

## ETUC reply to the 2nd phase consultation of social partners under Article 154 TFEU on the protection of workers from risks related to chemical agents at work and to asbestos at work

Adopted at the Executive Committee Meeting of 9 September 2021

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The European Trade Union Confederation (ETUC) welcomes the second stage consultation with the social partners under Article 154(3) of the Treaty on the Functioning of the European Union (TFEU) on the possible content of the envisaged Commission proposal concerning revisions of both **Directive 98/24/EC** on the protection of the health and safety of workers from the risks related to chemical agents at work (**Chemical Agents Directive or CAD**), and **Directive 2009/148/EC** on the protection of workers from the risks related to exposure to asbestos at work (**Asbestos at Work Directive or AWD**).

In accordance with its response to the first phase consultation, the ETUC fully supports the Commission's intention to improve the relevance and effectiveness of these directives by establishing, or reviewing, binding occupational or biological limit values for **lead and its compounds and di-isocyanates** in the CAD and by reviewing the binding limit value for **asbestos** in the AWD.

The ETUC recalls that **elimination or substitution of hazardous chemicals** with safer alternatives **are the best preventative measures** at work. ETUC also underscores that women workers are vastly underrepresented in research into the health risks that are associated with workplace exposures to chemicals. Likewise, wrong assumptions about the jobs that many women workers undertake can mean that their health and safety is overlooked. Therefore, it is essential that the Commission includes a specific focus on the **gender differences** in this and its future initiatives to improve workers' protection from chemical risks. As workers are often exposed to a cocktail of hazardous substances at work, **multiple exposure** should also be considered.

ETUC wants to stress the need to make transparent the residual risk of adverse effect when publishing limit values, a challenge which applies to all three substances tackled in the social partners' consultation.

ETUC fully supports the collection of better statistics and evidence on OSH. Data on the effective exposure of workers to the chemical substances identified will be an essential means for monitoring the effectiveness of the protection provided for the legislation, as well as the centralisation of this data .

Enforcement is key to achieving the protection aimed at with the identified occupational safety and health legislation. ETUC therefore recalls the importance of sufficient, and well-resourced labour inspectorate to monitor compliance concerning preventive measures and limit values of the substances concerned.

The European Commission has invited the Social Partners to answer the following questions in relation to its consultation document C (2021) 4529 final, dated 28/06/2021:

What are your views on the possible avenues for EU action, potential impacts and the elements set out in section 5 of this document and the analytical document?

Are the social partners willing to enter into negotiations with a view to concluding an agreement with regard to any of the elements set out in section 5 of this document under Article 155 TFEU?

## **ETUC response to question 1**

The ETUC is pleased to contribute to this second stage consultation with the following answers to question 1 with specific remarks on each of the 3 (group of) substances under consideration.

### **1. Lead and lead compounds**

Lead and lead compounds are important substances for battery production and recycling, manufacture of lead oxides, glass and ceramics. These substances are hazardous for both human health and the environment. They are currently classified under the CLP regulation with a harmonised classification as substances toxic for reproduction in humans (Reproduction category 1A) and are covered under the CAD with outdated binding limit values determined in the early 1980s. The number of exposed workers in the EU-27 is estimated to be over 1.3 million.

The ETUC is therefore of the opinion that the current binding limit values for lead and lead compounds (150 µg lead/m<sup>3</sup> and 700 µg lead/L blood) should be revised downward as soon as possible in light of the latest scientific and technical developments, the adoption of more protective limit values in some of the EU Member States and the information provided in the opinion<sup>1</sup> adopted by the European Chemicals Agency (ECHA).

ETUC recalls that the EU Strategic Framework on Safety and Health at Work 2021-2027 refers to the need to review the limit value for lead, which will be proposed by the European Commission in 2022.

In addition, ETUC would like to insist on the following points.

