the risks of exposure to asbestos are the same in every country. 'Should a Bulgarian or Romanian employee run a greater risk than a Dutch one? Isn't Europe supposed to ensure that every worker can expect the same protection?'

Van Veelen feels that the European discussion is not being conducted honestly because the difference in measurement methods is being exploited. 'Other countries measure different, thinner types of fibre, so the results are different. On this basis, the European Commission is claiming that the proposed standard of 10,000 fibres/m³ is a bit like the 2,000 in the Netherlands. This is not a fair comparison. The Member States in Europe cannot be allowed to use different measurement methods and counting rules. We need a precise determination of exactly *what* to measure and *what* equipment to use for this. That is fundamental. If the Netherlands can get rid of such a large mountain of asbestos with a stricter standard, then surely other countries can too. We have a good approach to this. Employers and employees are in agreement on this exposure limit. That's why we are investing in protecting workers during the necessary asbestos remediation projects.'

Tough on enforcement

If you lower the limit values, you do so in the hope that the exposure will be reduced for employees, says Jody Schinkel from the TNO. 'But then employers still have to comply with the new measures in order to meet that standard, and this needs to be monitored. Responsibility lies with employers and employees. It is very much about being aware of the danger. Simply enforcing the rules is not enough.' Wim van Veelen from the FNV describes the world of asbestos removers in the Netherlands in the past as a murky one with a lot of cowboys. According to him, the strict rules on removal have ensured that more remediation firms now toe the line more, and this means that employees are better protected during their work.

Companies that remove asbestos have to be certified, and certification bodies pay a visit several times a year to check whether they are meeting the requirements. What's more, the Netherlands Labour Authority, part of the Ministry of Social Affairs and Employment, supervises compliance with the Dutch Working Conditions Act. Inspectors who suspect that asbestos is not being removed properly engage an inspector who specialises in asbestos. In addition, around a hundred supervisors from Environmental Agencies (a collaboration between provinces and municipalities) supervise asbestos remediation projects in terms of the risks to the public and the environment. 'This extensive supervision by Environmental Agencies and certification bodies means that the checks are intensive. We complement each other well,' says Louise Hontelez, asbestos programme manager at the Netherlands Labour Authority. Roughly a third of the asbestos remediation companies checked are found to be non-compliant. But the penalties are severe and range from imposing fines to shutting down operations or ordering business closures. ●

'The Member States in Europe cannot be allowed to use different measurement methods and counting rules.'

France as a laboratory of new asbestos removal technologies

France has some of the strictest asbestos regulations in Europe, and these measures have prompted a race for innovation between several companies specialising in remediation. From old train carriages to state-of-the-art robotics, *HesaMag* pays a visit to the frontlines of asbestos removal work.

Théophile Simon

Journalist

Sadak Souici

Photographer

↕ Employees of the SME recycling company recover metal parts from an end-of-life locomotive in Culoz, Ain, in February 2023.
Photos: © Sadak Souici





‘The workers can only work in 90-minute shifts, and must then pass through several decontamination chambers arranged one after the other.’

On a hot summer's day in 1997, the fax machine whirled into life in the offices of Société Métallurgique d'Épernay (SME), a company specialising in the dismantling of train carriages. Rattling frantically, the machine spat out a few terse sentences onto the paper: *Asbestos is present in the roofs of the freight wagons. Halt all operations.* The author of this missive? SNCF, France's national state-owned railway company. This was a shock for those working at the recycling plant in Culoz (Ain). Every month, members of the team would strip, shear and recycle the metal from around 250 SNCF passenger carriages and freight wagons that had reached the end of their lives. But what they didn't know was that, in order to protect the trains from the vagaries

of the elements, it had been a decades-long practice for the companies building them to coat their wagons in a layer of black Caourep – a type of asbestos-based thermal insulation that is harmless in solid form but releases hazardous asbestos fibres into the air when removed.

It was at this point in time, the late 1990s, that Europe was just waking up with dread to the scale of the asbestos-related public health catastrophe. The use and sale of the mineral had just been banned in France, and scandal after scandal was hitting the headlines. Following the SNCF fax, the 20 or so operators of cutting torches and crawler-excavators employed by SME were therefore immediately told to go home, for a period lasting several months.



↑ Michel Bonfils,
technical manager at SME,
at the Culoz site in the Ain
region.
Photo: © Sadak Souici

Early warning

Sitting in his office, which provides a magnificent view of Grand Colombier, a mountain summit in the Jura massif scarred by formidable cliffs, Michel Bonfils, technical manager at SME, talks about his memories of this period. 'We knew that if we wanted to keep the business alive, we would need to invent a new industrial process that would protect our employees from any asbestos fibre emissions, and so I set up a kind of canvas tent that made it possible to insulate the carriage from the exterior, as well as providing my teams with airtight overalls and masks.' A first site test was carried out in early 1998 under the watchful gaze of several occupational doctors and labour inspectors who had been invited especially for the occasion. Everything went smoothly, and

SME was able to resume work. Yet Bonfils continued to be plagued by the following worry: if there was asbestos in the freight wagons, what about the passenger carriages? SME was dismantling 10 or so of these carriages a month at the time, which was more than enough to expose his workers to an awful lot of risky asbestos particles.

Two years later, his concern proved well-founded. The passenger carriages were also covered in a coating of asbestos-based insulation, and thousands of trains across France would need to undergo asbestos removal. Following another site test, Bonfils decided to crank it up a notch. 'Given the overriding importance of the whole asbestos issue, we decided to diversify and establish the very first asbestos removal plant targeted specifically at the rail sector. Several million francs were invested, and we received

an initial order from SNCF for the removal of asbestos from 1,500 wagons. We quickly became an industry leader, and nowadays we generate almost a third of our turnover from asbestos removal for the rail sector.' While describing these developments, Bonfils strolls between the enormous piles of scrap originating from old carriages that are stored on the company's site. In one hangar, two workers are dismantling a TER train set in order to remove its electrical system. One hundred or so metres further on, vintage railcars hailing from the south-west of the country are waiting patiently next to Corail wagons which have already been stripped of their interior installations. Not far away, a tram from Strasbourg is going under an angle grinder, while a huge industrial clamp is picking over the remains of a locomotive shell.

↓ SME employees
dismantle a tram carriage
in Culoz, February 2023.
Photos: © Sadak Souici





Strict rules

‘Removing asbestos from a train involves using a high-pressure sand blaster to strip away the coating of insulation that contains asbestos fibres,’ explains Michel Bonfils. ‘This is a delicate operation that leads to a significant amount of asbestos being propelled into the air, and so workers must be scrupulously protected.’ Matching words with action, he enters the main building and heads for a control room packed with computer screens. Behind a glazed wall, two men with astronaut-like silhouettes, equipped with airtight overalls and masks to protect them against highly toxic chemical agents, move a

wagon covered in plastic tarpaulins over to the sand blaster. According to Bonfils, ‘The pressure inside the hangar must be kept below the outside pressure so that not a single particle of asbestos can escape. The workers can only work in 90-minute shifts, and must then pass through several decontamination chambers arranged one after the other. It takes them around 20 minutes to leave the working area.’

Once the asbestos has been removed from the train, the sand that was used during the relevant operations is sent to an approved landfill site where it will be enclosed in airtight double-layer tarpaulin, sealed and then buried. Management of both the

original work sites and the waste contaminated with asbestos is subject to extremely strict rules. In the words of Bonfils, who also chaired the national union for remediation specialists for seven years, ‘France has some of the most progressive asbestos removal regulations in Europe. SME will soon reach the end of its asbestos removal journey; the market for removal services in the rail sector is gradually drying up, since asbestos is no longer to be found in any trains built after 1997. At a whole-society level, however, the work of asbestos removal has only just begun. We spent decades putting asbestos in more or less everything – pipework, boilers, windows and even car brakes!’

A project of epic proportions

The elimination of asbestos from our modern societies is certainly a Herculean task. Thanks to its flame-retardant properties, abundance and high mechanical strength, it has been used since antiquity, and underpinned the industrial development that characterised the 20th century. At the peak of its success in the 1970s, almost five million tonnes were extracted from the earth every year worldwide, according to Swiss government literature. Around 5% of French buildings apparently still contain asbestos at present, which equates to a total of 20 million tonnes of asbestos in situ across the country, and the figures are even more mind-boggling at European level, at over 80% of the building stock.

David Chauvin, an Annecy-based deputy labour inspection director specialising in asbestos removal issues, predicts a bumpy ride: 'The risks relating to asbestos will really ramp up over the next decade as a result of the wave of renovations across Europe, and an increased number of construction workers will be exposed to asbestos during remediation works. This risk means that there is an urgent need to harmonise the European regulations. Some countries – France, for example – are far ahead of the others, particularly in technological terms. That's not because France is smarter than these other countries, but because asbestos – which was long considered miraculous, but later found to have a huge death toll – has a very specific history in this country. Stringent regulations were put in place as a proactive response to this risk.' The French legislator certainly cut no corners as far as checks are concerned. As well as an obligation for the contracting party responsible for a construction site to carry out an asbestos survey, any company in the construction and public works sector whose operations on a site involve coming into contact with asbestos-containing materials is currently required to submit to the authorities an asbestos removal plan. This plan must contain detailed specifications of the selected asbestos removal method, which must reduce to an absolute minimum any emissions of asbestos fibres and ensure maximum protection for workers.

'...asbestos is no longer to be found in any trains built after 1997. At a whole-society level, however, the work of asbestos removal has only just begun.'

↴ An SME employee dons a suit impervious to asbestos fibres before working on a train carriage.
Photo: © Sadak Souici



'The occupational exposure limit (OEL) for asbestos is 10,000 fibres per cubic metre of air, which is one of the strictest in Europe,' explains Chauvin. 'What is more, this occupational exposure during works must be measured using analytical transmission electron microscopy, which is a technology that allows the number of asbestos fibres suspended in the air to be counted with a very high degree of accuracy. Although the alternative method of optical microscopy is cheaper, it is impossible to differentiate asbestos fibres from other nanofibres such as Kevlar or cotton using this technique, which is used in the majority of other European countries.' Driven by these exacting regulatory demands, asbestos removal companies based in France are competing to find technological innovations aimed at minimising worker exposure to asbestos fibres, with robotics being a particularly vibrant area of growth.

A job for robots?

'Just take a look at this wall of filters, modelled on a nuclear power plant. You might call it our heavy artillery in the war against asbestos!' Vernon Dollander, an engineer in his 30s who manages the company DI Environnement's plant in Chalindrey (Haute-Marne) and specialises in asbestos removal for the rail sector, is the type of man who sees his projects as his babies. He refers to the compressors as 'superbly crafted' by his teams and the ventilation systems as 'stupendous', and has an admiring compliment on hand for even the smallest stainless steel weld seam. The brand-new buildings are surrounded by trains that are patiently waiting in line to be sent for asbestos removal, but that's where the similarities with the rival site in Culoz end: none of DI Environnement's workers bear the heavy responsibility of penetrating into the interior of the carriages to strip off the asbestos coating, because an ultra-modern robot does it on their behalf. Dollander's eyes glint with excitement as he explains how it all works. 'Each of the wagons is modelled in three dimensions by our teams before entering a depressurised workshop covering an area of 19,000 m³, where the air is refreshed 25 times every hour. Then the train enters a chamber where



↖ Employees of DI Environnement's asbestos removal plant prepare to enter the asbestos removal zone in Chalindrey, Haute-Marne.

↗ An employee at the DI Environnement asbestos removal plant inspects a robot in Chalindrey, Haute-Marne.
Photos: © DI Environnement

‘...we tried out some exoskeletons on some of our co-workers... We often feel a bit like sorcerer’s apprentices!’

a custom-designed robot shoots minuscule steel spheres at it for around eight hours, not missing a single square centimetre of surface. The process is fully automated – every single nook and cranny of the wagon is digitalised, so we simply plug a memory stick into the computer, and the remainder of the process is entirely hands-off. If a problem does arise, we can always control the robot remotely using joysticks. Once we even tried connecting a virtual reality headset to the whole thing.’

SME’s activities in the field of asbestos removal account for only part of its turnover, but DI Environnement has placed all of its eggs in one basket by specialising in remediation. The company, which was originally based in Montélimar, removes asbestos and lead from over a thousand sites every year. Its list of reference projects is spectacular and includes railway stations in Paris, a refinery in Alsace, a French submarine, a hospital in Côte d’Ivoire and a dam in Kyrgyzstan. High-tech

asbestos removal is a skillset that pays dividends and can be exported, all the more so because the company is renowned for its radical approach to innovation. Dollander grins at a particular memory: ‘We’re encouraged to try new things. A few months ago, for example, we tried out some exoskeletons on some of our co-workers while they were removing the equipment from the wagons. We often feel a bit like sorcerer’s apprentices!’ And this adventure in industrial developments has only just begun at the Chalindrey site, which was constructed in less than six months at the peak of the Covid-19 pandemic. Dollander sums up the situation before dashing off to admire a new train – a ‘magnificent’ train set formerly used to gather meteorological data – that has just been delivered to the company. ‘We handle around a dozen train sets every month, and we have the capacity to handle 40. What is more, our technology is capable of filtering out asbestos fibres down to occupational exposure levels that are three times lower than those currently imposed under the French regulations. I guess you could say that we’re ready for the future!’

Battle in Brussels

For both DI Environnement and its French competitors, certain chapters of the future story of asbestos removal, including the technologies that will feature heavily in this

story, are currently being written in Brussels, since the European harmonisation called for by David Chauvin is looming on the horizon. Last September, the European Commission tabled a series of measures aimed at better protecting workers who come into contact with asbestos and at removing the substance from the building stock. The Commission’s flagship proposals include an EU-wide reduction in the OEL value to 10,000 fibres per cubic litre of air, or in other words the same as the French limit. According to Ignacio Doreste, an occupational health coordinator for the European Trade Union Confederation (ETUC), ‘The limit value and the harmonisation of fibre measurement technology will be the main challenges to be tackled during the tripartite dialogue that will take place between now and June. The European Parliament’s 2021 report also contains other significant proposals, particularly in relation to compulsory employee training, the need for asbestos removal companies to be certified, and a ban on certain practices that only postpone exposure problems, such as the encapsulation and cladding of asbestos-containing materials.’ The French champions of asbestos removal can only hope that these new rules of play at European level will facilitate better protection for workers and more effective earmarking of financial incentives for asbestos removal. Time is precious, since it will take over a century to rid Europe of this deadly fibre. ●



Protective equipment against asbestos: masking the doubts

Mathilde Dorcadie
Journalist

How can we ensure that when a problem with a piece of protective equipment used by workers across Europe is identified, prompt and adequate action is taken to protect health and safety at work? In 2018, a French whistleblower sounded the alarm about faulty air filtration masks recommended for asbestos removal work. The way this case was dealt with reveals much about what still needs to be done to improve the effectiveness of worker protection.

Five years ago, in May 2018, an internal warning was issued about fan-assisted air filtration masks made by the American manufacturer 3M Scott, the market leader for this kind of personal protective equipment (PPE) used by asbestos removal workers. Technicians at certified maintenance centres in France, in charge of the mandatory annual review of this equipment, reported to the manufacturer that there were problems with the electric motors driving the air inside the mask of a worker operating in an area where the presence of asbestos fibres had been ascertained by a pre-work analysis.

In Europe, asbestos removal work is controlled by strict standards and must be carried out by certified companies using compliant equipment. The public safety risks are very high, as the European asbestos removal market covers thousands of current and future worksites, not least as a result of incentives for the energy renovation of buildings, a pillar of policies to combat greenhouse gas emissions. Given that they are dealing with a substance recognised as carcinogenic by the WHO since 1973, workers need to have access to equipment that gives the highest possible level of protection.

The Proflow 2 SC 160 Asbestos mask is a portable apparatus that injects filtered external air at a flow rate set at a minimum threshold of 160 litres per minute (l/min). While relatively easy to use, the procedures laid down by the mask's manufacturer and the health authorities must always be observed, and checks must be made to ensure that the batteries are properly charged and the filters cleaned. The airtight masks have to be decontaminated after each shift, which can take up to four hours (the standard varies from one country to another).

On the market for around 15 years, the certified model from 3M accounts for 70% of the market in its category. It is recognised by everyone interviewed by *HesaMag* as the product with the best price-quality-comfort ratio. This was true until more and more masks started to show unexpected drops in the flow rate, which can potentially affect the filtration of asbestos fibres. In addition to this, the equipment's warning systems did not seem to be functioning properly to alert users to this drop in flow rate.

A whistleblowing campaign forced to escalate

The person who had initially internally flagged the problem with the masks – potentially a very serious health threat – was shocked by the lack of reaction on the part of the manufacturer, and thus decided in late 2020 to report it externally to the French Ministry of Labour and to the National Commission on Ethics and Alerts in Public Health and the Environment (cnDAspe), a body responsible for ensuring the independence of expertise and the protection of whistleblowers. But still nothing happened for several months.

When an article appeared in the French press (*Libération*, 16 September 2021) detailing the elements provided by the anonymous whistleblower, the Directorate-General for Labour (DGT), an organisation within the Ministry of Labour responsible, among other things, for verifying PPE compliance, responded one month later with the publication of a legal notice simply reminding users to follow all the manufacturer's instructions, adding the obligation to henceforth carry out a monitoring test on the flow rate driven by the motor before each use, using a new 'indicator tube'.

↳ Airtight masks with air filtration are an essential part of the personal protective equipment used by asbestos removal workers.

Photo: © Martine Zunini

This initial (late-coming) response satisfied neither the unions nor the Maison des Lanceurs d'Alerte (Whistleblowers' Centre – MLA), an association that supports people whistleblowing in the public interest. In light of the documentation put together on the faults in the 3M product, the MLA decided to step in alongside the whistleblower who had taken the risk to report the case, to ensure that the warning was genuinely heard and dealt with by the competent authorities.

On 18 November 2021, an open letter, in which union representatives were involved, was sent to the French Ministry of Labour. 'Technically, it is more than likely that the problems have not been dealt with in depth and that there is still a hidden defect with this equipment,' insisted the concerned authors of the letter, members of the General Confederation of Labour (CGT) and the MLA.

Controversy around the solution: the 'indicator tube'

The 'indicator tube' is a small object with a gauge, which has to be fixed on the air outlet of the motor to check whether the flow rate of the air delivered reaches the regulatory threshold of 160 l/min. This solution, proposed by the manufacturer and validated by the DGT, has left companies both surprised and unsatisfied, querying whether the masks are safe. 'It's a way of getting around the problem,' thinks Yann Le Quellec, who is in charge of an asbestos removal company in Saint-Nazaire in western France. 'We would have liked the masks to be taken back and exchanged free of charge, but, instead of that, businesses have been left to deal with it and explain it to their employees,' reports this company director, who is also the chairperson of an association raising awareness about asbestos risks, CAP'Amiante.



On the market for around 15 years, the certified model from 3M accounts for 70% of the market in its category.

SYRTA, an organisation representing asbestos removal businesses, explains that this verification stage adds extra time – between 10 and 15 minutes – to the work schedule, because the flow rate test is now mandatory before each shift. 'We were surprised by this requirement at first, and we asked for greater clarity. There was a hiatus, because users are required to comply with the operating instructions, but these were not up to date,' recalls Isabelle Vio, head of operations at SYRTA. It was not until 10 months after this request for clarification, in September 2022, that 3M was pushed to produce teaching materials (including a video tutorial and information packs) showing users how to handle the tube properly. The problem is that the same effort does not seem to have been made for non-French-speaking users.

Another – and maybe more serious – subject of discontent is that the lack of support, clarity and communication is on the technical side. Denis Breteau is an engineer by training and a volunteer adviser to the MLA. Like some other specialists, he thinks that this 'indicator tube' is just a gadget. 'This plastic tool can't be called a flow meter, because it isn't calibrated. Besides, it only tells you about the flow rate before use; as it then has to be dismantled to insert the mask's hose, it doesn't give any information about the flow rate during use. And it's precisely these weaknesses with the flow rate during asbestos removal operations that cause concern,' says the engineer.

The response provided by the French regulatory authority sends users the message that responsibility for optimal protection lies with them.

The need for a Europe-wide early warning system

The investigation of this defective equipment showed that the dissemination of information to workers was limited to France and some French-speaking countries. Even though these masks are used all over Europe, it is only the French authorities that have thus far been approached to look into the problem. There is no suitable structure for receiving, dealing with and disseminating the warning in order to get the information out to all the Member States, such as France has at the cnDaspe, the platform on which the warning was first signalled and remains in place today.

'At European Union level, there's an early warning mechanism through which risks to public health can be highlighted. But there isn't an equivalent system yet to escalate issues relating to health and safety at work,' explains Rolf Gehring, occupational health and safety specialist at the European Federation of Building and Wood Workers (EFBWW)¹. Only the unions, through the European Trade Union Confederation, passed on, in June 2022, the problems identified with these masks to their members. Furthermore, the responses provided by the French authorities – who consequently considered the dossier closed – have still not been passed on by their counterparts in the other Member States (labour ministries, public health agencies, etc.). This means that even though further research was carried out, the findings were not disseminated internationally.

Finally, 3M – which has a global market for its products – has not been ordered to communicate the information to all these European users, and, up to now, it has not provided any evidence that it has done this. When questioned on this point by *Hesamag*, 3M Scott confirmed that it had only communicated with French users, following the decree issued in France, arguing that other countries had not yet questioned the product's control standard.

If this type of alert, concerning a potential danger to workers' health, were launched directly at European level, then the public authorities of the Member States, the multinationals and, ultimately, workers throughout Europe could have access to transparent and standardised information and rules. But for the time being, such a project does not seem to be on the agenda. ●

Outstanding issues and lost confidence

'We've been taken aback by the way in which this matter has been handled by the public authorities and 3M, particularly when you consider that people's lives are at stake,' remarks Yann Le Quellec. The response provided by the French regulatory authority sends users the message that responsibility for optimal protection lies with them. This is the feeling shared by all the interviewees. In the exchanges that they have had with the multinational, 3M says that its equipment is still in line with the standards, and it has kept its marketing authorisation. For the French National Association for the Defence of Asbestos Victims (ANDEVA), this argument raises many questions. 'What they said was that the drop in the flow rate could be caused by incorrectly charged batteries or blocked filters. But they avoid broaching a third possibility that makes people angry, which would be premature battery fatigue,' highlights Alain Bobbio, the association's national secretary. 'There has also been no feedback about the cryptic warning messages displayed by the device which require a certain kind of training from the user.'

Secondly, the DGT reports that it carried out tests on new and used masks in 2022. However, the initial whistleblower (who wishes to remain anonymous) told *Hesamag* that they had not been contacted and listened to as part of the investigation by the public authorities. This seems astonishing, given the 'importance of their testimony and their legitimate interest in this subject,' as stressed by Juliette Alibert, the MLA's lawyer. The status of whistleblower was, incidentally, recognised by the French cnDaspe, an independent authority.

For the MLA team dealing with the file (which, it says, is still open), the general way in which the public authorities have handled this issue raises a lot of problems. 'First, we can see that they've been dragging their feet,' affirms MLA volunteer Denis Breteau – even if the DGT is reporting that it has been overwhelmed by cases relating to worker protection during the Covid-19 crisis. The fact remains that, for many months, workers simply had to continue carrying out operations that were dangerous to their health, using equipment that had been flagged as defective in France and elsewhere – except in cases where operations were deliberately halted. 'We took the decision to stop doing this kind of work until we had answers, because we don't have any guarantee for our employees, but I know other firms that haven't taken any measures,' says a French-speaking Belgian businessman, testifying anonymously, who found out about the mask problems from the French press.

¹ See interview in this issue, p. 38.

Firefighters push back against cancer: 'It's going on every day, on every shift'

If there's anything close to heroes in our society, it's probably firefighters, who constantly risk their lives on the job. Yet beyond the obvious dangers of burning buildings, a silent disease is killing them: cancer. Their work brings them into contact with harmful substances such as asbestos that lead them to fall ill. According to unions, preventive action is needed now.

Tom Cassauwers
Journalist

Even today, many older buildings still contain asbestos. Which means that when they burn, firefighters come into contact with it.

'For a long time, we didn't know. All we knew was that our friends and colleagues were falling ill and dying,' says Riccardo La Torre, a national officer at the UK Fire Brigades Union (FBU).

Being a firefighter is a dangerous profession, but it's not just scorching fires or collapsing buildings that are life-threatening. When fire consumes buildings it also burns its materials, which can contain harmful substances. Firefighters breathe in the soot or it touches their skin, leading in some cases to cancer. According to a study conducted in the UK by the University of Central Lancashire, cancer death rates among firefighters are 1.6 times higher than for the general population.

'These threats don't kill in an instant,' says Szymon Kokot of the Polish firefighters union the CFBT. 'What causes a serious illness is prolonged exposure, which might only show up after decades or even into their retirement. It's going on every day, on every shift.'

Increasing scientific evidence and union campaigns across the world are, however, now spurring regulators and employers into action. In July 2022 the International Agency for Research on Cancer (IARC), the cancer agency of the World Health Organization (WHO), released a monograph on cancer risks among firefighters. A team of experts went through the scientific literature and classified occupational exposure for firefighters as carcinogenic (Group 1), i.e. an exposure for which there is 'sufficient' evidence of cancer (mesothelioma and bladder cancer).

In the meantime, union campaigns in countries like the US and Canada have been successful in classifying certain types of cancer as work-related diseases for firefighters. The same endeavour is now being made in Europe. The European Commission has proposed to update the Asbestos at Work Directive, which could push Member States and local governments to take more action on firefighter safety.

Asbestos: one of the biggest killers

The ways in which firefighters can contract cancer are diverse. They face a variety of (burning) materials and substances on a daily basis, which can range from oils to notorious carcinogens like asbestos, or even harmful chemicals like PFAS (polyfluoroalkyl substances) that resist grease, water and oil, contained in fire-resistant gear or foams to put out certain fires. Firefighters breathe in or even ingest these substances in some cases, but can also absorb them through their skin.

One of the most notorious materials they come into contact with is asbestos. Asbestos was historically used for constructing buildings, but it was banned in 2005 from new constructions in the EU because inhaling its fibres can cause cancers such as mesothelioma or lung cancer. Yet even today, many older buildings still contain asbestos. Which means that when they burn, firefighters come into contact with it. '70,000 workers died of past exposure to asbestos in 2019,' says Kim Nikula of the Finnish firefighters union SPAL. 'Every death related to work is too much. It should be zero.'

Unions are arguing for a range of measures to reduce these risks. A first step is prevention, which can range from good decontamination procedures to the redesign of fire stations to increase ventilation. Swedish unions have been particularly active in this area. 'During a fire, dangerous particles float in the air,' explains Mikael Svanberg of the Swedish union Kommunal. 'They fall on the fire gear and the equipment. After the fire, when firefighters leave the area, they bring this contaminated gear

A first step is prevention, which can range from good decontamination procedures to the redesign of fire stations to increase ventilation.

back to the fire station. Over the years, a lot of these contaminants are brought back. The soot also comes into contact with the skin and even the eyes. The biggest contamination risk is not necessarily breathing, but exposure to the skin. When you want to quit smoking you buy nicotine patches. These contaminants enter the body in the same way. This can lead to cancer.'

To combat this, Kommunal set up the Healthy Firefighters project, which introduced protocols to reduce firefighter's exposure to carcinogens – also called the Skellefteå Model. The model includes actions such as decontaminating the fire-resistant suits that firefighters wear, which in turn requires investment in specific equipment, like airtight cases to store contaminated suits after a fire, washing machines with enough capacity, and the presence of well-ventilated areas in the fire station to carry out decontamination. It is not, however, always easy to convince governments to make these investments.

'In Sweden we have 145 different fire departments, divided by municipality,' says Svanberg. 'The majority have used our Healthy Firefighters model to improve their situation. But some still don't have any systems in place to deal with contaminants. Sweden does relatively well in this area, but even here there are gaps. The problem is always money, some municipalities don't want to invest in these programmes.'



↑ Fire is not the only risk to firefighters.
Photo: © Belga

Catch it early

Prevention, however, is not enough. Firefighters need to know when they are being exposed to harmful substances, and their health needs to be well monitored. The European Federation of Public Service Unions (EPSU) is arguing for a Europe-wide asbestos registry that notes all buildings where asbestos is located. This could help firefighters to know when they need to use certain protective gear or implement decontamination procedures, but also who has been exposed to asbestos. 'Firefighters need to know whether a site has asbestos when they're called there,' says Paola Panzeri of EPSU. 'Today, however, it's not compulsory to track the exposure of firefighters to carcinogens like, among others, PFAS or asbestos.'

In some countries such registries already exist, for example in Finland. But for it to be effective, they need to be coupled to regular health checks, which so far are missing. 'We have a Finnish registry of workers exposed to carcinogenic substances,' explains Nikula. 'But it doesn't tell us who gets cancer, just who gets exposed to these materials. We need to do a follow-up here.'

Back in the UK, Riccardo La Torre agrees that health monitoring is extremely important. The FBU has set up a cancer and disease registry, where firefighters can

notify the union of their health conditions. 'We found that firefighters get diseases like cancer at a much higher rate than the general population, yet they're also getting diagnosed at a late stage, where treatment is harder,' says La Torre. 'Detecting disease earlier is key for better chances of survival, which is why we're arguing for annual health checks, continuing into retirement.'

Burden of proof

A third element unions are arguing for is that firefighters who do develop cancer should receive the support they need – which is why they are calling for so-called presumptive legislation. In most European countries, when a firefighter gets a form of cancer related to their work, it is not automatically classified as a work-related disease (with the associated benefits). This is a situation that has to change, according to the unions.

'When a firefighter gets cancer today, they have to prove it was connected to the job,' says Kokot of Polish union CFBT. 'A few countries, however, like Canada, the US, Australia and New Zealand, have introduced something called "presumptive legislation". If you have been a firefighter for a certain amount of time and get a certain kind of cancer, then it's automatically covered as a work-related disease. The burden of proof is no longer on the firefighter. This shifts the responsibility away from the individual, and to the state. This in turn incentivises governments to take prevention seriously, because investing in issues like cleaning, ventilation and education is cheaper than paying medical fees.'

Firefighter unions are now pushing for reforms. But one major problem has been a lack of funds among the employers. In most European countries fire services are operated by the local governments, and these aren't always willing to allocate sufficient funds to health and safety measures.

In the UK, firefighters have been the target of regular rounds of austerity, which is hindering their fight against cancer. 'Our government has slashed funding to the fire and rescue services,' says La Torre. 'Over

the past ten years the budgets have become very stretched. It's very hard to fund the necessary facilities. We have a particularly anti-worker government in power, who are looking to rip up health and safety rights. We have a challenge on our hands. But it's one we're willing to take on, because this is front and centre for firefighters. Speak to any firefighter in the UK, and you won't find one of us who isn't affected directly or indirectly by cancer.'

European action?

At the level of the European Union, however, something seems to be moving. The European Commission is set to adopt new measures on asbestos, which might introduce some of the measures firefighters have been arguing for, and pressure governments to do more.

'Firefighters put their lives on the line, but they are not receiving adequate protections from disease,' says Panzeri. 'They need recognition that their profession is carcinogenic. The WHO has even said so. Now it's the EU's turn to take that knowledge and convert it into measures that will prevent firefighters from getting cancer, and help those that already got it.'

Political action, in other words, is necessary. And firefighters are now pressuring politicians to defend their interests. 'Firefighters in many countries are the profession with the highest level of social trust,' says Kokot. 'The public supports us, and doesn't want us to get sick. So I hope that politicians will take up our demands, and show their support as well. Because this is a moment where we really need it.' ●

In most European countries fire services are operated by the local governments, and these aren't always willing to allocate sufficient funds to health and safety measures.

The fight in Brussels for better protection against asbestos

Interview by
Tony Musu
ETUI

The European Federation of Building and Woodworkers (EFBWW) fights for the rights and working conditions of its 1.5 million affiliated workers in the construction, woodworking and forestry sectors. HesaMag met with Tom Deleu, EFBWW General Secretary, and Rolf Gehring, Political Secretary for Occupational Health and Safety, to talk about asbestos, an issue which, as the sector whose workers are most impacted by its harmful effects, has been central for decades in their advocacy work towards the EU institutions.

➔ **The construction sector is one of the most dangerous sectors in EU to work in. What are the main occupational safety and health issues facing construction workers today?**

Rolf Gehring (RG) – Workers in our sector are confronted with a variety of traditional and new risks: exposure to hazardous substances, materials and equipment that are often not ergonomic, heavy physical working conditions and, lately, increased psychosocial risks. All this results in a high incidence of accidents, occupational diseases and deaths. After a period of reduction in the numbers of accidents, in some countries they have been going up again in recent years due to a deterioration of working conditions in the sector. The significant number of occupational diseases is also worrying. Skin cancers from exposure to the sun are on the rise and asbestos-related diseases remain at a high level: the latter account for around 90,000 deaths each year in the

EU, which is more than three times the annual number of fatal accidents in road traffic. Unfortunately, asbestos-related deaths receive less attention from the public and the authorities than road traffic fatalities.

➔ **Your sector has a high rate of cross-border workers, self-employed workers, and also non-documented workers. Does this pose difficulties for the prevention of occupational accidents and diseases?**

Tom Deleu (TD) – The construction sector has a highly mobile workforce with many posted and migrant workers, who are often on precarious contracts. This is due to the internal market rules for the posting of workers, and to the competition between companies which leads to complex chains of sub-contractors. But it is also due to the fact that unskilled workers can easily find a job in our industry. Prevention is always more difficult when workers are

not aware of the risks they are facing because they didn't receive proper training or they are coming from countries with a less strict health and safety culture. It is not uncommon to see workers on construction sites without helmets or wearing T-shirts or sports shoes rather than the adequate equipment. However, one should not generalise: the sector has also many companies that are great to work in.

'Annual asbestos-related deaths are more than three times the number of fatal accidents in road traffic.'

↳ Tom Deleu, EFBWW General Secretary (left), and Rolf Gehring, Political Secretary for Occupational Health and Safety, in Brussels. Photo: © Aymone Lamborelle, ETUI



➔ **The EFBWW has been campaigning on the asbestos issue for decades now. Why is this issue so important to you ?**

RG – The Scandinavians were the first to ban the use of asbestos in the early 1980s. They were also the first to understand that the ban was not the end of the problem. Asbestos is everywhere. Millions of tons of asbestos were extensively used all over Europe in public and private buildings and in thousands of different industrial and everyday products. Asbestos degrades slowly and it will take a long time for our societies to get rid of this deadly substance. Moreover, asbestos cancers usually take 20-40 years to develop after the exposure, and since asbestos was only banned at EU level in 2005, we can still expect additional victims in the future. Victims are typically workers who have been exposed during the installation, repair or removal of asbestos-containing products – or their family members who have been passively exposed through contaminated work clothes brought home. It is estimated that there are currently more than seven million workers exposed to asbestos in the EU, mostly in the construction sector. With

the EU's Renovation Wave and the agreed objective to improve the energy efficiency of the European building stock, over 220 million of buildings containing asbestos will have to be demolished or refurbished. A new generation of workers will therefore be at increased risk of exposure to asbestos. This asbestos legacy therefore remains a huge problem for our societies to solve.

➔ **The EU has legislation on the prevention of risks related to asbestos exposure at work. Is this legislation not adequate?**

RG – Those 90,000 worker deaths each year tell us that there is no doubt that the Asbestos at Work Directive (AWD) is not delivering. This Directive was adopted in 1983, a long time before the 1989 Framework Directive on Occupational Safety and Health, which is the starting point for any real ambitious EU policy on workers' protection. While some of the provisions of the AWD are adequate, many are completely outdated. For example, the current occupational exposure limit (OEL) value is 100,000 fibres/m³, which is not protective enough. Then we have the concept of 'sporadic and short term exposure',

which is used to justify the waving of some of the requirements of the Directive, despite the fact that any exposure to asbestos carries a risk of developing cancer. And finally, the Directive allows for the encapsulation or sealing of asbestos-containing materials, which only leads to the postponement of their removal and a transfer of the problem to the next generation.

The scope of the Directive also needs to be improved as it is not clear whether all workers exposed to asbestos are covered by it – for example, teachers and office workers who are passively exposed every working day in premises where asbestos is degrading. Some of the prevention measures are not appropriate and do not reflect the latest knowledge and technical possibilities. The training requirements of asbestos workers should also be reinforced as too little has been done on that score at national level. And the Directive's list of occupational diseases caused by asbestos needs an update since new evidence has been acquired over the last 40 years on different types of asbestos cancers.

Thankfully, the European Parliament has called for progress in all these areas identified by trade unions.

'Prevention is always more difficult when workers are not aware of the risks they are facing.'

→ **Speaking of the European Parliament, MEPs have taken up the asbestos issue on several occasions and in 2021 prepared and adopted a so-called 'own-initiative legislative report'. Why is this report central to the current debate on asbestos?**

TD – This 2021 report on asbestos is indeed extremely important. It was adopted by an overwhelming majority of MEPs (more than 96%), which means a broad support across all political groups. This report is central because it proposes a holistic approach to solve the problem of the asbestos legacy, and particularly significant in light of the Von der Leyen Commission's commitment to take on board proposals and initiatives from the European Parliament to improve the living and working conditions of European citizens. The measures proposed by the Parliament would allow for a comprehensive EU policy on asbestos, as they include the adoption of a framework directive setting out minimum requirements for national asbestos removal strategies, the setting up of public asbestos registries, financial support to homeowners, better recognition and compensation for asbestos victims, provisions for safe disposal of asbestos waste, and of course an ambitious revision of the AWD with an updated binding OEL of 1,000 fibres/m³. This is an important signal to European citizens that the EU is able to propose consistent policies.

→ **In September 2022, as a follow-up to the European Parliament resolution, the Commission published both a Communication on 'Working towards an asbestos-free future' and a proposal for a revision of the Asbestos at Work Directive. What is your take on these two initiatives?**

RG – We welcome the Communication, which aims to tackle asbestos in a comprehensive way, as demanded by the European Parliament. We particularly appreciate the new legislative proposal to be put forward on the screening and registration of asbestos in buildings, because this is a precondition for safe interventions during the renovation wave. We are also satisfied with the proposal to include additional asbestos-related diseases in the recommendation concerning the European schedule of occupational diseases. However, we regret the fact that there is no legislative proposal to set minimum EU standards for the recognition and adequate compensation of these occupational diseases. Furthermore, a framework for national-level removal plans is missing.

TD – In general, the European Commission proposal for the revision of the AWD is too minimalist. It is focused only on a reduction of the OEL value from 100,000 fibres/m³ to 10,000 fibres/m³.

→ **And where are we at in the negotiations on the AWD between the European Council and the European Parliament?**

TD – On the Member States' side, the Council has also adopted a position on the basis of which it will negotiate with the European Parliament. EU Member States support the OEL proposed by the European Commission, which is only a tenfold decrease compared to the value currently in force. Negotiations are currently taking place in the form of trilogue meetings with the European Parliament, the Swedish Presidency of the Council of the EU and the European Commission. If the negotiations are not concluded by the end of June 2023, they will have to continue under the Spanish Presidency.

RG – Both the Council and the Parliament want to use a more modern and sensitive method for counting asbestos fibres, i.e. electron microscopy (EM). This is the only method suitable for the detection of thinner asbestos fibres, which are also carcinogenic. Member States would have a transition period to comply with the new methodology requirements, in order to allow enough time for a successful transition from the measuring method mainly used today,

phase-contrast microscopy (PCM), to the new EM method. The Commission would be tasked with supporting Member States throughout this switch of measuring method, and there is also agreement that during this transition period the measuring methods currently in use may remain in place.

However, there are still divergent views on how long the transition period should be and the final value of the new OEL. In our view, it is crucial to adopt a new binding OEL of 1,000 fibres/m³. This limit value is technically feasible in all Member States and would be a real step forward for the protection of all workers exposed to asbestos.

→ **Whatever the final compromises, the new text will have to be transposed in the different Member States and then applied in construction companies across the EU. What is your relationship with employers in the sector and what role can European social dialogue play in the implementation of the Directive?**

TD – We have a very well established social dialogue with the European Construction Industry Federation (FIEC), the European employers' organisation in our sector. We sometimes have different views on some topics but when it comes to occupational health and safety, the implementation of EU law, or good practices, our relations are very good and very pragmatic. What has been decided at EU level must be implemented in companies and it is a common duty with our counterpart, but also with prevention services, to help put the new legal provisions in place and develop a protective health and safety culture at workplace level.

The EFBWW and FIEC also have a long tradition of cooperation in the field of asbestos risk prevention. As far back as ten years ago we had a joint project on asbestos information modules, aiming to better train professionals exposed to asbestos. The European social dialogue is also used to exchange views on what works well with the legal requirements, and what is more difficult, and this helps to formulate the next round of legislative initiatives at EU level. When the revised Asbestos at Work Directive will be adopted, we of course look forward to continuing the good cooperation with the EU employers' organisation. ●

Asbestos in the Tripode, a warning for Europe

The Tripode building in Nantes, France, which housed government offices, was destroyed in 2005. It contained 350 tonnes of asbestos. Trade union delegate Francis Judas, who was instrumental in the fight to secure recognition of the occupational illnesses of employees caused by exposure to asbestos in the building, tells *HesaMag* the story of the Tripode and explains why exposure throughout the working day to 10,000 fibres per cubic metre is equivalent to a death threat for workers.

Mehmet Koksak
ETUI

The Tripode, which owes its name to its shape, a star with three arms, was a building located on the Île de Nantes. It was constructed in 1972, to a design by the architect Jean Dumont, to house departments of the French Ministry of Foreign Affairs, INSEE (the French Statistics Institute) and the Treasury. 'Following an idea of General de Gaulle's, the creation of the Tripode tower in Nantes in the 1970s was an initiative to decentralise ministries from Paris,' explains Francis Judas, a member of the inter-union association on asbestos in Nantes. 'The building was symbolic; it was opened by the French Prime Minister at the time, Michel Debré, in very grand style. To some extent, it was a foretaste of what the future of France and its regions could be. The building housed several ministries and employed many young school-leavers, especially women, to file administrative records and perform the data-input and card-punching work required in order to digitise knowledge. Recruitment began in 1972, and fairly soon there were between 700 and 800 people working full-time in the tower.'

According to Judas, the unions organised the new employees and the inter-union association started raising awareness about health and safety after a series of arson attacks within the building. 'We quickly

realised that the fire safety precautions in the building were very perfunctory and that the relevant people were not complying with standards. As a result, we began to look closely at occupational safety matters, including asbestos.'

At that time, in the 1970s, an industrial scandal had led to asbestos being much discussed in France, focusing the attention of French trade unions on asbestos-related risks: the Amisol factory affair. This factory spun and wove asbestos in Clermont-Ferrand. It had been abandoned by its owner while the workers tried to relaunch production to save their jobs, but they realised they were heavily exposed to asbestos. Henri Pézerat, a physicist at the Jussieu Science Faculty of the Paris University, played a key role as a whistle-blower with the creation of the Anti-Asbestos Committee. 'You could say there was a point where the two areas, namely industrial scandal and scientific expertise, converged to warn against the danger of asbestos exposure' recalls Judas. Meanwhile, at the Tripode, the first document from the General Confederation of Labour (CGT) delegation on asbestos was released in 1976; at almost exactly the same time, a full study by the French Democratic Confederation of Labour (CFDT) was distributed among workers in the building.



↑ The Tripode was demolished in 2005.

'Get out of there!'

In 1980s France, the asbestos industry associations succeeded in establishing a Standing Committee on Asbestos (CPA) that brought producers, government, trade unions and physicians together. In the eyes of the authorities, it became *the* point of reference, and it mandated 'controlled usage of asbestos' on French territory. The use of asbestos was thus extremely widespread in France.

Between 1985 and 1989, the inter-union association at the Tripode began asking the government questions. 'We'd heard that samples of asbestos dust had been taken and demanded to see the results,' says Judas. 'At the time, the standard was two fibres per cubic centimetre, or 2,000,000 fibres per cubic metre. The sampling results were well within the standard, so we were told that there was no danger. The Ministry of Health sent us a pamphlet from the Standing Committee on Asbestos. We also sought an opinion from the Anti-asbestos committee at Jussieu, which told us we were in real danger. The factor that swayed our opinion was unquestionably our contact with the Lyon office of the WHO's International Agency for Research on Cancer (IARC), which had come across asbestos on its premises. They told us in no uncertain terms: "Get out of there!"'

In 1989, collective action among workers at the Ministry of Finance began, and was reflected in Nantes in very significant mobilisation in the Tripode building. It led to the establishment of hygiene and safety committees in local offices, and asbestos was at the top of the agenda. Simultaneously in Brussels, at the end of the decade, the decision was taken to vacate the European Communities' Berlaymont building and remove the asbestos from it. 'The vacating of the Berlaymont was important news for us that confirmed the IARC's warnings,' says Judas. 'It was a ringing endorsement of the claims made by the people sounding the alarm bells. It also influenced the board of INSEE because its directors

'The International Agency for Research on Cancer told us in no uncertain terms: Get out of there!'

'As employer and lawmaker, the state had not put the necessary laws in place to protect the workers it employed from the risks of asbestos.'

held regular meetings in the building. INSEE was deeply affected by the affair. In Nantes, the inter-union association at the Tripode mobilised strongly, and asbestos became a recurring issue. It went for decision to the then Minister for Finance, Pierre Bérégovoy, who decided to vacate the building in 1992. Social tensions were running very high, and it was rumoured that asbestos was much more dangerous than the Standing Committee on Asbestos had actually said.'

The strategy of the inter-union association was to ring the alarm bells in the local media, which were very sensitive in Nantes to asbestos-related questions (particularly at the port, shipyards and naval yards), on several occasions seeking second opinions from independent experts to challenge management strategy, as well as highlighting similar news events such as the Berlaymont evacuation. But the work of the inter-union association was not restricted merely to issuing warnings – the trade unionists also succeeded in establishing specific rights for workers.

Dying from lung cancer at 40

'Before the building was vacated, we secured the right to specific medical monitoring (X-ray and functional respiratory examination every five years) for every individual who had worked in the tower,' Francis Judas explains. 'In all, 1,800 people have had access to the monitoring, bearing in mind that most senior management did not want to register. The specific medical follow-up means we have remained in contact with staff who have moved on to other things since the Tripode was vacated in 1993. In 1995, we lost a young electrician who died from lung cancer at 40 – he'd been in the Tripode less than 10 years! We then sought acknowledgement that his cancer was an occupational, asbestos-related disease. In 1999, another professional worker died, also from lung cancer, at the age of 43.

Other maintenance workers had died young in previous years, but at the time it hadn't occurred to anyone to make the link to asbestos.' The inter-union association thus became involved in a legal battle to have the cause of these deaths recognised as an occupational disease.

In 2001, the French state decided to remove the asbestos in the Tripode in order to demolish the building – but there was still no acknowledgement of occupational disease. This posed a problem for the inter-union association, as the demolition carried the inherent risk of destroying all evidence of exposure. It therefore decided to initiate legal proceedings to obtain an expert opinion on the Tripode ultimately conducted with reports approved by the Administrative Court of Nantes.

In 2005, following the removal of 350 tonnes of asbestos, staff were in the front row for the big show: the demolition of the Tripode.

At the request of the inter-union association, an epidemiological study was also obtained. Its first results were issued in 2006-2008, and the unions noted that there was a very high number of deaths as a result of tumours – many more than would be assumed for the general population. The inter-union association was able to call on INSEE statisticians to unpick the epidemiological studies and received important second opinions on each of the reports. With the support of the French Health Authority, it also obtained access to scanners for medical follow-ups, which are much more accurate than X-rays in testing for asbestos.

'We finally secured automatic liability in respect of the recognised asbestos-related diseases in France towards the end of 2009,' says Judas. 'We also succeeded in achieving automatic liability in respect of two other cancers – cancers of the ovary and larynx. In 2016, we initiated proceedings for injury caused by anxiety, a case that was almost unique in France and Europe. Following three years of proceedings, we can say that it was worth it, because more

ECHA estimates for asbestos-related cancers are severe underestimates

Tony Musu, ETUI

According to European Chemicals Agency (ECHA) estimates set out in its opinion on asbestos published in September 2021¹, which the European Commission used as the scientific basis for its proposal for a new limit value, an occupational exposure limit value of 10,000 fibres per cubic metre is associated with a residual lifetime risk of developing cancer for 12 out of 100,000 workers. In other words, if 100,000 workers are exposed to this concentration of asbestos for an average of 8 hours per day, 5 days a week, over a 40-year career, this is the likely number of asbestos-induced cancers that would occur.

However, in view of the actual, extremely well-documented experiences of workers in the Tripode, we can only conclude that the Helsinki-based agency's estimates are not reliable.

The data from epidemiological studies conducted on Tripode workers and a control cohort of other officials show that, of the 1,795 workers who had worked in the Tripode between 1972 and 1993, 31 have already died from a cancer attributed to asbestos exposure.²

Measurements of airborne concentration of asbestos fibres taken in various offices in the 18-storey building in 1980, 1985 and 1990 show relatively constant contamination levels over time in the order of 15,000 fibres per cubic metre.³

A quick calculation shows that 31 deaths from cancer among 1,795 people exposed to asbestos over a period of up to 20 years at a concentration of around 15,000 fibres per cubic metre (and therefore close to the new limit value proposed by the European Commission) is equivalent to 1,727 deaths per 100,000 people: over 100 times more than the ECHA estimate.

The Tripode experience therefore shows that the ECHA has seriously underestimated the residual lifetime risk of asbestos-exposed workers developing cancer.

This significant disparity between the ECHA estimates and the deaths from asbestos-related cancers actually observed across the various Member States has been sharply criticised and pointed out to the European Commission by workers' representatives during the consultations on the review of the limit value.⁴ Unfortunately, the European Commission has failed to take them into account and has based its proposal on biased estimates.

1. <https://echa.europa.eu/oels-activity-list/-/substance-rev/50202/term>
2. Summary of the results of the 'Tripode' epidemiological studies released by the French government in an official letter of 29 August 2022 to officials who, during their careers, had worked in the Tripode building and participated in medical monitoring.
3. Archives of the Tripode inter-union association of Nantes consulted by the ETUI – final report of Mr Paul Roder to the Administrative Court, Nantes, of 23 December 2002.
4. Opinion of the Advisory Committee on Safety and Health at Work (ACSH) on an Occupational Exposure Limit Value for Asbestos – Doc. 008-21 adopted on 24 November 2021.

than 200 cases were acknowledged. The ministries have not appealed the decisions.' Judas interprets this as 'a way for the ministries to go some way to trying to correct the balance, given their failings in the 1970s and '80s. As employer and lawmaker, the state had not put the necessary laws in place to protect the workers it employed from the risks of asbestos.'

Repeating the Tripode experience on a European scale?

Reacting to the negotiations on asbestos currently underway at European legislative level, Francis Judas says that the limit value of 10,000 fibres per cubic metre proposed by the European Commission is 'completely untenable'. 'I remember that we measured between 3,000 and, at most, 120,000 fibres per cubic metre in the Tripode. The limit value proposed by the European Commission therefore risks repeating the catastrophic experience of the Tripode on a European scale. There is already living proof that an exposure of 10,000 fibres per cubic metre causes disease in humans, and this is equivalent to authorising asbestos to be in permanent circulation. It would undoubtedly lead to continuous inhalation of asbestos regardless of the protection methods used, causing progressive intoxication. Our epidemiological study clearly shows that there is excess mortality at exposure to rates of 10,000 fibres. We have an average loss of life expectancy of two years compared to fellow civil servants who worked in other buildings with no asbestos flock. For example, people whose floor tiles are degraded are clearly in danger when they walk on them because they were laid before the ban on asbestos in 2005. There are still horrendous amounts of asbestos everywhere in Europe.' The only real solution, he says, is effectively to do away with the cause of asbestos fibre emission. 'Ten thousand fibres per cubic metre will mean we're condemning thousands of workers to death by asbestos,' he concludes. ●

'The limit value proposed by the European Commission risks repeating the catastrophic experience of the Tripode on a European scale.'



You freeze or you fry: coping with Quebec's climate on construction sites

Annie Landry

Director of Health and Safety, Quebec Federation of Labour (FTQ)

The province of Quebec in Canada is a place of extreme temperatures, and construction workers are on the frontline of exposure to the seasons. The sector is more used to the hardships of winter and has generally learned how to adapt, but the increasingly hotter summers are posing new challenges and exposing the cracks in occupational health and safety measures. Make sure you're appropriately dressed for this tour through the snow and the sun.

The climate in Quebec varies enormously from one season to another. Summer may see several periods of intense heat, with temperatures exceeding 30°C, while winter brings several periods of extreme cold, when the thermometer falls below -20°C. Quebec Province as a whole covers a surface area three times greater than that of mainland France, and the further north you go, the colder it becomes and the more infrequent heatwaves are.

This climate poses a number of challenges in maintaining safe conditions for those who work outside. Construction workers in particular are on the front line of these climate challenges. Even though the industry is 100% unionised, the working environment is difficult and the legislative framework little known. Employment is insecure: workers' jobs are never guaranteed from

one site to another, and they have to travel over wide geographical areas to secure an income. This creates a situation that fosters abuses and non-compliance with the legislation in force.

The sector is governed by specific laws that impose occupational health and safety measures. Project managers and employers are legally obliged to adhere to strict procedures relating to the presence of thermal stress. They should follow the guidelines of the American Conference of Governmental Industrial Hygienists (ACGIH) for measuring and predicting the impact of heat and cold on humans. However, these guidelines are complex and not widely known to either workers or employers. Therefore, the management of risks relating to thermal stress on construction sites seems to depend more on the prevailing culture than on the current legislation.

Winter

In the Montreal area, down in the south of Québec, the cold creeps in from October onwards. The temperature increasingly often drops to freezing point. On building sites, propane heaters are brought out, trailers are heated, chemical toilets are covered to prevent them freezing, and everyone puts on their winter coat. As thermometer readings fall still further, workers cover their hands, their heads and finally their faces. But it is only really in January and February that the periods of intense cold set in and working hours on building sites have to be adjusted. Some sites may close down until the temperature comes back up a little, and workers take more breaks in order to warm up: the vast majority of employers are fairly cooperative in accommodating workers' needs.



↑ Posters from an FTQ campaign on heatstroke: 'Die of heat? No way! Your employer doesn't take measures to protect you? File a complaint with the CNESST'



1. The wet bulb globe thermometer provides an index that takes into account temperature, humidity and solar radiation. It is used to estimate heat stress at work.

Although the effects of cold on the human body are gradual, they are hard to miss. Almost everyone who grows up in Quebec learns from a young age how to recognise the sensation of tightening or burning skin, or the painful numbness of fingers and feet, and knows what to do to prevent frostbite and hypothermia. This early knowledge of the dangers of cold – acquired long before they encounter the realities of life on a construction site – remains with the workers: they know what to do to counter them, and this is an accepted part of the job.

Construction workers mostly buy their own personal protective equipment (PPE), and the relevant collective agreement provides for compensation of between 0.50 and 1.50 Canadian dollars for every hour worked, according to the trade concerned. Therefore, workers themselves are responsible for being suitably dressed against the cold, and employers are very rarely concerned with their workers' winter garments. The item of PPE that remains most problematic in winter is protective footwear – which is obligatory on all construction sites, of course. Most safety boots do not give effective protection against extreme cold, and those that do are more expensive. Given that the extremities are already more sensitive to cold than the rest of the body, inadequate footwear can lead to frostbite.

From the employers' point of view too, continuing work in extremely cold conditions is not desirable: work rates slow, and some tools cannot be easily operated in the cold – or, according to the manufacturer's instructions, should not be used at all. For example, hydraulic cranes and goods lifts are affected by temperatures of -15°C , at which point loads have to be reduced by 25%; if the temperature then falls

below -40°C , operations have to stop. This means that the project manager may close a construction site when the weather is too cold: if this closure is announced the day before, workers will not be paid for the day lost. However, if the site is closed during the course of the working day, the relevant collective agreement provides that workers should receive pay equivalent to four hours at their normal wage.

In these circumstances, despite the fact that the accepted rules for preventing cold-related risks are generally not well known, construction sites in the south of the province see few serious occupational injuries of this type. In fact, there are almost no cases of hypothermia or frostbite. In contrast, in Nunavik, the vast northern area of Quebec Province, the cold is extreme: taking into account wind chill and other factors, it can feel like -60°C . It is only there that procedures to combat the cold are seen as highly important and implemented more systematically. In this dangerous environment, meetings take place every day before work starts, to discuss health and safety and, in particular, the temperature, wind chill, symptoms of hypothermia, and mandatory working in pairs.

Summer

Historically, extreme summer heat has not arrived in the south of Quebec before July and has lasted only until the end of August, with just a few days of heat above 30°C . But with climate change, this is increasingly less the case. Heatwaves may occur in the Montreal area as early as May, and can last for more than a week. Furthermore, areas further north that have never experienced extreme heat are now increasingly facing this danger. In contrast to what happens in winter conditions, there are deaths every year from heat stroke, mainly in the construction and agricultural sectors.

Quebec's workers are as yet much less familiar with the effects of heat-related stress and strain on the human body. Heatwaves do not allow people to gradually acclimatise to working in hotter conditions, as the ACGIH guidelines recommend. And in any case, neither acclimatisation measures nor the Wet Bulb Globe Temperature (WBGT) index¹ are in widespread use on construction sites, even though this is the method that appears in the occupational health and safety regulations. Even recently, not all inspectors from Quebec's Commission for Labour Standards, Equity and Occupational Health and Safety (CNESST) had access to

In Nunavik, the vast northern area of Quebec Province, the cold is extreme: taking into account wind chill and other factors, it can feel like -60°C.



wet bulb globe thermometers, even though they are responsible for applying the regulations. The CNESST bought a supply of these thermometers only after a campaign by the Fédération des travailleurs et des travailleuses du Québec (Quebec Labour Federation, FTQ) encouraging workers to make a formal complaint to the CNESST if their working conditions exposed them to heat.

A campaign like this was needed because workers still know little about the risks of heat or how to recognise the first warning signs that they are under threat of physical injury. Most of the time, work continues at the same rate, without breaks and without access to water, even during heatwaves. Until very recently, it was difficult for construction workers to get bottled water on site or to take breaks in the shade. But attitudes are slowly changing and action is being taken. Appropriate measures are increasingly being implemented, at least on construction sites with more than 100 workers. Pre-shift meetings more frequently discuss heat prevention measures, and there have been instances of refusal to work in conditions that are too hot. In 2016, some workers downed tools on a construction site at the University of Montreal Hospital Centre, where they had been exposed to temperatures above 32°C with a humidity level of 70%. Several workers suffered heat stroke, and in the end the CNESST closed the site down until the project manager could guarantee adequate cooling of the building under construction. Unfortunately, such closures are rare in the summer – unlike in the winter – and, at best, site managers organise things so that work stops at the beginning of the afternoon in order to avoid the hottest period of the day: however, they do not introduce longer breaks or slow down the pace of work. A lot of workers feel that their employer is looking after them when energy drinks or frozen snacks are provided – which is a long way from what the regulations in force require.

Finding ways forward

In general, people on construction sites, whether employers or workers, are unfamiliar with the current regulations for hot or cold conditions. What is more, applying the principle of acclimatisation does not really work in the context of a rapidly changing climate. The CNESST is a body that involves both sides of the industry, and therefore the unions asked for the regulations to be amended to force employers to take the measures needed to mitigate the effects of heatwaves. However, lack of willingness on the bosses' side meant that the unions' demands were unsuccessful. This was the context in which the FTQ launched its campaign 'Dying of heat? – No way!', which starts up again every spring in order to alert workers to the risks associated with heat stress, increase the number of complaints to the CNESST and generally promote a more proactive approach to this risk. In addition, from 1 January 2023, the Act respecting Occupational Health and Safety (LSST) has required all sites with more than 10 workers to have a health and safety representative (RSS). Assuming that it is put into effect and that risks of reprisals for RSSs – who are still in an insecure employment situation – are monitored, this new approach should help. ●

Quebec's workers are as yet much less familiar with the effects of heat-related stress and strain on the human body.

Out in the cold

Worksite at a hydroelectric dam in the middle of winter - La Romaine, an Innu reserve in Quebec, Canada

Photos reportage
Emile Desroches-L.

↴ A health and safety
representative in
discussion with a worksite
manager.

↵ Temporary diversion
of the river at the
Romaine-4 dam.

Photos: © Emile Desroches











↩ A worksite trade union representative at Romaine-4.

↑ The Romaine-4 power station under construction, seen from the other side of the Romaine river.
Photos: © Emile Desroches



↑ Lodgings at the
Romaine-4 worksite
at dawn.
Photo : © Emile Desroches



↑ An electrician gets ready for his shift on the banks of La Romaine.
Photo: © Emile Desroches



Workplace health and safety protection: a long and winding road

The protection of workers from risks to their health and safety at the workplace is nowadays often taken for granted in the advanced economies of Europe, North America and Australasia. It is easily forgotten that the development of a legislative framework on occupational health and safety in fact involved a prolonged struggle, requiring substantial worker and community mobilisations against the powerful vested interests of capital to secure even the most minimal protections.

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The world's first significant legislative interventions in worker safety occurred in the merchant marine and factories in the first half of the 19th century in the UK and other European countries. Early laws were narrow in scope, such as specifying food rations or supplying lime juice to seamen to prevent scurvy, as well as restrictions on the employment of children in factories. And there were serious deficiencies in enforcement of even these minimal protections. Over the course of the 19th and into the 20th century additional laws were introduced to cover mines, railways, shops, construction sites and other high-risk settings (though by no means all) in western Europe, Canada, the US, Australia and New Zealand. These later became the model for other countries as well as for some International Labour Organization (ILO) conventions.

Of equal importance was the introduction of 'no-fault' workers' compensation legislation (claims based on a causal link between work and injury without the need to demonstrate employer negligence), pioneered in Germany in the 1880s and gradually extended to other countries, which provided some measure of financial compensation to workers who had been maimed or injured, or to the families of those killed at work. It was extended to include (albeit incompletely) occupational diseases and ultimately psychosocial harm.

All these developments can be considered the fruits of campaigning by organised labour. The union movement, its political representatives, and community alliances such as the anti-sweating leagues were pivotal in the struggles to secure and expand prevention laws and ensure that they were (at least to some degree) enforced.

It takes a disaster

Worker mobilisations were able to secure reforms due to the context of enormous death tolls, major disease outbreaks and disasters, and the threat of serious social upheaval. In the maritime industry, for example, the sinking of hundreds of unseaworthy vessels and particular disasters like the loss of the grossly overloaded *SS London* in the Bay of Biscay in 1864 inflamed public outrage, sometimes sufficiently to wring reforms from governments (which were often riddled with the representatives of employers', ship-owners' and merchants' interests). Tens of thousands of shipboard protests (over 567 in Australian waters alone between 1790 and 1900) over unseaworthy, poorly rationed or unsanitary vessels also had a significant influence – an episode largely lost to history.

The history of mine safety legislation in Europe, North America and Australasia has often repeated a similar pattern: legislative reforms have only been secured after a particularly egregious mine disaster (or a string of them) that blighted entire communities. The same again for factories: building collapses and fires – such as the 1911 Triangle Shirtwaist factory fire in New York which killed 146 predominantly immigrant women – played a role in bringing about factory reforms in the old industrialised countries. If there were any doubt about the continuity of such practices or ensuing disasters in the modern world, incidents like the 1979 Kader fire in Thailand and the 2013 Rana Plaza building collapse in Bangladesh provide more than enough evidence. This continuity encompasses both the current trend in which multi-national companies outsource the production of goods to poor, unregulated economies with a weak presence of organised labour and facilitate their sale in high-income economies through global supply chains, as well as the need for major tragic incidents to occur before reforms are implemented. The largely trade union-orchestrated reforms that followed Rana Plaza, such as the successful Bangladesh Accord on work safety in the garment industry, further demonstrates the relevance of these lessons.

Worker mobilisations were able to secure reforms due to the context of enormous death tolls, major disease outbreaks and disasters, and the threat of serious social upheaval.

Down with sweated labour

Where death by injury or disease was prevalent but not associated with conspicuous disasters – in dock work, for example, which was dominated by precarious workers and difficult to unionise – regulatory intervention was often more belated. From the 1840s and more especially the 1870s there was growing recognition of the sweated labour problem. Sweating referred to the employment of workers, predominantly women (and children) as garment makers, working excessive hours in small workshops or at home (in family groups) for payments that barely sustained their existence and certainly didn't maintain their health. Exacerbating the hazards, workshops and homes were generally crowded and unsanitary, poorly ventilated and heated, and conducive to the spread of infectious disease. Sweated labour was common in subcontracting arrangements that facilitated hyper-exploitative and hazardous work practices – as it still is, and not only in the informal economies of low-income countries, but in advanced economies too.

In the 1880s, British medical journal *The Lancet* conducted its own inquiry into sweating, finding it to be widespread in the UK while simultaneously noting similar problems in France, Germany and other countries. Similar reporting and ensuing debates occurred in Canada, the US and Australia. Union campaigning and a series of damning government inquiries into sweating (for which unions marshalled critical evidence) between 1889 and the 1920s led to tighter restrictions on factory registration and controls on subcontracting work. This, together with minimum wages, maximum-hours legislation and greater union strength to report breaches of legislation and ensure collective bargaining, eventually reduced sweating.

Protecting workers health, safety and wellbeing was thus not simply a concern for the OSH legislative sphere but depended too on the regulation of wages and hours, not to mention the capacity of unions to represent and bargain on behalf of workers. Again, developments were based on prolonged struggles 'from below'. Union-initiated 'hour campaigns' included the eight-hour day (which Australian building workers secured in 1855-6), the early closing movement amongst shop assistants, and the more broad-based half-holiday movement (a harbinger of the weekend model we now have). Health-related arguments (even including references to climatic conditions) were prominent in all three. Early shop-closing agreements repeatedly collapsed and shop assistants' unions turned to legislation. Australia was actually a pioneer in this area, often reforming at a faster pace than the UK; despite this being where many of these movements originated, actual gains often arrived far later. Victoria (then a colony, now a state in Australia) introduced the first law in 1885. It was narrow in scope and difficult to enforce but it set a precedent, and over the next 30 years better laws were enacted in Victoria and many other jurisdictions – with unions again doing their utmost to ensure compliance. Similarly, the half-holiday movement transitioned into mandatory legislation in the first decades of the 20th century. New Zealand and Australia introduced minimum wage laws from the 1890s, with UK and US government assessments of them between 1907 and 1916 concluding that the incidence of both sweating and child labour had declined. These laws subsequently became common across Europe and North America.



↩ Worker health and safety today owes a lot to a history of struggles from below.
Photo: © Belga

Sweated labour was common in subcontracting arrangements that facilitated hyper-exploitative and hazardous work practices – as it still is.

But wage laws generally only applied to employees, not to self-employed workers, as many subcontractors were. Subcontracting became less prevalent but didn't disappear, and in industries where it remained common, this form of employment continued to exacerbate OSH risks. Today, digitalisation is among the factors that have helped facilitate its return and growth in a number of existing and new (for example, Uber-type food delivery) areas which have evaded existing legislative protections and ushered in a new age of sweated labour with all its attendant OSH risks and social harm. One way some legislatures have tried to address this problem can be seen in the recent re-fashioning of OSH laws in Australia and New Zealand to better address complex work arrangements by replacing references

to 'employee' with 'worker', and grouping an array of other duty-holders (including employers) under a more encompassing term: 'persons in charge of a business or undertaking' (PCBU). While platform work is continuously portrayed as a new type of work arrangement it is essentially just another form of subcontracting, in which work (and the surveillance of it) is enabled through a website or app. Unions in South Korea and Australia have campaigned for 'safe rates' (pay at a level which does not undermine OSH standards) to protect subcontracted transport and digital platform workers – a concept also adopted by the ILO in recognition of how hazardous low pay is, as well as how it contributes to the manifest social inequalities evident in measures of population health outcomes.

The rise of workmen inspectors and employee health and safety representatives

The 1970s and 1980s saw a major overhaul of OSH laws in many countries, again precipitated by labour mobilisation, which rationalised pre-existing laws, introduced general duty provisions and filled a number of regulatory gaps. One of the most critical changes in western Europe and Australia was the introduction of employee health and safety representatives, which became one of the founding principles of the ILO's OSH Convention (155).

In the 1970s, the widespread official introduction of health and safety representation was seen as innovative, which it was for most workplaces. However, worker representation in OSH oversight and enforcement has far deeper origins, a brief examination of which offers some important insights. Statutory measures giving workers and their unions rights to appoint their own 'workmen's inspectors' of health and safety arrangements in coal mines had first appeared in the UK some hundred years earlier. Such measures quickly spread to British colonies in Australia and Canada. In Australia the regime also applied to metalliferous mining; its extension to other workplaces was a policy of the Labor Party (1890 to circa 1940). Meanwhile, parallel development of similar statutory measures took place elsewhere in Europe, such as in France and Belgium, or were sought after, such as by miners in Germany.

Historical research indicates several common features in these developments that provide some important lessons for worker OSH representation today. Firstly, in every case the measures were the result of the mobilisation of workers around their common concern for their health and safety. This was made possible by the close-knit nature of trade union solidarity in the areas where coal was mined and where miners,

One of the most critical changes in western Europe and Australia was the introduction of employee health and safety representatives.

their families and their social organisations had developed a level of cohesive community, political and labour organisation, and autonomy. The political power of mining unions, derived in part from the economic importance of coal and in part from their inter-organisational solidarity, allowed mobilising around health and working conditions to achieve parity with organising for better pay. It was also a result of the deep distrust held by miners concerning the motives of the coal owners and their managers, and the complicity they observed between these owners and government inspectors. Its spread was further made possible by the highly developed internationalism of the mining trade unions and the regular international meetings that took place during this period, despite the difficulties of international travel at the turn of the century.

The result was a robust and effective representation of workers' interests and safety, and an organised resistance to the exploitation of their health. This is a contrast to

today's spurious notions of common interest in 'managing safety and health risks', concepts of 'safe behaviour', or adherence to an 'organisational safety culture' determined by corporate interests. Nevertheless, worker organisation is still evident today, notably in the successful actions of union representatives looking after site safety in Australian coalmines, who are the direct descendants of the workmen's inspectors that were brought into being at the end of the 19th century thanks to campaigning efforts. Effective representation is still present in some workplaces and sectors but it is far less evident overall, as a consequence of the extensive erosion of organised labour that has been the result of collusion between the state and capital over the last half century in most countries.

The history of OSH demonstrates the need for renewed campaigns to strengthen worker involvement in safeguarding their health and safety in all high-hazard industries and beyond. ●



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Newsflash

Telework Observatory established by the CGT

On 15 December 2022, the French union of professionals and skilled workers of the General Confederation of Labour (Ugict-CGT) launched the Telework Observatory (l'Observatoire du télétravail). The Observatory is a resource centre and place of exchange which, according to its president Louis Erb, will enable analysis of 'the basic transformations around the expansion of telework'. The Observatory's activities will include the production of research and surveys, the organisation of thematic webinars, the monitoring of collective bargaining, and participation in European trade union work, via the ETUC or Eurocadres.

'The Ugict-CGT has for many years had a very strong credibility on the subject of telework,' stressed National Secretary Sophie Binet. The confederal organisation conducted two major surveys, in 2020 and then again in 2021, which garnered over 15,000 responses. At the European level, Ugict-CGT chairs Eurocadres, the trade union organisation for professional and managerial staff.

On 4 October 2022, EU-level negotiations on telework commenced, with the aim of updating the 2002 Framework Agreement on Telework. Binet welcomes this development, underlining the fact that '[S]ince the pandemic, telework concerns a majority of professionals and managers'. In this context, the Observatory has the double ambition of 'feeding research with field experiences and feeding trade union struggles with scientific expertise'.



15,000
responses to Ugict-CGT telework surveys

International agreement in arts and entertainment sector

Following tough negotiations, major international unions, employers, industry bodies, and governments came to an agreement in February 2023 to advance workers' rights in the arts and entertainment sector. The main outcome is a blueprint aimed at addressing 'decent work deficits', including measures such as limiting working hours, providing comprehensive social protection to all employees and freelancers, and using public funding to address skills shortages. Among other provisions, the blueprint calls for strong labour inspection systems to ensure safe and healthy working environments, addressing violence and harassment, and investment to create a greener industry.

Due to the Covid-19 pandemic, the European cultural and creative industry lost more than 30% of its revenue in 2020, leaving thousands of workers with almost no resources and highlighting structural inequalities within the sector. Artists, creators and cultural operators were severely impacted by the enforcement of social distancing measures and the consequent postponements, cancellations or closures.

Philippa Childs, Vice President of UNI Global Union's Media Entertainment & Arts sector (UNI MEI) said: 'We've made a lot of progress, and these conclusions will enable us to put pressure on employers and governments around the key items on our agenda, particularly the issue of long hours in our industries'.



2,900
workers from 61 companies involved in trial

30%
of European cultural industry revenue lost in 2020



4-day week trial in the UK

A recent pilot program in the United Kingdom has demonstrated that reducing working hours results in significant benefits to employees' wellbeing and productivity.

Non-profit organisation 4 Day Week Global, the UK's 4 Day Week Campaign and think tank Autonomy conducted a six-month trial of a 4-day week with no loss of pay for the employees. Running from June to December 2022, the trial involved approximately 2,900 workers from 61 different companies, including non-profits, manufacturers, finance firms, and even a fish-and-chip shop. Participating companies had to grant workers a 'meaningful' reduction in hours, either in the form of a four-day week or a five-day week but with shorter workdays or schedules. In both cases, weekly hours had to average out at 32 hours over a year – instead of the UK's current 48 hours.

Companies rated their overall experience of the trials an average of 8.5/10, with business productivity and business performance each scoring 7.5/10. Revenue rose by 35% over the trial periods compared to similar periods from the previous year and hiring increased, while absenteeism decreased. Workers overwhelmingly approved the new arrangement. They reported less work-related stress, lower rates of burnout, and higher job and life satisfaction. 46% of employees reported being less tired, and three in five found it easier to balance work with care responsibilities at home. Consistently with the ratings from company owners, a majority of employees reported working at a faster pace.

25% of jobs to be cut in 4 months



Major job cuts at French federation of health mutuals

The National Federation of the French Mutuality (FNMF), the representative body of the majority of health mutuals in France, announced plans to cut at least 62 jobs by July 2023 – just over a quarter of the workforce. The redundancy plan was denounced by the staff representative body of the FNMF, the social and economic committee (CSE), which criticised the ‘brutal character of the measures and the way they are being carried out, which ‘does not correspond with the values of the mutualist movement’.

In France, salaried workers are expected to take out a mutual insurance policy, with employers covering at least 50% of the cost. However, according to figures reported from the DREES, the official statistical service of the Ministry of Solidarity and Health, ‘the market share of mutuals has been gradually declining over the past few years [...] as has the number of mutuals that are members of the federation. The membership fees paid by mutuals have also fallen in recent years.’ This situation, according to the FNMF, has led to a reduction in its financial resources.

According to the CSE, in December 2022 the board of directors agreed on a timeline of four years, rather than four months, for a gradual reduction of jobs and a return to a more balanced financial situation. The CSE accuses Eric Chenut, President of the FNMF of now pursuing this far more contracted timeline due, in his own words, ‘to his own convictions’.

EU takes action on endocrine disruptors

The European Commission has adopted legislation amending the EU CLP Regulation on the classification, labelling and packaging of dangerous chemical substances and mixtures to introduce a new hazard class for endocrine disruptors. Endocrine disruptors are substances or mixtures of exogenous chemicals that have the ability to interfere with the hormonal system and can therefore induce adverse health effects. The new hazard class will consist of two categories: category 1 for known or presumed endocrine disruptors and category 2 for suspected endocrine disruptors, both for human health and the environment.

In this revision of the CLP Regulation, new hazard classes have also been introduced for other harmful substances: persistent, bioaccumulative, toxic (PBT) and very persistent and very bioaccumulative (vPvB) substances that do not degrade in the environment and can accumulate in living organisms, and persistent, mobile and toxic (PMT) and very persistent and very mobile (vPvM) substances that can end up in all parts of the water cycle, including drinking water.

Manufacturers and suppliers of these substances or products containing them will therefore have to re-evaluate them and, if they meet the classification criteria defined in the regulation, they will have to label them accordingly in order to inform users (consumers and workers) of the dangers involved. The revision will apply from 1 May 2025.



2 categories in new hazard class

5 of the countries studied have specific legislation on telework



EUROGIP report on telework legal provisions

A new report from EUROGIP, an organisation working on issues related to insurance and prevention of accidents at work and occupational diseases, provides an analysis of the legal provisions on telework and recognition of accidents at work in seven European countries: Austria, Finland, France, Germany, Italy, Spain and Sweden.

The health crisis has led to an unprecedented acceleration of telework. However, there is currently no European legislation specifically concerning telework. This comparative analysis shows that Member States are attempting to provide a legislative response, but it also shows that the approaches differ significantly. With the exception of Finland and Sweden, the countries studied by EUROGIP have legal definitions and/or specific legislation on telework, stipulating certain precise conditions such as duration, agreement with the employer, and choice of telework location. The employer generally remains responsible for the health and safety of workers, even at a distance, in accordance with the Framework Directive (89/391/EEC3) and other specific directives.

On the other hand, all the countries covered by the study mention the difficulty, if not the impossibility, for the employer to check compliance with the applicable standards, and to carry out inspections of the workplace, often private, without the consent of the teleworker. Furthermore, accidents occurring during telework journeys are not always covered.



Martine's story

Laurent Vogel

Martine, a former nurse aged 62, first learned that she had breast cancer back in 2009. Some 13 years later, in March 2023, her breast cancer was officially recognised as an occupational disease when the management at Sarreguemines Hospital, where she had worked for 28 years, confirmed the opinion of the Medical Council for the French *département* where the hospital is located. Martine was awarded compensation for a 35% incapacity for work.

Martine's story was reported in a lot of French newspapers, both local and national. The reason for this attention was simple: this was the first time in France that a nurse who had worked nights regularly for many years had breast cancer recognised as an occupational disease. And, unfortunately, France is far from exceptional; only a few countries, such as Denmark, have shown a lead in this regard.

In principle, legal systems provide a route that should be simple and easy: once there are scientific data establishing a causal link between exposure and disease, not just in one individual but at the collective level, an occupational disease will be recognised by relying on the presumption of this causality. In practice, the situation is very different. As far as cancers are concerned, only a small minority are recognised as occupational diseases, despite proven exposure to carcinogens at work. And when it comes to female cancers, the situation is even worse.¹

So what made the difference in Martine's case?

Certainly not the science. Data establishing a link between night work and breast cancer have been available for many years. Ever since 2007, on the basis of several scientific studies, the WHO's International Agency for Research on Cancer (IARC) has been in a position to classify shift work that involves night-time working as a probable carcinogen in humans. Chemical exposure also contributes to these cancers. In many occupations significantly dominated by women, such as work in hair salons, nail bars or beauty parlours, some of the cosmetic products can cause breast cancer if used in large doses over a long period. There is also an established link between pesticides and breast cancer. Nurses are often exposed to both night working *and* carcinogenic substances.

Furthermore, Martine's case was not an exceptional one. Breast cancer is the most common cancer among women. In 2020, according to the World Health Organization, around 2.3 million new cases of breast cancer were diagnosed across the world, and some 685,000 women died from the disease. In the 27 countries of the European Union, there were more than 350,000 new cases and more than 90,000 deaths. So there are tens of thousands of Martines across Europe every year.

In fact, victory was achieved in Martine's case precisely because it was no longer just Martine's case: instead, it was taken up collectively.

Since 2017, the miners' trade union in the Lorraine region – a branch of the French Democratic Confederation of Labour (CFDT)

– has made breast cancer one of its priorities, focusing on prevention, compensation and trade union action to improve working conditions. Yes, that's right: the miners' union. Miners in Lorraine have a long tradition of fighting for occupational health rights: this union was the prime mover of major legal advances in France that recognised the mental distress caused when workers are exposed to serious risks.² The mines may have closed, but the last generation of miners is still fighting for health rights at work. Despite the closures, the legacy of the mining system is a dedicated social security scheme and healthcare facilities. Nowadays, most of the union's members who are still active in the labour force work in those areas – and so retired miners have been able to successfully apply their experience of collective action in order to support women working in the mining healthcare system.

The Lorraine CDFT Miners Federation set up its 'breast cancer collective' in 2017. They started by launching a campaign to raise awareness and then went on to conduct a workforce survey. This gathers detailed information from working women about the real conditions of exposure to carcinogenic substances or processes in their work, covering the current situation in the healthcare sector and in air transport. It has a twofold aim: to equip trade unionists to demand more effective prevention measures in their workplaces and to obtain compensation for cases of breast cancer recognised as occupational disease.

Four cases claiming compensation for breast cancer have been put forward, and around 20 others should not be far behind. Three cases were rejected, and the trade union has decided to mount a legal challenge to these refusals. Up to now, therefore, Martine is the only one to have received compensation payments. But her victory represents a major step forward for all women workers whose breast cancer may have been caused by exposure at work.

1. For a detailed analysis, see Marchand A. (2022) Mourir de son travail aujourd'hui. Enquête sur les cancers professionnels [Still dying from work. A survey of occupational cancers], Editions de l'Atelier.

2. Koksai M. (2020) The last battle over coal: the recognition of occupational damage to miners' health, HesaMag No. 22, 38-43.



Review

***The Sitting Duck (La Syndicaliste):* the grave consequences of speaking out**

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***The Sitting Duck*, a French-language film directed by Jean-Paul Salomé and released in March 2023, is based on a book (ed. Stock, 2019) by journalist Caroline Michel-Aguirre about her investigation into this true story.**

This film revisits a landmark affair from the early 2010s: Maureen Kearney was a trade unionist within the French Democratic Confederation of Labour (CFDT) and a European Works Council member in the nuclear power company Areva who revealed a deal between Areva, French utility company EDF, and the Chinese General Nuclear Power Group (CGN) – and who was later brutally assaulted. The director, Jean-Paul Salomé, skilfully addresses a range of major social issues, including the vulnerabilities and risks faced by whistleblowers and the failings of the judicial system, particularly in its dealings with women.

The film opens *in medias res* with the event that proved to be the turning point of the whole affair: the assault on Kearney which took place at her home on 7 December 2012. She was found by her cleaning lady tied to a chair, an ‘A’ carved into her stomach and a knife handle pushed between her legs. The entire film centres around this incident, with the action split into two parts.

The first half of the film tells the story of the series of events that led up to this assault, revealing the escalation of tensions that originated from a change of management, from one presented in the film (sometimes to the point of caricature) as having a more transparent style and committed to fostering positive trade union relations, to a more opaque presence that regards employee representative bodies (and their members) as a nuisance. The matter in question – the handover of cutting-edge knowledge to the Chinese in preparation for the building of a new nuclear reactor in that country – was a story of national import at the time. When the events took place, Areva was in financial difficulties and represented a key challenge for successive French governments, particularly from the perspective of preventing widespread lay-offs in the run-up to a presidential election.

Maureen Kearney’s name kept on coming up in connection with the affair; the press highlighted her role in the demands made to management for the text of the agreement to be made available to employees, but also her efforts to draw the attention of the French government to what was going on. The daily newspaper *Libération* stopped just short of explicitly linking the assault on Kearney to the agreement concluded between Areva and China. Areva responded promptly the following day by announcing its intention to sue the newspaper for defamation.

The film shines a light on the limitations of the system for protecting whistleblowers. From a legal point of view, whistleblowers

had no specific protections back in 2012, since it was only in 2016 that the status of whistleblower was instituted under French law, and only in 2022 that it became possible to log a report without going through the normal management channels. It is, however, questionable whether Maureen Kearney would have been any less in danger thanks to the official prohibition of certain retaliation measures (intimidation, for example) that now exists.

The second part of the film does an excellent job of highlighting the judicial harassment experienced by the protagonist. According to the actress Isabelle Huppert, who plays her in the film, she suffered a ‘double penalty’: ‘First the assault itself, and then the fact that no one believed her.’ The film tells the story of how – against a backdrop of violence and institutional pressure – Kearney went from being regarded as a victim to a perpetrator, buckling under the pressure applied by investigators and their threats of reprisals to her family and making a confession which she later retracted. The harsh sexism baked into the investigation (which was conducted mainly by men) is expertly depicted, with the film emphasising how the emotional pain experienced by victims of sexual assault is not simply ignored, it is exacerbated by the modes of investigation chosen (in particular the use of gynaecological examinations). While being interrogated again about her assault, Kearney is asked why she did not put up a fight, whether she yelled for help, and if not why not – with the underlying implication that she did not ‘behave’ like a victim.

In a parallel way, in a scene showing the initial trial, when Kearney states that her employer was known to have a temper, the judge tells her that this was understandable given that she had essentially bullied him for months in her capacity as trade union delegate. Union work and the right to information are here viewed as an annoyance, even by the judicial system, and the bullied becomes the bully. After being sentenced at first instance on the grounds of making ‘false accusations’, Kearney was finally acquitted in 2018 by the Versailles Court of Appeal. Although she has still not been recognised as a victim, despite the overturning of her guilty verdict, that may well change thanks to the impact of this film. After having watched a screening, French MP Clémentine Autain and her party La France Insoumise called for the opening of a parliamentary committee to investigate the matter, which she has described as a potential ‘national scandal’.



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