



2022/0298(COD)

11.1.2023

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DRAFT REPORT

on the 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)0489 – C9-0321/2022 – 2022/0298(COD))

Committee on Employment and Social Affairs

Rapporteur: Véronique Trillet-Lenoir

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the 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)0489 – C9-0321/2022 – 2022/0298(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0489),
 - having regard to Article 294(2) and Article 153(2), point (b), in conjunction with paragraph 1, point (a), of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0321/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the Economic and Social Committee of xx.xx. 2023¹,
 - having regard to the opinion of the Committee of the Regions of xx.xx. 2023²,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Environment, Public Health and Food Safety,
 - having regard to the report of the Committee on Employment and Social Affairs (A9-0000/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C xxx, xx.xx.xxxx, p. x./ Not yet published in the Official Journal.

² OJ C xxx, xx.xx.xxxx, p. x./ Not yet published in the Official Journal.

Amendment 1

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Asbestos is a highly dangerous carcinogenic agent, still affecting different economic sectors, such as building and renovation, mining and quarrying, waste management and firefighting, where workers are at high risk of being exposed. Asbestos fibres are classified as carcinogens 1A according to Regulation (EC) 1272/2008 of the European Parliament and of the Council⁶⁵. When inhaled, airborne asbestos fibres can lead to serious diseases such as mesothelioma and lung cancer, and the first signs of disease may take an average of 30 years to manifest from the moment of exposure, ultimately leading to work-related deaths.

⁶⁵ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (Text with EEA relevance) OJ L 353, 31.12.2008, p. 1.

Amendment

(3) Asbestos is a highly dangerous carcinogenic agent, still affecting different economic sectors, such as building and renovation, mining and quarrying, waste management and firefighting, where workers are at high risk of being exposed. Asbestos fibres are classified as carcinogens 1A according to Regulation (EC) 1272/2008 of the European Parliament and of the Council⁶⁵ ***and are by far the major cause of work-related cancer, with as much as 78% of occupational cancers recognised in the Member States as being related to asbestos.*** When inhaled, airborne asbestos fibres can lead to serious diseases such as mesothelioma and lung cancer, and the first signs of disease may take an average of 30 years to manifest from the moment of exposure, ultimately leading to work-related deaths.

⁶⁵ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (Text with EEA relevance) OJ L 353, 31.12.2008, p. 1.

Or. en

Amendment 2

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Following the new scientific and technological developments in the area, there is scope to improve the protection of workers exposed to asbestos and thus to reduce the probability of workers contracting asbestos-related diseases. For asbestos, being a non-threshold carcinogen, it is not scientifically possible to identify levels below which exposure would not lead to adverse health effects. Instead, an exposure-risk relationship (ERR) can be derived, facilitating the setting of an occupational exposure limit ('OEL') **by taking into account an acceptable level of excess risk**. As a consequence, the OEL for asbestos should be revised in order to reduce the risk by lowering exposure levels.

Amendment

(4) Following the new scientific and technological developments in the area, there is scope to improve the protection of workers exposed to asbestos and thus to reduce the probability of workers contracting asbestos-related diseases. For asbestos, being a non-threshold carcinogen, it is not scientifically possible to identify levels below which exposure would not lead to adverse health effects. Instead, an exposure-risk relationship (ERR) can be derived, facilitating the setting of an occupational exposure limit ('OEL'). As a consequence, the OEL for asbestos should be revised in order to reduce the risk by lowering exposure levels.

Or. en

Amendment 3

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) The limit value for asbestos set out in Directive 2009/148/EC should be revised in the light of the Commission's evaluations and recent scientific evidence and technical data. ***Its revision is also an effective way to ensure that*** preventive and protective measures are ***updated accordingly*** in all Member States.

Amendment

(7) The limit value for asbestos set out in Directive 2009/148/EC should be revised in the light of the Commission's evaluations and recent scientific evidence and technical data. ***Strengthened*** preventive and protective measures are ***needed to implement such a revision of the limit value*** in all Member States.

Or. en

Justification

Preventive and protective measures should be updated to make it possible to implement the revised occupational exposure limit.

Amendment 4

Proposal for a regulation Recital 9

Text proposed by the Commission

Amendment

(9) Taking into account the relevant scientific expertise and a balanced approach ensuring at the same time adequate protection of workers at Union level and avoiding disproportionate economic disadvantages and burdens for the affected economic operators (including SMEs), a revised OEL equal to 0.01 fibres/cm³ as an 8-hour time-weighted average (TWA) should be established. This balanced approach is underpinned by a public health objective aiming at the necessary safe removal of asbestos. Consideration has also been given to proposing an OEL that takes into account economic and technical considerations to allow an effective removal.

deleted

Or. en

Justification

Addressing the methodology is a prerequisite before addressing the limit value. This part should therefore be addressed after recital 11.

Amendment 5

Proposal for a regulation Recital 11

Text proposed by the Commission

Amendment

(11) Optical microscopy, although it does not allow a counting of the smallest fibres detrimental to health, is currently the most used method for the regular measuring of asbestos. *As it is possible to measure an OEL equal to 0.01 f/cm³ with*

(11) Optical microscopy, although it does not allow a counting of the smallest fibres detrimental to health, is currently the most used method for the regular measuring of asbestos. In line with the opinion of the ACSH, a more modern and

phase-contrast microscope (PCM), no transition period is needed for the implementation of the revised OEL. In line with the opinion of the ACSH, a more modern and sensitive methodology based on electron microscopy should be used, while taking into account the need for an adequate period of adaptation *and for more EU level harmonisation of different electron microscopy methodologies.*

sensitive methodology based on electron microscopy should be used, while taking into account the need for an adequate period of adaptation. *In light of the fact that thinner asbestos fibres (<0,2 µm) are also carcinogenic, those fibres should be taken into account when measuring exposure in the workplace. Transmission electron microscopy, which allows the detection of such thinner asbestos fibres or similar advanced methods should be used for that purpose. In order to allow for sufficient time to comply with the new requirement, a transposition period of three years should be provided. During that transposition period, Member States can continue to carry out fibre counting by phase-contrast microscopy. The Commission should support and facilitate Member States with regard to the transition to the new methodology for measuring asbestos fibres, in particular through the development of guidelines and providing information on relevant Union funds which can be used for that purpose.*

Or. en

Justification

Two types of Electron Microscopy are currently used in Member States: Scanning Electron Microscopy (SEM) and Transmission Electron Microscopy (TEM). Regular SEM has a lower limit of visibility of approximately 0.2 µm. TEM has a lower limit of visibility of approximately 0.01 µm. Considering that also thinner asbestos fibres (<0.2 µm) are carcinogenic (with indications that the potency might increase with decreasing width), it is proposed to favour a science-based approach and therefore to choose the methodology (TEM) allowing the counting of those fibres.

Amendment 6

Proposal for a regulation Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Taking into account the relevant

scientific expertise, the need to increase the protection of workers at Union level, a public health objective that aims to remove asbestos, as well as technical considerations with regard to monitoring compliance, a revised OEL equal to 0,01 fibres/cm³ as an 8-hour time-weighted average should be established as an appropriate first step to reducing the risks of asbestos exposure. Due to the ongoing renovation wave of buildings, it is important to implement that revised OEL as soon as possible and no transition period should therefore apply. As transmission electron microscopy would allow the detection of thinner asbestos fibres, the revised OEL, combined with the new methodology, is expected to ensure better a protection of workers against asbestos exposure. In line with the vision-zero approach of the Union strategic framework on health and safety at work, a constant effort to reduce exposure to this strong non-threshold carcinogen is needed. By ... [five years after the entry into force of this Directive], based on the experience acquired, up-to-date scientific evidence and technical data, and after consulting the social partners, the Commission should evaluate the feasibility of a further reduction of the asbestos exposure limit, taking into account a target OEL of 0,001 fibres/ cm³.

Or. en

Justification

Regulatory bodies which have used conversion factors, have used factors between 2 and 4 between PCM and EM, restricting the EM counting to fibres detectable with PCM. According to a recent study (INRS, 2018), including thin fibres not detectable with PCM resulted in an average ratio of 15. A step-by-step approach is proposed. 1st: lowering the OEL without transition, to a level still measurable with PCM. 2nd: introduction of TEM would result in a more accurate counting, and therefore strengthening the protection. 3rd: review of the legislation to take into account technical progress.

Amendment 7

Proposal for a regulation Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) The asbestos sampling should be representative of the worker's personal exposure to asbestos. Samples should therefore be taken at regular intervals during specific operational phases in representative and realistic situations in which workers are exposed to asbestos dust. If it is not possible for sampling to be representative of the worker's personal exposure to asbestos, all appropriate protective measures should be applied.

Or. en

Amendment 8

Proposal for a regulation Recital 13

Text proposed by the Commission

Amendment

(13) Special control measures and precautions are needed ***for workers exposed or likely to be exposed to asbestos, such as*** subjecting workers to a decontamination procedure and related training, in order to significantly contribute to reducing the risks related to such exposure.

(13) Special control measures and precautions are needed ***to lower the concentration of asbestos fibres in the air to as low a level as is technically possible below the limit value.*** Subjecting workers to a decontamination procedure and ***strengthening the related training requirements are important elements*** in order to significantly contribute to reducing the risks related to such exposure. ***In order to ensure a level playing field, an annex to this Directive should provide for minimum training requirements, including specific requirements for workers in specialised asbestos removal undertakings.***

Or. en

Amendment 9

Proposal for a regulation Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) The notification system is important to allow the supervision by the competent national authority of works during which asbestos may be disturbed. The information should include the following additional elements to better inform the national competent authority: the areas in which the work is to be carried out, the equipment used for the protection and decontamination of workers, and a plan for waste disposal. Such additional information would allow, where appropriate, the intervention of the competent national authority to ensure the protection of those involved.

Or. en

Amendment 10

Proposal for a regulation Recital 15

Text proposed by the Commission

Amendment

(15) Employers should take all necessary steps to identify presumed asbestos-containing materials, ***if appropriate*** by obtaining information from the owners of the premises as well as other sources of information, including relevant registers. ***They*** should record, before the start of any asbestos removal project, the presence or presumed presence of asbestos in buildings ***or*** installations and communicate this information to others who may be exposed to asbestos as a result of its use, of maintenance or of other

(15) Employers should take all necessary steps to identify presumed asbestos-containing materials by obtaining information from the owners of the premises as well as other sources of information, including relevant registers. ***If such information is lacking, asbestos screening should be carried out by a certified operator. That operator*** should record, before the start of any asbestos removal project, ***demolition or renovation, information relating to*** the presence or presumed presence of asbestos ***that is***

activities *in or on buildings*.

likely to be disturbed during the works in buildings, ships, aircrafts or other installations that were built before the national asbestos ban entered into force and should communicate that information to others who may be exposed to asbestos as a result of its use, of maintenance or of other activities.

Or. en

Justification

The announced legislative initiative on mandatory screening and registration of asbestos in building is welcome. However, the registration of asbestos might take time and it is therefore necessary to foresee an asbestos screening in case of lacking information, which would, hopefully, not be necessary when the new legislation will be implemented. In any case, the screening of asbestos should not be limited to buildings, given the extensive use of asbestos in other types of infrastructures.

Amendment 11

Proposal for a regulation Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) The safe removal and disposal of asbestos-containing materials should be a priority, because repair, maintenance, encapsulation or sealing only lead to the postponement of the removal, which can perpetuate the risks for inhabitants and workers for many years. The encapsulation and sealing of asbestos-containing materials which can technically be removed should be prohibited, while not putting poorer households at a disadvantage because of their inability to afford necessary renovations. Appropriate accompanying measures are therefore needed. In that regard, the Union provides significant funding, in particular through the Recovery and Resilience Facility, to be used to support national measures for the removal of asbestos in the context of

renovations. Where asbestos is not removed, the relevant structures should be identified, registered and regularly monitored.

Or. en

Amendment 12

Proposal for a regulation Recital 15 b (new)

Text proposed by the Commission

Amendment

(15b) There is a need to provide sufficient and focused administrative support to help employers, in particular microenterprises and small and medium-sized enterprises, implement this Directive. In particular, standardised processes for the removal of asbestos-containing materials would help to reduce the levels of asbestos dust, the cost of those operations and facilitate the fulfilment of the notification requirements.

Or. en

Amendment 13

Proposal for a regulation Recital 15 c (new)

Text proposed by the Commission

Amendment

(15c) Directive 2009/148/EC should be regularly updated to take into account the latest scientific knowledge and technical developments including an evaluation of different types of asbestos fibres and their adverse health effects. The Commission should start the consultation process for updating the provisions on fibrous silicates and, in that context, should in

particular assess whether riebeckite, winchite, richterite, fluoro-edenite or erionite should be included within the scope of that Directive.

Or. en

Justification

The change of methodology from PCM to TEM will allow to differentiate the types of fibres, making possible to start the assessment on the need to extend the scope of this Directive to other fibrous silicates, where appropriate.

Amendment 14

**Proposal for a regulation
Recital 15 d (new)**

Text proposed by the Commission

Amendment

(15d) In order to keep pace with technological developments, the Commission should, by ...[five years after the entry into force of this Directive] and every five years thereafter, review the technological and scientific information on asbestos identification, measurement and warning technology and should, after consulting the social partners, issue guidelines where a new technology is to be used in order to protect workers from exposure to asbestos. A more systematic exchange between Member States of best practices should also be established for that purpose.

Or. en

Amendment 15

**Proposal for a regulation
Recital 15 e (new)**

Text proposed by the Commission

Amendment

(15e) In order to support the implementation of this Directive, the Commission should, in cooperation with the ACSH, develop guidelines. Those guidelines should, where appropriate, include sector-specific responses.

Or. en

Amendment 16

Proposal for a regulation

Article 1 – paragraph 1 – point 2 a (new)

Directive 2009/148/EC

Article 3 – paragraph 3

Present text

Amendment

3. Provided that worker exposure is sporadic and of low intensity, and if it is clear from the results of the risk assessment referred to in paragraph 2 that the exposure limit for asbestos will not be exceeded in the air of the working area, Articles 4, 18 and 19 may be waived where the work involves:

(a) short, non-continuous maintenance activities in which only non-friable materials are handled;

(b) removal without deterioration of non-degraded materials in which the asbestos fibres are firmly linked in a matrix;

(c) encapsulation or sealing of asbestos-containing materials which are in good condition;

(d) air monitoring and control, and the collection of samples to ascertain whether a specific material contains

(2a) In Article 3, paragraph 3 is replaced by the following:

“3. In consultation with the Advisory Committee on Safety and Health at Work, the Commission shall develop guidelines providing, where appropriate, sector-specific practical information on the implementation of this Directive.”

asbestos.

Or. en

(See wording of Article 3 of Directive 2009/148/EC)

Justification

It is not science-based to use the concept of "sporadic and low intensity exposure" to a non-threshold carcinogen like asbestos, to which some workers might be exposed over a long period of time, to justify the waving of some requirements of the directive, which should apply to all activities in which workers are or may be exposed to dust arising from asbestos. In order to facilitate the implementation of the directive in the different sectors, it is proposed to replace paragraph 3 by a mention to the guidelines that the Commission intends to prepare in consultation with social partners.

Amendment 17

Proposal for a regulation

Article 1 – paragraph 1 – point 2 b (new)

Directive 2009/148/EC

Article 3 – paragraph 4

Text proposed by the Commission

Amendment

(2b) In Article 3, paragraph 4 is deleted.

Or. en

(See wording of Article 3 of Directive 2009/148/EC)

Justification

It is not science-based to use the concept of "sporadic and low intensity exposure" to a non-threshold carcinogen like asbestos, to which some workers might be exposed over a long period of time, to justify the waving of some requirements of the directive, which should apply to all activities in which workers are or may be exposed to dust arising from asbestos. In order to facilitate the implementation of the directive in the different sectors, it is proposed to replace paragraph 3 by a mention to the guidelines that the Commission intends to prepare in consultation with social partners.

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 – point 2 c (new)

Present text

The notification **must** include at least a brief description of:

- (a) the location of the worksite;
- (b) the type and quantities of asbestos used or handled;
- (c) the activities and processes involved;
- (d) the number of workers involved;
- (e) the starting date and duration of the work;
- (f) measures taken to limit the exposure of workers to asbestos.

Amendment

(2c) In Article 4(3), the second subparagraph is replaced by the following:

“The notification **shall** include at least a brief description of:

- (a) the location of the worksite **and the specific areas in which the work will be carried out**;
- (b) the type and quantities of asbestos used or handled;
- (c) the activities and processes involved;
- (d) the number of workers involved, **a list of the workers likely to be assigned to the site, the individual certificates proving their competence and the training received, and the dates of the mandatory medical visits**;
- (e) the starting date and duration of the work **and the planned working hours**;
- (f) measures taken to limit the exposure of workers to asbestos;
 - (fa) the characteristics of the equipment used for the protection and decontamination of workers;**
 - (fb) the procedure for the decontamination of workers and equipment, durations and working hours;**
 - (fc) the characteristics of the equipment used for waste disposal;**
 - (fd) a provisional aeraulic balance for work carried out under confinement;**
 - (fe) a plan for safe and sustainable waste disposal, including with regard to the destination of asbestos containing waste.”**

Or. en

(See wording of Article 4(3) of Directive 2009/148/EC)

Justification

The notification system is important to allow for supervision of the work conducted by the competent national authority. The information should include additional elements to better inform the competent authority and allow, where appropriate, the intervention of the competent national authority to ensure the protection of those involved.

Amendment 19

Proposal for a regulation

Article 1 – paragraph 1 – point 2 d (new)

Directive 2009/148/EC

Article 4 – paragraph 3 – subparagraph 2 a (new)

Present text

Amendment

(2d) In Article 4(3), the following subparagraph is added:

“Notifications shall be kept by the responsible authority of the Member State for a minimum of 40 years, in accordance with national law and practice.”

Or. en

(See wording of Article 4(3) of Directive 2009/148/EC)

Justification

The notification system is important to allow for supervision of the work conducted by the competent national authority. The information should include additional elements to better inform the competent authority and allow, where appropriate, the intervention of the competent national authority to ensure the protection of those involved.

Amendment 20

Proposal for a regulation

Article 1 – paragraph 1 – point 2 e (new)

Directive 2009/148/EC

Article 5 – paragraph 2 a (new)

Present text

Amendment

(2e) In Article 5, the following paragraph is added:

“Asbestos-containing materials already in use shall be safely removed and disposed of when technically feasible. They shall not be sealed or covered. Asbestos-containing materials which are not removed shall be identified, registered and regularly monitored.”

Or. en

(See wording of Article 5 of Directive 2009/148/EC)

Justification

In line with the ambition of an asbestos-free future, the safe removal and disposal of asbestos containing materials should be a priority, because encapsulation or sealing only lead to the postponement of the removal, which perpetuates the risks for inhabitants and workers years later.

Amendment 21

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Directive 2009/148/EC

Article 6 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) work processes shall be designed so as not to produce asbestos dust or, if that proves impossible, to avoid the release of asbestos dust into the air;

(b) work processes shall be designed so as not to produce asbestos dust or, if that proves impossible, to avoid the release of asbestos dust into the air **by implementing at least the following measures:**

- (i) asbestos dust suppression;**
- (ii) the suction of asbestos dust at the source;**
- (iii) the continuous sedimentation of asbestos fibres suspended in the air;**
- (iv) appropriate decontamination;**

(See wording of Article 6 - subparagraph b) of Directive 2009/148/EC)

Amendment 22

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Directive 2009/148/EC

Article 6 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) for work carried out under confinement, the work area shall be protected by implementing at least the following measures:

(i) setting a minimum pressure difference of minus 10;

(ii) supplying clean replacement air from a point further away;

(iii) checking the performance of negative pressure units and portable vacuums of local exhaust ventilation systems after the change of a HEPA filter and before the start of asbestos removal or at least once a year, by measuring the removal efficiencies of filters with a direct-reading particle counter.

(See wording of Article 6 of Directive 2009/148/EC)

Amendment 23

Proposal for a regulation

Article 1 – paragraph 1 – point 3 a (new)

Directive 2009/148/EC

Article 7 – paragraph 1

Present text

Amendment

1. Depending on the results of the

(3a) In Article 7, paragraph 1 is replaced by the following:

"1. Depending on the results of the

initial risk assessment, and in order to ensure compliance with the limit value laid down in Article 8, measurement of asbestos fibres in the air at the workplace shall be carried out **regularly**.

initial risk assessment, and in order to ensure compliance with the limit value laid down in Article 8, measurement of asbestos fibres in the air at the workplace shall be carried out **during the specific operational phases and at regular intervals during the work process.**"

Or. en

(See wording of Article 7(1) of Directive 2009/148/EC)

Justification

The sampling must be representative of the real personal exposure of the worker, which means that samples must be taken in representative and realistic situations of workers' exposure to asbestos dust by measuring in regular intervals during the specific operational phases.

Amendment 24

Proposal for a regulation

Article 1 – paragraph 1 – point 3 b (new)

Directive 2009/148/EC

Article 7 – paragraph 2

Present text

Amendment

2. Sampling must be representative of the personal exposure of the worker to dust arising from asbestos or materials containing asbestos.

(3b) In Article 7, paragraph 2 is replaced by the following:

"2. Sampling must be representative of the **real** personal exposure of the worker to dust arising from asbestos or materials containing asbestos."

Or. en

(See wording of Article 7(2) of Directive 2009/148/EC)

Justification

The sampling must be representative of the real personal exposure of the worker, which means that samples must be taken in representative and realistic situations of workers' exposure to asbestos dust by measuring in regular intervals during the specific operational phases.

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 3 c (new)

Directive 2009/148/EC

Article 7 – paragraph 5

Present text

5. The duration of sampling **must** be such that representative exposure can be established for ***an 8-hour reference period (one shift) by means of measurements or time-weighted calculations.***

Amendment

(3c) In Article 7, paragraph 5 is replaced by the following

"5. The duration of sampling **shall** be such that representative exposure can be established for ***all operations in all their different phases carried out during the work process.***"

Or. en

(See wording of Article 7(5) of Directive 2009/148/EC)

Justification

The sampling must be representative of the real personal exposure of the worker, which means that samples must be taken in representative and realistic situations of workers' exposure to asbestos dust by measuring in regular intervals during the specific operational phases.

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Directive 2009/148/EC

Article 7 – paragraph 6 – subparagraph 1

Text proposed by the Commission

Fibre counting shall be carried out by ***phase-contrast microscope (PCM) in accordance with the method recommended in 1997 by the World Health Organization (WHO)* or, wherever possible, any other method giving equivalent or better results, such as a method based on electron microscopy (EM).***

Amendment

Fibre counting shall be carried out by ***transmission electron microscopy or*** any other method giving equivalent or better results.

For the purposes of ensuring compliance with the measures on fibre counting referred to in this Article, the Commission shall support Member States by providing appropriate technical guidance, including on the technical transition from phase-contrast microscopy to transmission electron microscopy, and information on relevant Union funds which can be used to support that transition.

* Determination of airborne fibre concentrations. A recommended method, by phase-contrast optical microscopy (membrane filter method), WHO, Geneva 1997 (ISBN 92 4 154496 1).’;

* Determination of airborne fibre concentrations. A recommended method, by phase-contrast optical microscopy (membrane filter method), WHO, Geneva 1997 (ISBN 92 4 154496 1).’;

Or. en

(See wording of Article 7(6) of Directive 2009/148/EC)

Justification

Considering that asbestos fibres thinner than 0.2 µm are also carcinogenic (with indications that the potency might increase with decreasing width), it is proposed to favour a science-based approach and therefore to choose the Transmission Electron Microscopy, which is the methodology already in use allowing the counting of those fibres.

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 5 a (new)

Directive 2009/148/EC

Article 10 – paragraph 1

Present text

1. Where the limit value laid down in Article 8 is exceeded, the reasons for the limit being exceeded **must** be identified and appropriate measures to remedy the situation must be taken as soon as possible.

Amendment

(5a) In Article 10, paragraph 1 is replaced by the following:

"1. Where the limit value laid down in Article 8 is exceeded, **or if there is reason to believe that asbestos-containing materials which are not identified prior to the work have been disturbed so as to generate dust, work shall stop immediately.** The reasons for the limit

Work **may** not be continued in the affected area until adequate measures have been taken for the protection of the workers concerned.

being exceeded **shall then** be identified and appropriate measures to remedy the situation must be taken as soon as possible.

Work **shall** not be continued in the affected area until adequate measures have been taken for the protection of the workers concerned."

Or. en

(See wording of Article 10(1) of Directive 2009/148/EC)

Amendment 28

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Directive 2009/148/EC

Article 11 – paragraph 1

Text proposed by the Commission

Before beginning demolition **or** maintenance work, employers shall take, **if appropriate** by obtaining information from the owners of the premises as well as from other sources of information, including relevant registers, all necessary steps to identify presumed asbestos-containing materials.

Amendment

Before beginning demolition, maintenance work **or renovation works on premises built before the year in which the national asbestos ban entered into force**, employers shall take, by obtaining information from the owners of the premises as well as from other sources of information, including relevant registers, all necessary steps to identify presumed asbestos-containing materials.

Or. en

Justification

The announced legislative initiative on mandatory screening and registration of asbestos in buildings is welcome. However, the registration of asbestos might take time and it is therefore necessary to foresee an asbestos screening in case of lacking information, which would, hopefully, not be necessary when the new legislation will be implemented.

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Directive 2009/148/EC
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

In the absence of relevant information available or if the information is not detailed enough for the work planned, the person or body ordering the work shall commission a screening to identify the asbestos-containing materials likely to be affected by the work. The screening shall be conducted by a certified operator and the result shall be communicated to the employer before works can start.

Or. en

Justification

The announced legislative initiative on mandatory screening and registration of asbestos in buildings is welcome. However, the registration of asbestos might take time and it is therefore necessary to foresee an asbestos screening in case of lacking information, which would, hopefully, not be necessary when the new legislation will be implemented.

Amendment 30

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Directive 2009/148/EC

Article 11 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

The Member States shall establish public registers of the certified operators authorised to carry out the asbestos screening, in accordance with their national law and practice.

Or. en

Justification

The announced legislative initiative on mandatory screening and registration of asbestos in buildings is welcome. However, the registration of asbestos might take time and it is therefore necessary to foresee an asbestos screening in case of lacking information, which would,

hopefully, not be necessary when the new legislation will be implemented.

Amendment 31

Proposal for a regulation

Article 1 – paragraph 1 – point 6 a (new)

Directive 2009/148/EC

Article 12 – paragraph 1 – introductory part

Present text

In the case of certain activities such as demolition, asbestos removal work, repairing and maintenance, in respect of which it is foreseeable that the limit value set out in Article 8 will be exceeded despite the use of technical preventive measures for limiting asbestos in air concentrations, the employer shall determine the measures intended to ensure protection of the workers while they are engaged in such activities, in particular the following:

Amendment

(6a) In Article 12(1), the introductory wording is replaced by the following:

“In the case of certain activities such as demolition, asbestos removal work, repairing and maintenance, in respect of which it is foreseeable that the limit value set out in Article 8 will be exceeded despite the use of ***all possible*** technical preventive measures for limiting asbestos in air concentrations, the employer shall determine the measures intended to ensure protection of the workers while they are engaged in such activities, in particular the following:”

Or. en

(See wording of Article 12 of Directive 2009/148/EC)

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point 6 b (new)

Directive 2009/148/EC

Article 12 – paragraph 2 a (new)

Present text

Amendment

(6b) In Article 12, the following paragraph is added:

“A measurement of asbestos fibres concentration in the air shall be carried out after activities referred to in the first paragraph have been concluded in order to ensure that workers can safely re-enter

the workplace.”

Or. en

(See wording of Article 12 of Directive 2009/148/EC)

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 6 c (new)

Directive 2009/148/EC

Article 14 – paragraph 2

Present text

Amendment

2. The content of the training **must** be easily understandable for workers. It **must** enable them to acquire the necessary knowledge and skills in terms of prevention and safety, **particularly as regards:**

- (a) the properties of asbestos and its effects on health, including the synergistic effect of smoking;**
- (b) the types of products or materials likely to contain asbestos;**
- (c) the operations that could result in asbestos exposure and the importance of preventive controls to minimise exposure;**
- (d) safe work practices, controls and protective equipment;**
- (e) the appropriate role, choice, selection, limitations and proper use of respiratory equipment;**
- (f) emergency procedures;**
- (g) decontamination procedures;**
- (h) waste disposal;**
- (i) medical surveillance requirements.**

(6c) In Article 14, paragraph 2 is replaced by the following:

“2. The content of the training **shall** be easily understandable for workers. It **shall** enable them to acquire the necessary knowledge and skills in terms of prevention and safety, **in accordance with the national law and practice applicable where the work takes place.”;**

Or. en

(See wording of Article 14 of Directive 2009/148/EC)

Justification

Strengthening training requirements is an important element to reduce the risks and ensure the correct implementation of the legislation. In order to ensure a level playing field, Annex Ia of this Directive provides for minimum training requirements, including specific requirements for workers in specialised asbestos removal companies.

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 6 d (new)

Directive 2009/148/EC

Article 14 – paragraph 3

Present text

3. Practical guidelines for the training of asbestos removal workers shall be developed at Community level.

Amendment

(6d) In Article 14, paragraph 3 is replaced by the following:

“3. The minimum requirements with regard to the content, duration, intervals, and documentation of the training provided pursuant to this Article shall be specified in Annex Ia.”

Or. en

(See wording of Article 14 of Directive 2009/148/EC)

Justification

Strengthening training requirements is an important element to reduce the risks and ensure the correct implementation of the legislation. In order to ensure a level playing field, Annex Ia of this Directive provides for minimum training requirements, including specific requirements for workers in specialised asbestos removal companies.

Amendment 35

Proposal for a regulation

Article 1 – paragraph 1 – point 6 e (new)

Directive 2009/148/EC

Article 15 – paragraph 1

Present text

Amendment

Before carrying out demolition or asbestos removal work, firms must provide evidence of their ability in this field. The evidence shall be established in accordance with national laws and/or practice.

(6e) In Article 15, paragraph 1 is replaced by the following:

“1. Undertakings which intend to carry out demolition or asbestos removal work shall be required to obtain, before the start of work, a permit from the competent authority. Competent authorities shall grant such permits only if the applicant undertaking provides proof of adequate state-of-the-art technical equipment for emission-free or, where this is not yet technically possible, low-emission work procedures in line with the requirements of Article 6, and training certificates for the individual workers in accordance with Article 14 and Annex Ia.”

Or. en

(See wording of Article 15 of Directive 2009/148/EC)

Justification

Given the risk involved in demolition and asbestos removal work, all Member States should have a system of renewable permit to only allow companies with the necessary competence to carry out these works.

Amendment 36

Proposal for a regulation

Article 1 – paragraph 1 – point 6 f (new)

Directive 2009/148/EC

Article 15 – paragraph 1 a (new)

Present text

Amendment

(6f) In Article 15, the following paragraph is added:

“1a. Competent authorities shall grant permits to undertakings only if they have no doubt as to the reliability of the undertaking and its management. The permits shall be renewable every five

years, in accordance with national law and practice.”

Or. en

(See wording of Article 15 of Directive 2009/148/EC)

Justification

Given the risk involved in demolition and asbestos removal work, all Member States should have a system of renewable permit to only allow companies with the necessary competence to carry out these works.

Amendment 37

Proposal for a regulation

Article 1 – paragraph 1 – point 6 g (new)

Directive 2009/148/EC

Article 15 – paragraph 1 b (new)

Present text

Amendment

(6g) In Article 15, the following paragraph is added:

“1b. Member States shall establish public registers of the undertakings that have been granted permits to remove asbestos pursuant to paragraph 1.”

Or. en

(See wording of Article 15 of Directive 2009/148/EC)

Justification

Given the risk involved in demolition and asbestos removal work, all Member States should have a system of renewable permit to only allow companies with the necessary competence to carry out these works.

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 – point 6 h (new)

Directive 2009/148/EC

Article 16 – paragraph 1 – point c

Present text

Amendment

(c) workers are provided with appropriate working or protective clothing; **this** working or protective clothing remains within the undertaking; it may, however, be laundered in establishments outside the undertaking which are equipped for this sort of work if the undertaking does not carry out the cleaning itself; in that event the clothing shall be transported in closed containers;

(6h) In Article 16(1), point c is replaced by the following:

“(c) workers are provided with appropriate working or protective clothing **as well as protective equipment, in particular respiratory equipment, which is subject to a mandatory individual fitting check; that** working or protective clothing remains within the undertaking; it may, however, be laundered in establishments outside the undertaking which are equipped for this sort of work if the undertaking does not carry out the cleaning itself; in that event the clothing shall be transported in closed containers;”

Or. en

(See wording of Article 16 of Directive 2009/148/EC)

Justification

It is important to subject workers wearing personal protective equipment such as respiratory equipment to a mandatory fitting check to ensure an appropriate protection and to provide regular breaks for workers wearing respiratory protection. Decontamination procedure is also needed to avoid secondary exposure to asbestos.

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point 6 i (new)

Directive 2009/148/EC

Article 16 – paragraph 1 – point c a (new)

Present text

Amendment

(6i) In Article 16(1), the following point is inserted:

“(ca) **regular compulsory breaks with sufficient time for rest are provided for workers wearing respiratory equipment;**”

Or. en

(See wording of Article 16 of Directive 2009/148/EC)

Justification

It is important to subject workers wearing personal protective equipment such as respiratory equipment to a mandatory fitting check to ensure an appropriate protection and to provide regular breaks for workers wearing respiratory protection. Decontamination procedure is also needed to avoid secondary exposure to asbestos.

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 6 j (new)

Directive 2009/148/EC

Article 16 – paragraph 1 – point e

Present text

Amendment

(e) workers are provided with appropriate and adequate washing and toilet facilities, including showers in the case of dusty operations;

(6j) In Article 16(1), point e is replaced by the following:

“(e) workers are provided with appropriate and adequate washing and toilet facilities, including showers in the case of dusty operations, **and are subject to a mandatory decontamination procedure;**”

Or. en

(See wording of Article 16 of Directive 2009/148/EC)

Justification

It is important to subject workers wearing personal protective equipment such as respiratory equipment to a mandatory fitting check to ensure an appropriate protection and to provide regular breaks for workers wearing respiratory protection. Decontamination procedure is also needed to avoid secondary exposure to asbestos.

Amendment 41

Proposal for a regulation

Article 1 – paragraph 1 – point 6 k (new)

Directive 2009/148/EC

Article 18b a (new)

(6k) The following article is inserted:

“Article 18ba

- 1. By ... [one year after the date of entry into force of this amending Directive], the Commission shall, in cooperation with the Advisory Committee for Safety and Health at Work, develop guidelines to support the application of this Directive. Those guidelines shall provide, where appropriate, sector-specific responses.**
- 2. By... [three years after the date of entry into force of this amending Directive], the Commission shall start the consultation process for updating the fibrous silicates within the scope of this Directive and, in that context, assess the inclusion of riebeckite, winchite, richterite, fluoro-edenite and erionite. After consulting the social partners, the Commission shall, where relevant, subsequently propose necessary amendments to this Directive in a legislative proposal.**
- 3. By ... [five years after the date of entry into force of this amending Directive] and every five years thereafter, the Commission shall, after consulting the social partners, review the technological and scientific state of asbestos identification, measurement or warning technology and issue guidelines for when a new technology is to be used in order to protect workers from exposure to asbestos.”**

Or. en

Justification

A constant effort is needed to mitigate the risks related to the exposure of a strong carcinogen such as asbestos. The provisions of this Directive and related guidelines should therefore be regularly updated to take into account the latest scientific knowledge and technical developments. The change of methodology from Phase Contrast Microscopy to Transmission

Electron Microscopy would also allow to differentiate between different types of fibres and would allow to assess the opportunity of updating the fibrous silicates within the scope of this Directive, if appropriate.

Amendment 42

Proposal for a regulation

Article 1 – paragraph 1 – point 7 a (new)

Directive 2009/148/EC

Article 21 – paragraph 1

Present text

Member States shall keep a register of recognised cases of ***asbestosis and mesothelioma***.

Amendment

(7a) In Article 21, paragraph 1 is replaced by the following:

“1. Member States shall keep a register of recognised cases of **asbestos-related occupational diseases**. An indicative list of diseases that can be caused by asbestos exposure is set out in Annex 1.”

Or. en

(See wording of Article 21 of Directive 2009/148/EC)

Justification

It is proposed to update, in annex 1 the list of diseases for which current knowledge indicates that exposure to asbestos fibres can give rise to. Without undermining national competences as regard compensation of occupational diseases, when it is demonstrated that a disease is linked to occupational exposure to asbestos, the information should be used to feed statistical registers in order to ensure a better epidemiological monitoring and ultimately to assess the efficiency of Community legislation on Health and Safety at Work.

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point 7 b (new)

Directive 2009/148/EC

Article 21 – paragraph 1 a (new)

Present text

Amendment

(7b) In Article 21, the following paragraph is added:

“1a. The term recognised cases referred to in paragraph 1 shall not be limited to cases for which the compensation is granted, but shall refer to all cases of medically diagnosed asbestos-related diseases.”

Or. en

(See wording of Article 21 of Directive 2009/148/EC)

Justification

It is proposed to update, in annex 1 the list of diseases for which current knowledge indicates that exposure to asbestos fibres can give rise to. Without undermining national competences as regard compensation of occupational diseases, when it is demonstrated that a disease is linked to occupational exposure to asbestos, the information should be used to feed statistical registers in order to ensure a better epidemiological monitoring and ultimately to assess the efficiency of Community legislation on Health and Safety at Work.

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 7 c (new)

Directive 2009/148/EC

Article 21 a (new)

Text proposed by the Commission

Amendment

(7c) The following article is inserted:

“Article 21a

In the case of fire, existing information, including from relevant registers, regarding the presence and location of asbestos shall be made available to firefighters and the emergency services.”

Or. en

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point 7 d (new)

Present text

1. Current knowledge indicates that exposure to free asbestos fibres can give rise to the following diseases:

- asbestosis,
- mesothelioma,
- bronchial carcinoma,
- gastro-intestinal carcinoma.

Amendment

(7d) In Annex I, point 1 is replaced by the following:

1. Current knowledge indicates that exposure to free asbestos fibres can give rise to the following diseases:

- asbestosis,
- mesothelioma,
- bronchial carcinoma,
- gastro-intestinal carcinoma,
- ***carcinoma of the larynx,***
- ***carcinoma of the ovary,***
- ***non-malignant pleural diseases.***

1a. Positive associations have been noted by the International Agency for Research on Cancer between asbestos exposure and the following diseases:

- ***pharyngeal cancer,***
- ***colorectal cancer,***
- ***stomach cancer.”***

Or. en

(See wording of Annex I of Directive 2009/148/EC)

Justification

The additions are based on ECHA report and IARC monograph.

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point 7 e (new)

Directive 2009/148/EC

Annex I a (new)

(7e) *The following annex is inserted:*

“ANNEX Ia

**MINIMUM REQUIREMENTS FOR
TRAINING**

Workers who are, or who are likely to be, exposed to dust from asbestos or materials containing asbestos, shall receive mandatory training, encompassing at least the following minimum requirements:

- 1. The training shall be provided at the start of an employment relationship and at intervals not exceeding four years.*
- 2. Each training course shall have a minimum duration of three working days.*
- 3. The training shall be either provided by an instructor whose qualification is recognised by a national authority or by a certified institution in accordance with national law and practice.*
- 4. Every worker who has attended training in a satisfactory manner and has passed the required test shall receive a training certificate indicating all of the following:*
 - (a) the date of the training;*
 - (b) the duration of the training;*
 - (c) the content of the training;*
 - (d) the language of the training;*
 - (e) the name, qualification, and contact details of the instructor or of the institution providing the training.*
- 5. Workers who are, or who are likely to be, exposed to dust from asbestos or materials containing asbestos shall receive at least the following training, with a theoretical and a practical part, regarding all of the following:*

- (a) the applicable law of the Member State in which the work is carried out;*
- (b) the properties of asbestos and its effects on health, including the synergistic effect of smoking, as well as the risks linked to secondary and environmental exposure;*
- (c) the types of products or materials likely to contain asbestos;*
- (d) the operations that could result in asbestos exposure and the importance of preventive controls to minimise exposure;*
- (e) safe work practices, including workplace preparation, choice of working methods and planning of work execution, ventilation, point extraction, measurement and control, and regular breaks;*
- (f) the appropriate role, choice, selection, limitations and proper use of protective equipment, with special regard to respiratory equipment;*
- (g) emergency procedures;*
- (h) decontamination procedures;*
- (i) waste disposal;*
- (j) medical surveillance requirements.*

The training shall be adapted as closely as possible to the characteristics of the profession and the specific tasks and work methods it involves.

6. Workers who engage in demolition or asbestos-removal work shall be required to receive training, in addition to the training provided for pursuant to paragraph 4, regarding both of the following:

- (a) the use of technological equipment and machines to contain the release and spreading of asbestos fibres during the work processes, in accordance with this Directive;*
- (b) the newest available technologies and machines for emission-free or, where this is not yet technically possible, low-*

emission working procedures, to contain the release and spreading of asbestos fibres.”

Or. en

Justification

In order to ensure a level playing field, this new annex provides for minimum training requirements on general aspects of the training, including specific requirements for workers in specialized asbestos removal companies. Training is important to ensure the practical implementation on the ground. Such general mandatory minimum requirements should be subject to practical guidelines updated regularly.

Amendment 47

Proposal for a regulation

Article 2 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 1, point 4, of this Directive by ... [three years after the date of entry into force of this Directive]. They shall immediately communicate the text of those measures to the Commission.

Member States shall, before having brought into force the laws, regulations and administrative provisions in accordance with this paragraph, carry out fibre counting by phase-contrast microscopy, in accordance with the method recommended in 1997 by the World Health Organization, or, where possible, by any other method giving equivalent or better results.

Or. en

Justification

In order to allow for a sufficient time to comply with the new requirement of using Transmission Electron Microscopy, it is appropriate that a transition period of 3 years is

provided. During this transition period, PCM can still be used.

EXPLANATORY STATEMENT

Asbestos is the main cause of occupational cancers. This substance was banned at European level in 2005 but is still present in many buildings and infrastructures, including transport.

The Green Deal engages the European Union in a vast program of renovation of buildings to improve energy efficiency while driving clean energy transition. At the same time, this renovation wave exposes workers to increased occupational cancer risks. Therefore, the European Parliament asked, by large majority, for a cross-cutting European strategy, including housing, waste management and occupational health protection policies.

In September 2022, following the report of the European Parliament, the Commission proposed in a communication on “working towards an asbestos-free future”, a strategy encompassing measures to improve the diagnosis and treatment of diseases caused by asbestos, the management of asbestos waste, the screening and safe removal of this substance. This strategy is a good first step.

The revision of the asbestos at work directive is the first legislation of this strategy. The main Commission proposals relate to the fibre counting methodology and the occupational exposure limit.

Methodology

The majority of Member States are currently using a methodology (phase contrast microscopy), recommended by the World Health Organization. However, this methodology is widely considered as outdated because of limitations.

- **The first obstacle is the detection limit.** For a limit value to be a tangible reality, it is crucial to have the means to control its application. In practice, this means that the detection limit must be lower than the defined limit value.
- **The second relates to the limit of visibility.** Setting a maximum quantity of asbestos not to be exceeded is a crucial discussion, but the prerequisite is to agree on what the terms "fibres to be counted" cover. The legislation does not provide for a diameter below which the fibres are not counted. In practice, this limit is set by what is observable under the microscope. With phase contrast microscopy, fibres whose diameter is less than 0.2 micrometers are de facto excluded.
- **A third obstacle is the impossibility of distinguishing the nature of the dust** (asbestos fibres or not, and which type of asbestos), with the consequences of the possibility of “false negatives” or “false positives”.

Moving from phase contrast microscopy to a more modern technology based on electron microscopy, a significant change of the situation will be observed. Since laboratories will have to equip themselves and train their teams accordingly, a transition period of 3 years is proposed.

Two types of electron microscopy are currently used:

- **Scanning electron microscopy (known as “SEM”).** The lowest OEL in force in Europe (0.002 fibres per cm³) is used with this methodology.
- **Transmission electron microscopy (called “TEM”).** The lowest OEL in Europe is 0.01 fibre per cm³ when this method is used.

In view of the very low OEL already in force in a Member State with scanning electron microscopy, the advantages of this option seem obvious. However, when used for occupational exposure monitoring purposes, it cannot detect fibres as thin as transmission electron microscopy (which can detect fibres with a diameter of around 0.01 µm).

This question is not a detail. **Thin asbestos fibres are also carcinogenic.** Following the recommendation of the Risk Assessment Committee of the European Chemicals Agency, those thin fibres must be taken into consideration. This has a natural consequence on the number of fibres counted, and therefore on the OEL.

Since there is no scientifically valid reason to exclude thin asbestos fibres, the report therefore proposes to adopt transmission electron microscopy as the method for monitoring compliance with the OEL. The Commission should support and facilitate Member States in such transition, in particular through the development of guidelines and providing information on relevant Union funds which can be used for that purpose.

Occupational Exposure Limit (OEL)

The report proposes, as a first step, to divide the OEL by 10 and therefore to go, without a transition period, from 0.1 fibre per cm³ to 0.01 fibre per cm³.

The change of methodology, after a transition period of 3 years, to transmission to electron microscopy, will lead, at constant OEL, to a considerable additional reinforcement of workers protection, since more fibres will be counted.

If the ratios between two methods are to be taken with caution, and depend on factors linked to the circumstances of exposure (linked to the place where the work is carried out), it is generally accepted that **electron microscopy makes it possible to count 2 to 4 times more fibres than phase contrast microscopy, when restricting the counting to fibres with widths detectable also with Phase Contrast Microscopy** (therefore fibres thicker than 0.2 µm). A recent study estimated that taking into account the thin fibres observable by **transmission electron microscopy** (which can see fibres with a diameter of about 0.01 µm), **the average ratio would be 15³.**

Compared to the current situation (0.1 fibre per cm³ measured by phase contrast microscopy), **an OEL of 0.01 fibre per cm³ measured by transmission electron microscopy would therefore lead to a reduction in exposure by a factor of around 150.**

³ EYPERT-BLAISON, C., CLERC, F., ROMERO-HARIOT, A. & VINCENT, R. 2018a. Notes techniques 252. Amiante dans l'air des lieux de travail : pertinence de l'analyse par microscopie électronique à transmission analytique (meta), Paris, INRS.

EYPERT-BLAISON, C., ROMERO-HARIOT, A., CLERC, F. & VINCENT, R. 2018b. Assessment of occupational exposure to asbestos fibers: Contribution of analytical transmission electron microscopy analysis and comparison with phase-contrast microscopy. J Occup Environ Hyg, 15, 263-274.

The analytical sensitivity of this technique being 0.001 fibres per cm³⁴, it will also be possible to measure as little as 10% of the OEL for the purposes of monitoring compliance with the legislation.

However, an OEL should not be confused with a target. Asbestos is a non-threshold carcinogen. Therefore, employers are required **to reduce exposure to the lowest possible level**. In no case would the setting of a limit be an encouragement to aim for this threshold.

Constant efforts are needed to lower the risk of the exposure to a powerful non-threshold carcinogen like asbestos. Therefore, 5 years after the entry into force of this directive, the Commission shall assess, on the basis of the experience acquired and the technical progress made, the feasibility of a further reduction of the OEL, targeting 0.001 fibre per cm³, and submitting a legislative proposal to that effect.

To accompany the revision of the directive, the report proposes to specify the applicable measures to prevent the spread of dust in the air and to ensure that personal protective equipment are subject to mandatory individual fitting checks. These practical measures will help to comply with the revised OEL and are the logical translation of the fact that exposure must be reduced to the lowest level technically possible.

In addition, it is proposed to specify that the samplings should be carried out in such a way as to be representative of the real exposure of workers, and to take into consideration the different operational phases of the works.

Further changes to the Asbestos at Work Directive are proposed and reflect the demands of the European Parliament expressed in its 2021 resolution.

Even if the proposed revision would increase the protection of workers by a factor of around 150, which is considerable, focusing only on the OEL is not enough. A prerequisite is to check, prior to the work, the presence or absence of asbestos within the scope of the planned work. Although the announcement by the Commission of future legislation on the screening and registration of asbestos in buildings is indeed good news, the content of such a proposal is not published yet. Knowing about the presence of asbestos is an important element for the protection of workers. This is why the report proposes to insert a clause providing, if the information is missing or not sufficient, that a screening, adapted to the scope of the work, should be carried out by a certified operator, regardless of the type of premises: buildings or infrastructures, in particular ships.

It is also proposed to delete the concept of “sporadic and of low intensity exposure” to waive certain requirements of the directive. Instead, it is proposed that guidelines should be developed, in cooperation with the social partners, to provide, where appropriate, sector-specific practical information on the implementation of this directive.

The report recommends to prioritize the removal of asbestos-containing materials rather than the use of alternative techniques, such as encapsulation or sealing, which would only postpone the safe removal of asbestos.

⁴ source : TNO 2021 R12180

The proper application of the legislation requires, on the one hand, that workers have appropriate qualifications and, on the other hand that the competent authorities can intervene if necessary. Therefore, it is proposed to strengthen the minimum requirements for training and notification to the authorities. These additional requirements will allow for increased awareness of the measures to be taken for work related to asbestos.

In order to avoid secondary exposure, the report recommends that mandatory decontamination procedures be put in place.

Finally, and without undermining national competences as regard compensation of occupational diseases, it is proposed to update in Annex 1 on medical surveillance, the list of diseases for which current knowledge indicates that exposure to asbestos fibres can give rise to. When it is demonstrated that a disease is linked to occupational exposure to asbestos, the information should be used to feed statistical registers in order to ensure more complete epidemiological monitoring.

ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the [draft report / report, until the adoption thereof in committee]:

| Entity and/or person |
|---|
| European Federation of building and woodworkers |
| European Trade Union Institute |
| European Trade Union Confederation |
| European Federation of Public Service Unions |
| United Federation of Danish Workers (3F) |
| European Construction Industry Federation |
| European Building Confederation |
| Confédération de l'Artisanat et des Petites entreprises du Bâtiment |
| Fédération Française du Bâtiment |
| Syndicat Interprofessionnel du Diagnostic Immobilier |