#### **1.1 the EU requirement for equality of treatment between women and men at work**

In its opinion adopted in June 2020, ECHA recommended that under the CAD both a Binding OEL of 4 µg lead/m<sup>3</sup> and a Biological Limit Value (BLV) of 150 µg lead/L blood are adopted. The BLV is meant to protect workers exposed to lead and the inorganic compounds from lead chronic toxicity. RAC/ECHA also recommended adding a qualitative statement in the CAD, indicating that the exposure of fertile women to lead should be avoided or minimised in the workplace because **the proposed BLV for lead does not protect the offspring of women who are of childbearing age.**

As the adoption of the BLV proposed by ECHA would be contrary to EU law and non-discrimination principle between women and men at work (Article 263 TFEU), ETUC

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<sup>1</sup> ECHA/RAC/A77-O-0000006827-62-01/F of 11 June 2020

calls on the European Commission to propose, in addition to a binding OEL at 4 µg/m<sup>3</sup> proposed by ECHA, the adoption of a BLV at 45 µg lead /L blood that would guarantee a high level of protection of human health and equality of treatment between women and men at work.

Although limit values are set for the protection of workers exposed to hazardous chemicals, there are not always studies of their toxicity to pregnant women and the foetus. The limit values set do not guarantee protection for the foetus. The risk of exposure of a pregnant woman to chemicals can take a long time to be assessed by the external/proprietary prevention services. Therefore, from our point of view and following the precautionary principle, the first measure when it is known that a worker who is exposed to chemical substances is pregnant, would be to avoid any exposure to the substance until the Prevention Service issues a report determining the form and the work to be carried out, including the necessary preventive measures. The medical service of the prevention service, taking into account this report, will draw up a certificate of aptitude, with the relevant limitations for the performance of the work.

### **1.2 the need to revise the EU harmonised classification of lead and lead compounds**

The opinion adopted by ECHA makes clear that in addition to reproductive health problems, there is enough scientific evidence that lead is also associated with neurological, renal, cardiovascular, haemopoietic, genotoxic and **carcinogenic effects (i.e. brain tumours)**. All these adverse effects to workers are being taken into account in the external study on lead and lead compounds performed on behalf of the European Commission and whose aim is to support its impact assessment.

ETUC is therefore of the opinion that there is an urgent need to **revise the EU harmonised classification of lead and lead compounds for carcinogenicity**. Should this update of the harmonised classification be proposed and later confirmed at EU level, lead and its compounds will automatically fall under the scope of the Carcinogens & Mutagens Directive (CMD). There will be no consequences on the legal status of the updated limit values as limit values are always binding under the CMD.

### **1.3 the need to extend the scope of the Carcinogens and Mutagens Directive to reprotoxic substances**

ETUC is of the opinion that reprotoxic substances that meet the EU criteria for classification as category 1A/1B should be removed from the scope of the CAD and placed under the scope of the Carcinogens and Mutagens Directive (CMD).

This would have several advantages like:

- strengthening the current OSH system since **the CMD is more stringent than the CAD** in terms of reducing exposure levels in the workplace; and in particular:
- Increasing workers' protection towards the risks of exposure to major reprotoxic substances widely present at work like the **endocrine disruptors** (Bisphenol-A and phthalates), **Hazardous Medicinal Products** (~ 50% of HMPs used in the EU-27 are only reprotoxics), the **Aprotic solvents** (NMP, DMF, DMAC)
- bringing **legal coherence and a better alignment of the chemical legislation at EU level** since within all other EU legislations on chemicals (Pesticides, Biocides,

- Cosmetic regulations, etc) carcinogens (C), mutagens (M) **and** reprotoxic substances (R) are treated in the same category as CMRs.
- harmonising the OSH legislation on reprotoxic substances across Member States since **seven countries representing 46% of the EU workforce** (Austria, Belgium, Czech Republic, Finland, France, Germany and Sweden) **have already extended the scope of the CMD** to substances that adversely affect fertility when transposing it into national legislation.

ETUC urges the European Commission to close the longstanding discussion on the best legal instrument to protect workers from the risks of exposure to reprotoxic substances by including them in the scope of the CMD during the ongoing discussion on the 4th revision of the CMD. This would also be coherent with both the European Parliament amendments adopted on CMD4 and the intention of the European Commission expressed in the second phase consultation of the social partners on the revision of the CMD in 2007<sup>2</sup>.

## **2. Di-isocyanates**

Di-isocyanates are chemicals widely used in the manufacturing process of polyurethane foams, plastics, coatings, varnish, two-pack paints, adhesives, etc. These substances are respiratory sensitisers (i.e. they induce occupational asthma and can trigger irreversible allergic reaction in the respiratory system) as well as skin sensitisers (i.e. they induce allergic responses after contact with the skin ). Di-isocyanates are considered non-threshold substances, which means that any occupational exposure will be associated with a risk for developing occupational asthma (the lower the exposure the lower the risk for developing asthma). The number of exposed workers in the EU-27 is estimated to be around 2.8 million, the majority of them working in the construction sector<sup>3</sup>. There is currently no EU OEL for di-isocyanates and various Member States are imposing their own OELs for these substances.

ETUC is therefore of the opinion that binding EU OELs are needed to ensure minimum requirements for the protection of workers exposed to di-isocyanates across the EU.

In addition, ETUC would like to insist on the following points.

### **1.1. the need to agree on the level of asthma risk acceptable for exposed workers**

In its opinion on di-isocyanates adopted in June 2020<sup>4</sup>, RAC/ECHA suggests that the exposure associated with different excess risk levels can form the basis for deriving an OEL. As this is the first time an EU Binding limit value will be established for sensitisers, ETUC believes that in order to decide at which level of exposure the OEL will be set, a prior decision must be made on the excess risk level of developing occupational asthma that is acceptable in workers exposed to di-isocyanates. This issue should be discussed and agreed upon within the tripartite EU Advisory

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<sup>2</sup> See attached document 853-4

<sup>3</sup> VENCOSKY *et al.* *The cost of occupational cancer in the EU-28.* ETUI. Brussels, 2017.

<sup>4</sup> <https://echa.europa.eu/documents/10162/4ea3b5ee-141b-63c9-8ffd-1c268dda95e9>

Committee on Safety and Health at Work (ACSH), where workers, employers and governments are represented.

### **1.2. the need to set the limit values for di-isocyanates at a level below the maximum recommended by ECHA.**

In its opinion on di-isocyanates, RAC/ECHA recommends that the 15-minutes Short Term Exposure Limit (STEL) should not exceed 6 µg NCO/m<sup>3</sup> and that the OEL as 8-hour time weight average (TWA) should not exceed 3 µg NCO/m<sup>3</sup> (a factor of 2 lower than the STEL).

ETUC is therefore of the opinion that the limit values for di-isocyanates (both 8hour TWA and STEL) should be set at a level below the maximum recommended by ECHA.

### **1.3. the need to assess the impacts of the future OEL regardless of the possible effects of the REACH restriction**

According to REACH restriction recently adopted<sup>5</sup>, di-isocyanates shall not be used or placed on the market as substances on their own, as a constituent in other substances or in mixtures for industrial and professional uses after 24 August 2023 unless certain conditions are met (the concentration is less than 0.1% by weight or workers are trained - with detailed training requirements - on the safe use of di-isocyanates)

Moreover, according to the EU Strategic Framework on Health and Safety at Work 2021-2027 published on 28 June 2021<sup>6</sup>, the European Commission will propose limit values on di-isocyanates in the CAD **in 2022**. Since this is ahead of the entry into force of the REACH restriction conditions, ETUC is of the opinion that in the Commission impact assessment on the future OELs for di-isocyanates, the baseline scenario cannot take into account the possible effects on workers' protection linked to this restriction.

## **3. Asbestos**

Asbestos kills around 88 000 people mainly from lung cancers and mesothelioma every year in the EU and will continue to do so over the coming decades. Asbestos is a non-threshold carcinogen, which means that every level of exposure, however low, brings a risk of developing cancer<sup>7</sup>.

While manufacturing asbestos, placing it on the market and using it have been banned in the EU since 2005, asbestos is still present in many European buildings and bedrock in mines, and is a significant health and safety threat for millions of European workers. Indeed, with the adoption of the European Green Deal and the Renovation Wave for Europe, it is expected that millions of buildings will be maintained, renovated, or demolished which means that millions of workers (mainly in the construction sector) will be at increased risk of exposure to asbestos fibres.

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<sup>5</sup> <https://echa.europa.eu/documents/10162/503ac424-3bcb-137b-9247-09e41eb6dd5a>

<sup>6</sup> [COM\(2021\) 323 final](#)

<sup>7</sup> *Study on collecting information on substances with the view to analyse health, socio-economic and environmental impacts in connection with possible amendments of Directive 98/24/EC (Chemical Agents) and Directive 2009/148/EC (Asbestos), final reports, European Commission, 2021.*

Today, the number of workers exposed to asbestos in the EU-27 is estimated to be around 6 million<sup>8</sup>.

The construction industry is the third largest sector in the EU, with a rate of 10% of cross-border workers, including a significant share of self-employed workers.<sup>9</sup> The share of temporarily posted workers from low-wage countries is very high.<sup>10</sup> Those workers are particularly vulnerable to breaches of health and safety standards, especially when they work on small renovation sites. Workers are often unaware of the dangers of the deadly fibre and in most countries lack the necessary awareness, training, and safety precautions. Not only workers in specialised asbestos removal companies, but workers in all professions in the construction industry are at a high risk of being exposed to asbestos fibres during their work. Cancer caused by exposure to asbestos fibres during renovation or demolition work has long latency periods, one of the reasons why the health threat is often underestimated by companies and by the affected workers themselves. For mobile and posted workers who are employed at the lower levels of the subcontracting chain, mandatory medical surveillance is often neglected or absent. This makes it particularly difficult for these workers to claim recognition and compensation for medical treatment in the case of an asbestos-related occupational disease.

Therefore, for the ETUC focusing only on the OEL is an approach too narrow to match the challenges. The fact that many Member States have already adopted more stringent measures on inventory and management of asbestos and introduced additional requirements for different kinds of work with asbestos, shows that the EU minimum standards can, and must, be improved to reach the highest possible level for an efficient protection of all workers.

The ETUC welcomes the Commission's willingness to give due consideration to further suggestions to improve workers' protection and to consider amendments to the legislative framework. From the point of view of the ETUC, EU action is needed regarding the OEL, other provisions of the directive, and provisions which go beyond the scope of the directive to achieve effective protection of all workers from exposure to asbestos.

The ETUC fully agrees with the Commission's emphasis on the significant costs which arise from the inadequate control of asbestos at the workplace for individuals and society (among others for care, social security, and loss of productivity), while companies can externalise immediate costs due to the long latency periods of asbestos related diseases. The cost of work-related cancers is immense: between €270 and €610 billion each year, which represents 1.8% to 4.1% of the gross domestic product of the European Union (ETUI, 2017). For affected workers and their families, in addition to the suffering due to the disease, considerable health care costs occur in addition to the loss of present and future earnings (both for the person affected and for the carers), administrative costs when claiming for benefits, and costs for legal support in recognition procedures.

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<sup>8</sup> *Study on collecting information on substances with the view to analyse health, socio-economic and environmental impacts in connection with possible amendments of Directive 98/24/EC (Chemical Agents) and Directive 2009/148/EC (Asbestos), final reports, European Commission, 2021.*

<sup>9</sup> <http://ec.europa.eu/social/BlobServlet?docId=23293&langId=en>

<sup>10</sup> <http://ec.europa.eu/social/BlobServlet?docId=19040&langId=en>

All these costs must be put in a direct relation to the comparably marginal costs for companies and the Member States for investments in stringent preventive measures and effective controls and enforcement. Small and micro enterprises must apply the same OSH measures as all companies, since their workers are exposed to the same health risks. The Commission can – together with social partners – consider possible support measures for these companies when applying more effective OSH rules, in conjunction with regular controls and proper sanctions if the health and safety of workers is not being respected.

There is a significant divergence between Member States not only regarding the applicable OELs, but also concerning other protective measures. Some procedural measures are within the scope of the AWD directive, some provisions are based on other national legal instruments such as the registration and monitoring of asbestos in buildings, or asbestos screenings before buildings are sold on the market. The ETUC calls on the Commission to draw on the existing good practices in Member States to propose a comprehensive legal EU framework for the work with asbestos containing materials and the safe removal of all existing asbestos in the EU to protect workers as well as inhabitants and users of buildings.

A comprehensive legal framework will also give legal certainty for companies and an improved level playing field for businesses across the EU. When businesses located in Member States with more stringent rules face a competitive disadvantage, this hampers the functioning of the internal market, resulting in a downward convergence for the health and safety of workers as well as for technological progress, innovation, and competitiveness.

ETUC wants to emphasise the need to involve workers and their trade union representatives to guarantee the protection of workers against asbestos. The right for information and consultation in the different steps of the asbestos prevention chain should be respected, from the presence and identification of asbestos, the plan of work, the preventive measures used, the method of measuring exposure, to the way information and training of workers is organised.

The ETUC highlights its full support for the comprehensive approach taken by the European Parliament in its legislative initiative report with recommendations to the Commission on protecting workers from asbestos (2019/2182(INL)). The ETUC welcomes that this approach is backed by all democratic groups in the Parliament and reminds of President Ursula von der Leyen's support for a right of initiative for the European Parliament and her commitment to put forward a legislative proposal in response to the resolutions which the Parliament adopts with a majority.

As further developed below in the section on enhancing the training requirements, ETUC stresses the need for more special training, especially for construction and mine workers, all the more in the wave of major building renovations (including many buildings dating back to the period when asbestos was widely used) and when there is asbestos in side stone in mines.

### **3.1 OEL**

The binding limit value for asbestos within the AWD (0.1 fibres/cm<sup>3</sup>) is outdated and there are disparities on the protection level among the Member States. For example, France, Germany, and the Netherlands have already updated their national OEL on asbestos. France and Germany have a national BOEL of 0.01 fibres/cm<sup>3</sup> and the Netherlands a national BOEL of 0,002 fibres/cm<sup>3</sup>.

ETUC is therefore of the opinion that the current binding limit values for asbestos should be revised downward as soon as possible in the light of the latest scientific and technical developments, the adoption of more protective limit values in some of the EU Member States, the information provided in the opinion<sup>11</sup> adopted by the European Chemicals Agency (ECHA) and the recommendation from the experts of the International Commission on Occupational Health (ICOH)<sup>12</sup>.

ETUC calls on the European Commission to set the new EU binding OEL on asbestos in the AWD at **0.001 fibres/cm<sup>3</sup> (all types of fibres measured with electronic microscopy)**.

This is substantiated by the following elements:

- The Exposure Risk Relationship (ERR) calculated by ECHA is based on the latest available data that are more than 10 years old and is not coherent with the estimation of the future burden of disease calculated by the ICOH experts. Estimation of cancer risks and annual fatalities due to asbestos exposure based on ECHA's ERR would amount to around 7500 deaths/year in the EU-27 while ICOH experts estimates are more than 10 times higher. While recognising that the methodologies used by ECHA and ICOH experts are different and both are fraught with unavoidable uncertainties, the ICOH estimates seem more coherent with the observed trends in annual deaths due to asbestos.
- There are two available methodologies to measure asbestos fibres: the optical microscopy and the electronic microscopy. The method of choice is the electronic microscopy because it is more sensitive (it can detect thinner and smaller fibres). It is already used with satisfaction in France and in the Netherlands with a limit of detection compatible with an OEL set at 0.001 fibres/cm<sup>3</sup>. Moreover, the electronic microscopy is the measurement technique recommended by ECHA for asbestos fibres.

### 3.2 Other changes needed in the AWD

In addition, ETUC would like to include the following changes in the revised AWD:

The Directive should be clear that **all varieties of asbestos are carcinogenic**. Furthermore, the scope of the Directive should be widened to include an updated list of all known forms of fibres of any width or length category with similar harmful effects on human health. The Commission should therefore include the fibrous fragments from actinolite, anthophyllite, tremolite, grunerite and riebeckite as well as winchite, richterite, fluoro-edenite, and erionite.

- The **concept of sporadic exposure and low intensity should no longer be used** to allow the removal of personal protective equipment and other protective measures. Furthermore, the **notion of friable and non-friable asbestos containing materials should not be used** to determine the risk level. Instead, an **individual risk assessment related to the planned work-process** should determine the necessary and obligatory protective measures.

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<sup>11</sup> <https://echa.europa.eu/fr/oels-activity-list/-/substance-rev/25140/term>

<sup>12</sup> <https://pubmed.ncbi.nlm.nih.gov/29772681/>



- Asbestos containing parts and materials already in use must be removed and disposed of safely and not repaired, maintained, sealed, encapsulated, or covered. **Therefore, encapsulation and sealing of asbestos must be prohibited.** Only asbestos-containing materials for which it is not technically feasible to be removed in the short-term shall be identified, marked, registered, and regularly monitored. The directive should also state clearly that work on existing asbestos containing materials is included in the prohibition of the “processing of products”. Specific implementation measures should be regulated at national level with the effective involvement of social partners.
- The information included in **the notification to the competent authorities should be complemented** with the following:
  - extra data on the equipment used for workers’ protection and decontamination;
  - the equipment used for waste disposal;
  - the duration of work processes;
  - a list and identification of the individual workers assigned to the site;
  - the proof of their competences and training; and
  - the dates of their mandatory medical examinations, in line with national rules on personal data protection.
- The **Directive should specify technical minimum requirements** to lower the concentration of asbestos fibres in the air to the lowest level that is technically possible. These should include dust suppression and suction of dust at source; continuous sedimentation; means of decontamination and minimum requirements for the pressure difference between asbestos enclosures and surroundings; fresh air supply; and HEPA filters. The ETUC proposes a minimum pressure difference of -10 Pa (minus 10 Pascal) to ensure a sufficient margin of safety against external factors, such as person traffic between the enclosure and surroundings, filter clogging, and high wind speed. Fresh air must be supplied from a point far enough. The performance of negative pressure units and portable vacuums of local exhaust ventilation systems should be confirmed 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. Ventilation of air from asbestos removal sites into enclosed spaces shall not be allowed. Measures should be taken to ensure that the asbestos removal does not emit fibres outside the containment zone After the removal, or working in an environment contaminated with asbestos fibres (such as mine workers), a measurement of asbestos fibre concentration in the air shall be carried out to ensure workers can safely re-enter the workplace. For asbestos removal activities where this is feasible, the mandatory use of robots should be considered.
- The directive should foresee that the Commission shall, in consultation with the social partners, **review the technological and scientific state of asbestos identification, measurement or warning technology every five years and issue guidelines** for when such technology should be used in a regular manner.
- The Directive should ensure that **sampling must be representative of the personal exposure of the worker** to dust arising from materials containing asbestos. Samples must be taken in representative and realistic situations. If

sampling cannot be done in a representative manner, all available protective measures must be applied.

- The **most sensitive methodology for fibre counting should be required** (i.e. Analytical Transmission Electron Microscopy).
- **Asbestos screening prior to the start of work should be mandatory.** Not only employers but also main contractors, contracting authorities, and owners should be obliged to carry out an asbestos diagnosis before commissioning any work. Only qualified and certified operators should be commissioned with the search for asbestos prior to the start of work. The process must include a diagnosis adapted to the characteristics of the workplace. A report should state either the absence or the presence of asbestos. In the latter case, the nature of contamination and its location must be specified, and the quantity of asbestos containing materials estimated. The preliminary screening must be followed by an individual sampling.
- **A plan of work** shall be drawn up before any work in relation to asbestos starts, not only for demolition or asbestos removal, but for all possible ways of working with asbestos
- **A new annex to the directive** should be introduced **with obligatory minimum requirements for training on work with asbestos** with the aim to raise the training standards to a comparable and very high level in all Member States. This should be both for workers in specialised decontamination companies and for any worker in any profession who could be exposed to asbestos containing materials while performing work (e.g. also including cleaning of vinyl asbestos floor tiles and management of resulting waste water). Specific implementation measures should be regulated at national level with the effective involvement of social partners. In addition to the requirements already laid down in the directive, the annex should include: requirements for the qualification of the training instructors and their certification by a competent authority, mandatory training certificates stating that the training has been concluded by a test of the worker in a satisfactory manner, a minimum duration of training of 3 working days, and regular intervals of maximum 3 years in which an individual worker must attend training.

Workers engaging in demolition or asbestos removal work, or those mines where there might be asbestos should receive additional training regarding the use of technological equipment and machines to contain the release and spreading of asbestos fibres during the work processes (in accordance with Directive 2009/104/EC). They should also be trained on the newest available technologies and machines for emission-free or, where this is not technically possible yet, low-emission working procedures, to contain the release and spreading of asbestos fibres.
- The directive should ensure asbestos removal companies have the necessary competences to carry out demolition or asbestos removal works through **a system of permits granted by the competent national authorities**. A permit shall be granted only if the applicant offers proof of adequate state of the art technical equipment and training certificates for their individual workers, and if there is no doubt about the reliability of the firm and its management. The permit shall be renewable every 5 years. Member States shall establish publicly accessible registers of the companies that obtained a permit.

- The directive should prescribe and specify **the decontamination procedures**.
- The directive should specify that **individual protective breathing equipment must be subject to a mandatory fitting check**. This is essential to make the respiratory protective equipment safe for the individual worker.
- Medical follow-up and post-professional health surveillance by a qualified occupational physician, **specialist in asbestos-related diseases**, should be provided to all exposed workers. Regular screenings must be made available, without restrictions, after professional activities involving asbestos exposure. The occupational physician should receive a copy of the asbestos exposure sheet set out by the employer to be included in the employee's individual medical file. The employer must also provide the employee with an exposure certificate once a year. Once an employee leaves the company, the employer should provide him with a complete file listing all his specific activities involving asbestos exposure. Individual documentation of exposures should be kept in a central national exposure database set up according to national law and practices and be kept for at least 50 years.
- **A new annex** to the directive should be introduced with a list of all known asbestos-related diseases that shall be recognised in all Member States (asbestosis; mesothelioma, lung cancer, benign pleural diseases, larynx cancer, ovarian cancer, colorectal cancer, pharyngeal cancer, and stomach cancer caused by asbestos).

### **3.3 Recognising and compensating asbestos related diseases**

The working conditions for workers exposed to asbestos should include easy access to recognition, treatment, and compensation of asbestos related occupational diseases. The ETUC calls on the European Commission to present a legislative proposal for robust European minimum standards for the recognition and adequate compensation for victims of occupational diseases, including all known asbestos related diseases, under Article 153 of the Treaty of the Functioning of the European Union. As a material basis for the new directive the Commission should update the Recommendation of 19 September 2003 concerning the European schedule of occupational diseases. The directive should establish unbureaucratic minimum requirements for the recognition and compensation of such diseases. These should include a reversal of the burden of proof or at least its effective simplification, a one-stop-shop dealing with all matters regarding occupational diseases, and national ombudspersons (or independent advice services) to assist victims of occupational diseases in recognition procedures.

### **3.4 Additional elements for a comprehensive strategy for the removal of all asbestos in the European Union**

EU action for the management of asbestos in buildings and its safe removal should synergise with related policy initiatives of the Commission, including the Green Deal and the Renovation Wave, implementation of the European Pillar of Social Rights (EPSR), the Beating Cancer Plan, the EU Multiannual Financial Framework (MFF) and the recovery strategy, the New EU Strategic Framework for Health and Safety at Work, and the Circular Economy Action Plan. Furthermore, EU action on asbestos should draw on best-practice examples from Member States. The ETUC proposes the following additional elements for a comprehensive strategy for the removal of all asbestos in the EU:

- **A new European legal framework for national asbestos removal plans** that ensures there is a comprehensive strategy for the removal of all asbestos in the EU. Within this framework, Member States should set up asbestos removal strategies, which include an assessment of the extent of the problem, the associated costs, details on who will bear those costs, adequate public financial support, and a clear timeline on when this should be accomplished. Some Member States are already implementing targeted programmes for asbestos removal.
- The framework should include a model with **minimum standards for digital asbestos registries** that map all existing asbestos in a country or region. Asbestos registries must be accessible to workers, companies, and affected inhabitants and citizens; they should also be regularly updated. The information available should at least include:
  - Type of building or infrastructure (private, public, business);
  - Specific location of asbestos (inside/outside, floors, walls, ceilings, roofs etc.);
  - Year of construction (before/after national asbestos ban);
  - Type of material (asbestos cement, insulation, putty etc.) and amount;
  - Works to be conducted (repairs, removal, etc.), work methods (drilling, cutting etc.);
  - Duration of the planned work;
  - Timeline for removal and a management plan;
  - Public accessibility, especially for companies and workers (e.g. in a centralised digital database or a building specific 'log book', such as a building renovation passport).
- **Screening prior to energy renovation and/or demolition** should be mandatory. The ETUC calls on the Commission to propose a targeted amendment to Article 7 of Directive 2010/31/EU in the context of the Building Renovation Wave, introducing a requirement for the mandatory screening and subsequent removal of asbestos and other dangerous substances before renovation works can start.
- The ETUC calls on the Commission to make a legislative proposal for **mandatory screening before selling or renting out a building** and establish asbestos certificates for buildings built before 2005. The proposal should contain, as a minimum, the following elements:
  - Obligation for owners (public/private) to commission a screening of the building to locate asbestos before the building (or a part of it) is sold or rented out;
  - Screenings to be carried out by certified operators only, in accordance with directive 2009/148/EC and national law and practice and under the supervision of a competent national body;
  - The result of the screening should be reported to a competent national body which should issue a certificate, keep a national registry of the certificates, and give advice to owners about applicable laws and regulation, safe removal, and financial support;

- The asbestos certificates shall contain the result of the screening, including a list of the types of asbestos containing materials found, their exact location, and concept for the safe removal;
  - