

## Protection of workers from the risks related to exposure to asbestos at work

Impact assessment (SWD(2022) 311, SWD(2022) 312 (summary)) and a subsidiarity grid (SWD(2022)310) accompanying a Commission proposal for a directive of the European Parliament and of the Council amending Directive 2009/148/EC on the protection of workers from the risks related to exposure to asbestos at work, COM(2022)489

This briefing provides an initial analysis of the strengths and weaknesses of the European Commission's impact assessment ([IA](#)) accompanying the above-mentioned [proposal](#),<sup>1</sup> submitted on 28 September 2022 and referred to the European Parliament's Committee on Employment and Social Affairs (EMPL). The proposal would amend the Asbestos at Work Directive ([2009/148/EC](#), AWD) to improve the protection of workers by lowering the current occupational exposure limit value (OEL) for asbestos, given the latest scientific knowledge and technological development. This initiative, included in the [Commission's 2022 work programme](#), is in line with the [European Pillar of Social Rights action plan](#), the [EU strategic framework on health and safety at work for 2021-2027](#), and the [Europe's Beating Cancer plan](#). It also takes into account the [European Green Deal](#) and the [renovation wave strategy](#). In October 2021, the European Parliament called, in its legislative own-initiative [resolution](#) on the protection of workers from asbestos, among other measures, for the lowering the existing OEL for asbestos (0.1 fibres/cm<sup>3</sup>) to 0.001 fibres/cm<sup>3</sup>. The European Commission carried out a two-stage consultation of the social partners, in line with Article 154 of the Treaty on the Functioning of the European Union (TFEU); however, the social partners decided not to negotiate an agreement on the revision of the AWD.

### Problem definition

According to the IA, the **problem** to be addressed is that asbestos, a highly dangerous carcinogenic agent, is the major contributor to occupational cancer and the main cause of work-related deaths. The IA explains that occupational cancer causes 52 % of work-related deaths in the EU (2017 data), and 78 % of occupational cancers in the Member States are asbestos-related (especially mesothelioma and lung-cancer). Asbestos can also cause other diseases such as pulmonary fibrosis (asbestosis) and pleural plaques. The progressive restriction of the use of asbestos in the EU started in 1988; since 2005, all forms of asbestos have been banned in the EU. While the ban covers the manufacture, processing and extraction of asbestos, it does not cover the disposal and treatment of products in asbestos removal and demolition works. Workers can also be exposed to naturally occurring asbestos in mining work or excavation of tunnels. The IA estimates that there are 1.55 million companies involved in work with asbestos and that 4.1 to 7.3 million workers are exposed to asbestos in the EU (of whom 3.5 to 5.5 million experience sporadic and low-intensity exposure). Some 97 % of these workers are in the construction sector and 2 % in the waste management industry. The exposure risk is linked in particular to the handling of asbestos and dispersion of asbestos fibres during renovation and demolition work. The IA also reports of domestic exposure when asbestos fibres are brought home by exposed workers. There is a long latency period (at least 10 years, 30 years on average) of asbestos-related diseases (from exposure to the first symptoms), and the IA mentions, for example, that in 2019, the estimates indicate a total of 71 750 deaths in the EU-27 due to past occupational exposure to asbestos. The IA explains the



consequences for workers from the ineffective prevention of their exposure to asbestos, such as premature deaths, health problems, health-related costs and reduced family income. Companies incur costs due to absenteeism of workers, reduced productivity and staff replacement. Member States have faced higher social security costs (medical treatment, work incapacity) and foregone tax revenues. The IA mentions that, for example, the costs related to lung cancers caused by asbestos exposure are estimated at €35-76 billion in the EU. The IA notes that the number of asbestos-related occupational disease cases may be underestimated due to limitations as regards data (e.g. the relation between exposure levels and the associated risk, the exposure duration, causal link/a long latency period) (IA, pp. 3-12).

The protection of workers against risks related to exposure to asbestos is regulated by the Asbestos at Work Directive 2009/148/EC (AWD). The IA refers to the most recent [evaluation](#)<sup>2</sup> of the AWD (2017 ex post-evaluation of the EU occupational safety and health (OSH) directives) – in line with the 'evaluate first' principle – which concluded that the AWD was still fit for purpose and remained highly relevant and effective. However, there is evidence to support a lowering of the OEL to increase the relevance and effectiveness of the AWD; this could have been explained more (IA, p. 11).

The IA identifies three **problem drivers** (pp. 6-12):

D1) Exposure of workers to asbestos entails serious health risks.

D2) The EU OEL (0.1 fibres/cm<sup>3</sup>) is out of date, and there are different levels of protection in the EU Member States. According to the June 2021 scientific [opinion](#) of the European Chemicals Agency's Committee for Risk Assessment (RAC-ECHA), which is based on a [scientific report by ECHA](#), 'asbestos does not have a safe exposure level, which means that any exposure to asbestos may eventually cause an asbestos-related disease'. Therefore, the opinion did not suggest any limit value but instead presented the relationship between exposure levels and the associated risk (exposure-risk relationship). The tripartite Advisory Committee on Safety and Health at Work (ACSH) adopted an [opinion](#) in November 2021, in which the stakeholder groups (governmental/employers'/workers' groups) consensually agreed on 'the need to substantially revise downwards the existing binding occupational exposure limit to better protect workers' health and safety'. The IA explains that three Member States have binding OELs below the current EU OEL (Netherlands: 0.002 fibres/cm<sup>3</sup>, Denmark: 0.003 fibres/cm<sup>3</sup>, and France: 0.01 fibres/cm<sup>3</sup>) and one Member State (Germany) has, in addition to the binding limit value (0.1 fibres/cm<sup>3</sup>), the mandatory guidelines obliging measures that would bring the exposure concentration below the 'acceptance level' (0.01 fibres/cm<sup>3</sup>).

D3) Renovation of old buildings is expected to accelerate with the European Green Deal. The IA refers to the [renovation wave strategy](#) to make buildings more energy efficient; therefore the exposure of workers to asbestos is likely to increase in all EU countries in coming years. This is because 85 % of the EU's building stock was built before the asbestos ban.

Without EU action, workers would continue to face a risk of developing occupational cancers or other serious diseases. The IA expects that 884 cancer cases and 707 deaths would occur in the EU in the next 40 years, and the estimated health costs for cancer cases range between €228 million and €438 million (pp. 12-14). Overall, the IA offers a convincing illustration of the problem and its scale and sufficiently substantiates the need for lowering the current EU OEL. However, it could have described the evaluation findings in more detail and clarified the problem drivers. D1 appears to be similar to the problem, and given that in relation to D2, the IA refers to 'scientific and technological developments since 2003' and explains scientific evidence in relation to limits values, it would have been useful if the technological development had also been explained, given for example the RAC opinion, which discusses the measurement methods.

## Subsidiarity / proportionality

The legal basis is Article 153 of the TFEU. As required in the [Better Regulation Guidelines](#) (BRG), the IA sufficiently explains the need for and added value of EU action, and provides a more detailed explanation in a [subsidiarity grid](#). It notes that protection of workers against risks from exposure to

asbestos is already covered by EU legislation (especially AWD), which can be amended only at EU level. The IA refers to the need to update the AWD due to the new scientific evidence. The revision of the EU OEL would help improve workers' protection and create a more level playing field for businesses while also saving Member States the resources they would have otherwise spent on carrying out OEL-related scientific analyses by themselves. The IA also points out the cross-border aspects in relation to the construction sector, which would benefit from fairer conditions for workers. Proportionality is discussed in the context of the assessment of impacts and the preferred option, and the IA explains that the AWD provides a minimum requirement level, which means that the Member States can maintain more stringent levels (IA, pp. 14-16). No reasoned opinions were issued by the national parliaments in the [subsidiarity check](#) by the deadline of 29 November 2022.

## Objectives of the initiative

The initiative is aimed at 'ensuring workers the right to a high level of protection of their health and safety at work', and to 'prevent disease and death caused by work-related cancer and other health problems' (**general objectives**). In addition, the IA defines two **specific objectives** (SO): 1) 'to enhance the effectiveness of the occupational exposure limit value under the AWD by updating it on the basis of scientific expertise', and 2) 'to achieve a more uniform and better protection of workers across the EU from the risks caused by asbestos exposure' (p. 16). The IA presents two **operational objectives** (defined in terms of the deliverables of specific policy actions after having selected the preferred option). Overall, the objectives appear to fulfil the SMART criteria, which state that they should be specific, measurable, achievable, relevant and time-bound.

## Range of options considered

The IA presents, in addition to the baseline, three policy options providing alternatives for different OELs. The IA explains the preparation process, and states that the options take into account the scientific assessment of ECHA-RAC, the Member States' OELs and the ACSH opinion. The IA explains that it discarded a non-regulatory option as it was not effective enough, and a revision of other provisions in the AWD, as the update of the OEL was considered a 'matter of urgency'. The RAC considered that there is no safe exposure level and presented the relationship between exposure levels and the associated risks (exposure-risk relationship, ERR) showing the risk for exposed workers at different OELs (ERR focuses on lung cancer and mesothelioma) (IA, pp. 18-21).

Table 1 – Exposure-risk relationship (ERR)

Air concentration of asbestos (fibres/cm <sup>3</sup> )* (OEL as an 8-hour time-weighted average)	Excess life-time cancer risk (cases per 100 000 exposed workers)
0.001	1.2
0.002	2.5
0.005	6.2
0.01	12
0.02	25
0.05	62
0.1 (current OEL)	125

\* As measured by the Phase Contrast Method (PCM) of WHO (1997).

Source: IA, Table 5, p. 19.

The IA explains that the levels of 0.05 and 0.02 were discarded as they would not sufficiently protect workers' health, and, moreover, as the ACSH wanted to 'substantially' lower the existing EU OEL. The IA stresses that a zero level (0 f/cm<sup>3</sup>) is not possible as asbestos is present in 'many settings and exposure can take place through naturally occurring asbestos present in the environment', and,

consequently, ambient asbestos concentrations in urban and rural areas in the EU are estimated to be higher than  $0 \text{ f/cm}^3$ . The IA explains also that the 'intermediate OEL values between the suggested ones [(0.01 and 0.001)] by the ACSH were not considered by the steering group of the external [IA] study, and thus no analysis of the costs and benefits of such OELs was possible. Such OELs were also not proposed by any stakeholder or Member State.' However, 0.002 was considered and analysed in the external IA supporting study, and therefore, the only intermediary OEL value (between the ACSH suggested values) not analysed was 0.005 (IA supporting study, pp. 44, 194-280). The IA does not explain why 0.005 was not considered as an option (IA, pp. 21-22).

Table 2 – The policy options presented in the IA

Option 1 (baseline)	Option 2 (preferred option)	Option 3	Option 4
0.1 ( $\text{f/cm}^3$ ) Current EU OEL	0.01 ( $\text{f/cm}^3$ ) Proposed by the ACSH employers' and governments' interest groups	0.002 ( $\text{f/cm}^3$ ) Current strictest national OEL in the EU	0.001 ( $\text{f/cm}^3$ ) Proposed by the ACSH workers' interest group

Source: IA, Table 7, p. 22.

The IA states that under options 2-4, companies would need more effective risk management measures to comply with the lower level, such as protective equipment and preventive measures (vacuum cleaning, dust suppression techniques). In addition, Options 2-4 'might require replacing the methodology for measurement of asbestos fibres in the air, from the broadly used phase contrast microscopy [PCM] to the more sensitive electron microscopy [EM] methodology'. However, when describing the options the IA only explains the different OEL alternatives, but does not explain whether or how the options differ in terms of the required risk management measures. Different measurement methods and possible transitional periods are discussed only in the comparison of options and in the context of the preferred option (IA, pp. 21-22).

## Assessment of impacts

The IA analyses qualitatively and quantitatively the main **social, economic and environmental impacts** of the policy options (IA, pp. 23-35). In relation to the **social impacts**, the IA provides estimates of the number of avoided cancer cases in each option against the baseline of 884 cancer cases for the next 40 years. Under Option 2, the number of avoided cases would be 663 (221 cancer cases), under Option 3 it would be 831 avoided cases (53 cancer cases) and under Option 4 it would be 858 avoided cases (26 cancer cases). In addition, the IA estimates the savings in health costs (Option 2: €166-323 million, Option 3: €208-405 million and Option 4: €215- 418 million). The IA considers that stricter OELs would not cause any significant net loss of employment. The IA reminds that healthier staff and better working conditions would benefit companies (productivity, reputation). In relation to the **economic impact**, the IA provides cost and benefit estimates against the baseline for the period of 40 years. The compliance costs for companies, including SMEs, relate especially to the additional risk management measures (Option 2: €12.4 billion; Option 3: €52.1 billion and Option 4: €58.2 billion). The costs of health surveillance for companies are estimated at around €7.29 billion under Option 2, €14.57 billion under Option 3 and €21.86 billion under Option 4. The IA recognises uncertainties in estimates for the costs that companies would have to incur for notifying asbestos-related work to the responsible national authorities and presents low and high estimates (Option 2: €650 million and €2.1 billion; Option 3: €1.3 billion and €4.3 billion; Option 4: €2.6 billion and €6.5 billion). According to the IA, the average total direct costs per company would be around €15 000 under Option 2, €46 000 under Option 3 and €57 000 under Option 4. The IA also expects that there would be benefits for companies such as savings in relation to sick leave and absenteeism (Option 2: €1.7 million, Option 3: €2.0 million, Option 4: €2.1 million). Public authorities would run costs particularly for having to process new notifications; the IA

provides low and high estimates for these costs (Option 2: €420 million and €1.4 billion; Option 3: €840 million and €2.8 billion; Option 4: €1.6 billion and €4.2 billion). The IA expects that there would be benefits for public authorities from savings in healthcare costs or lost taxes (Option 2: €3.4 million; Option 3: €4.3 million; Option 4: €4.5 million). In the assessment of the **environmental impacts**, the IA states that releases of asbestos are 'believed' to be low. The IA could have explained this further: what is the basis for this 'belief' and what is the reason for the lack of data. The IA refers to extreme weather conditions caused by climate change, which may increase erosion of materials containing asbestos and release asbestos to the environment (e.g. roofs). The IA notes that risk management measures linked to lower OELs could help to decrease environmental exposure to asbestos, even though, due to low release levels, the effect would be marginal. The IA estimates that companies may shift additional costs from stricter OELs to consumer prices; this might result in a postponement of renovations and thus affect the attainment of the green objectives negatively. In this context, it would have been useful if the IA had explained the experience of Member States with lower OELs. The IA mentions that Germany has indications of a general increase in asbestos removal work in recent years (IA, pp. 28-29, 31-32).

The IA considers that all the options would align with the EU Charter of Fundamental Rights and contribute to several sustainable development goals (e.g. good health and well-being, decent work and economic growth). Following the assessment requirement of the 'digital by default' principle in the BRG, the IA refers to the development of artificial intelligence tools in relation to measurement techniques or the use of robots in the extraction of asbestos; however the IA does not discuss these under the options (IA, p. 32). The IA also addresses territorial aspects; for example it provides estimates for the average quantity of asbestos in the Member States' residential building stock and considers the impacts of different OELs on the Member States, given their current OEL levels. Regarding gender aspects, the IA explains that in the construction sector, 97 % of workers are men, while, on the other hand, 'mesothelioma in women accounts for about 20 % of the cases and these are mainly due to domestic exposure' (family members working with asbestos bring fibres home) (IA, pp. 8-9).

The IA compares and scores the options against the BRG criteria of **effectiveness**, **efficiency**, **coherence**, but not against the criterion of **proportionality**. Under the **effectiveness** assessment, the IA considers the prevention of deaths and other adverse health effects, and finds that Option 4 is the most effective option in this regard. Regarding the measurement methods, under Option 2 either PCM or EM methods can be used, while Option 3 requires measurement by the EM method (the Dutch experience). In Option 4, the best available EM technique should be used; the IA refers to the RAC opinion and points out that measuring such low exposure levels ( $0.001-0.004 \text{ f/cm}^3$ ) with the methods currently used might only succeed in clean rural environments but not in dusty ones. Even though the IA considers Options 3 and 4 more effective than Option 2, the IA concludes that Option 2 is the best option, given that the ACSH governments' and employers' groups favour Option 2 and therefore it 'offers the best balance between prevention and practical implementation'; it would have been useful if this had been explained in more detail. In the **efficiency** assessment, the IA focuses on the monetised impacts and finds that the costs outweigh the benefits under all the assessed options. The IA presents the cost-benefit-ratio under Option 2 as 70 (€24 billion costs/€330 million benefits), Option 3 as 190 (€76 billion costs/€410 million benefits) and Option 4 as 220 (€94 billion costs/€420 million benefits). In analysing the costs/turnover ratios (small companies), the IA finds that small companies could be 'seriously' impacted in some sectors only under Option 4. The IA scores Option 2 best in terms of efficiency. The IA assesses the options' **coherence** with other EU policies (e.g. the Charter for Fundamental Rights, the European Pillar of Social Rights, the Europe Beating Cancer plan, the European Green Deal) and the IA is of the view that the options would be 'more or less' equally coherent in this respect and would also contribute to the complementarity of the AWD with REACH. The IA concludes that the **preferred option is Option 2** (OEL  $0.01 \text{ f/cm}^3$ ), where the PCM and EM methods can be used and a transition period is not needed. The IA summarises the costs and benefits of the preferred option in Annex 3 (IA, p. 59).

## SMEs/ Competitiveness

According to the IA, around 99% of companies working with asbestos are small companies. As required in the BRG (see also [Tool 23](#)), the Commission carried out an SME test, the results of which are explained in Annex 6 (IA, pp. 101-111). SMEs were consulted as part of the two-stage consultation of the social partners. The IA notes that an exemption of SMEs from the scope of the AWD would not be feasible, as most of the companies working with asbestos are SMEs and, therefore, the majority of workers at risk would not be covered by this legislation. The IA estimates that in the construction sector, which represents 99% of the concerned companies, the costs would remain largely proportionate. However, the IA mentions that the business of small companies from certain sectors (repair of electrical equipment, repair and maintenance of ships and boats, and maintenance and repair of motor vehicles), which represent 0.02% of all companies dealing with asbestos, would experience an increased impact under Option 2 (cost/turnover ratio of 2-4%), and under Options 3 and 4 the impact would be stronger. The IA does not expect a significant number of companies to close down under the different options, as most of the costs are likely to be passed on to the customers. However, the IA estimates that some job transition might occur, as more specialised companies would handle more asbestos work. The IA considers that this initiative would have a limited impact on the competitiveness of EU companies in the internal market, as asbestos work takes place 'in situ' and third-country competitors would need to operate in line with the EU legislation (pp. 21, 28-30, 36).

## Simplification and other regulatory implications

The IA addresses the 'one-in, one-out' (OIOO) approach of the BRG (see also [Tool 59](#)). In the preferred option (Option 2), the IA estimates that administrative costs would be linked to new notifications (€650 million-2.18 billion over 40 years). The IA finds that companies would not have significant savings and that no administrative savings are expected for the citizens (IA, p. 59). The offsetting of the administrative burden is not mentioned. It explains that administrative costs linked to measurements are not considered as OIOO costs. It furthermore explains how the proposal relates to the existing EU legislation and EU policies such as the European Pillar of Social Rights, the Europe's Beating Cancer plan, the European Green Deal, the EU Strategic framework on health and safety at work for 2021-2027 and the REACH Regulation.

## Monitoring and evaluation

The IA provides a monitoring plan with two indicators, which appear relevant and are related to two operational objectives. These are linked to SO1, whereas SO2 is not mentioned. Operational objectives and indicators appear to concern the reduction of occupational diseases and occupational cancer cases, and the reduction of costs related to occupational cancer. The IA explains the data sources (e.g. the European Occupational Diseases statistics (EODS), national authorities) and refers to projects of the Commission and EU-OSHA to improve data availability and quality. The IA explains that the Commission would evaluate the revised AWD in accordance with the OSH Framework Directive (89/391/EEC) (IA, pp. 40-42).

## Stakeholder consultation

The IA transparently describes the broad stakeholder consultation activities in a dedicated Annex 2 (pp. 48-57), as required by the BRG. The **two-stage consultation of the EU-level social partners** was carried out in accordance with Article 154 of the TFEU ([17.12.2020-11.2.2021](#) and [28.6.2021-30.9.2021](#)). The social partners did not want to enter into negotiations under Article 155 of the TFEU on the revision of the AWD. The workers' organisations (the European Trade Union Confederation, the European Federation of Building and Woodworkers) demanded that the revision should cover, besides the current OEL, also other provisions, and suggested a European framework for national asbestos removal plans, among other things. As for the employers' organisations, BusinessEurope and SMEUnited underlined that 'any revision of an OEL must be based on sound scientific evidence and a thorough assessment of technical and economic feasibility and socio-economic impact' (IA,

p. 50). BusinessEurope considered that the revision should only concern the OEL and no other provisions. The European Construction Industry Federation did not support a stricter OEL and SMEUnited favoured a harmonised implementation of the existing OEL before a stricter OEL is set. The Shipyards' and Maritime Equipment Association of Europe (SEAEurope) was of the view that an encapsulation is the safest method for addressing the asbestos issue in the maritime sector. The **Advisory Committee on Safety and Health at Work (ASCH)** adopted an opinion on 24 November 2021 on an EU binding OEL under the AWD. All three stakeholder groups (government interest group (GIG), workers' interest group (WIG) and employers' interest group (EIG)) agreed, given the most recent scientific and technical development, that the current EU OEL needs to be substantially lowered; however they disagreed on the new limit value (WIG: 0.001 f/cm<sup>3</sup>; GIG and EIG: 0.01 f/cm<sup>3</sup>). Given the technical development, the ASCH suggested replacing the PCM measurement methodology with a more sensitive EM. The GIC considered that a transition period is needed for the change of technology (four years after the entry into force of the revised AWD), the EIG supported a delay of 4-5 years, and the WIG favoured the implementation of the lower OEL 'as soon as possible'. As part of the external IA supporting study, **targeted consultations** were carried out to collect information (e.g. through questionnaires, site visits), for example, of risk management measures, sizes of companies and a number of workers exposed. Annex 2 provides information on the targeted stakeholders. The IA explains that an **open public consultation**, normally required for IAs, was not carried out, as the initiative concerns a technical topic, and different stakeholders were widely consulted in the preparatory process. A [call for evidence](#) was published on 22 February 2022; the feedback deadline was 22 March 2022 (47 replies).

## Supporting data and analytical methods used

The IA draws on various data sources, which are well referenced. These are an [ex-post evaluation](#) (2017) and its [supporting study](#), an [IA supporting study](#) (2021), the RAC's scientific [opinion](#) (2021; based on a [scientific report](#)), the [ACSH opinion](#), a stakeholder consultation, and studies and reports in the relevant policy field (e.g. the WHO, Eurostat). The IA provides an informative description of the analytical methods in Annex 4 (pp. 61-76). It explains the assessment of health impacts and their monetisation, carried out with guidance of the BRG Toolbox ([Tool 32](#)), the benefits model and the cost model used for the assessment of the compliance costs. The IA explains the limitations and uncertainties in the assessment, for example concerning the long latency period for cancers from exposure to asbestos and the sporadic exposure of some workers, which affect estimates of costs and benefits. The IA also includes a sensitivity analysis.

## Follow-up to the opinion of the Commission Regulatory Scrutiny Board

The Regulatory Scrutiny Board (RSB) gave a positive [opinion](#) with reservations on the draft IA report on 29 April 2022, yet found several shortcomings. The RSB considered that the IA needs to clearly describe the rationale for the initiative, prove that the used evidence is the 'best available', and explain how the stakeholders' views have fed in the IA. In addition, the uncertainties of the impact analysis (assumptions in the cost and benefit estimates) should be better explained and a sensitivity analysis should be done. The IA should also include the OIOO calculations. In addition, impacts on particularly affected SMEs should be better documented. The RSB found that the IA should better justify the scoring of options, and sufficiently assess the proportionality of the preferred option. Proportionality should be more detailed, given the 'long latency for benefits to materialise and the high net costs'. The RSB refers to a set of transitional periods in the preferred option, which have not been analysed, and considers that these should be included in the options' design and their impacts should be analysed, including cost and benefit implications (at least for the preferred option). As required by the BRG, the IA explains in Annex 1 how it has taken into account the points raised by the RSB (pp. 43-45). It appears that the shortcomings identified by the RSB have been largely addressed, however this is not possible to verify as the previous draft IA is not publicly available. The IA could have explained in more detail the ex-post evaluation findings, and it would have benefited the analysis if the scoring in terms of the effectiveness criterion had been further explained in the

comparison of options. Transitional periods have not been included in the options' design and the analysis; however, the IA notes that it is possible to measure the OEL level under the preferred Option 2 with the PCM (the change of the method is voluntary) and therefore a transition period is not needed.

## Coherence between the Commission's legislative proposal and the IA

The legislative proposal follows the preferred option, including the monitoring and evaluation plan.

The IA provides a well-evidenced description of the problem and its scale and sufficiently substantiates the need to lower the current EU occupational exposure level for asbestos. However, the IA could have explained the evaluation findings in more detail and clarified the problem drivers further. The IA clearly explains the scientific opinion of the Committee for Risk Assessment (RAC), according to which there is no safe exposure level and therefore the RAC did not recommend any specific OEL. The IA describes different OEL options, but does not explain to what extent the options differ, for example, in terms of risk management measures. The IA justifies the preferred option for example by the efficiency aspects (cost/benefit ratio). In the effectiveness analysis, the IA finds that the preferred option is the best one, as it is supported by employers' and government interest groups, and therefore 'offers the best balance between prevention and practical implementation'. It would have benefited the analysis if the IA had explained this argument in more detail, given the different views of the social partners. The Commission has carried out an SME test, as nearly all the companies involved in the asbestos work are small companies. According to the estimates, in the construction sector, which represents 99% of the companies involved in work with asbestos, the costs would remain largely proportionate. The IA explains the analytical methods used, as well as the limitations and uncertainties of the analysis.

<sup>1</sup> See also the communication from the Commission on working towards an asbestos-free future: a European approach to addressing the health risks of asbestos, [COM\(2022\)488](#).

<sup>2</sup> See N. Wukovits, [Revision of Directive 2009/148/EC on the protection of workers from risks related to the exposure of asbestos at work](#), EPRS, European Parliament, September 2022. See also K. Müller, [Protecting workers from asbestos](#), EPRS, European Parliament, March 2021.

This briefing, prepared for the Committee on Employment and Social Affairs (EMPL), analyses whether the principal criteria laid down in the Commission's own Better Regulation Guidelines, as well as additional factors identified by the European Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal.

## DISCLAIMER AND COPYRIGHT

This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament.

Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

© European Union, 2023.

[eprs@ep.europa.eu](mailto:eprs@ep.europa.eu) (contact)

[www.eprs.ep.parl.union.eu](http://www.eprs.ep.parl.union.eu) (intranet)

[www.europarl.europa.eu/thinktank](http://www.europarl.europa.eu/thinktank) (internet)

<http://epthinktank.eu> (blog)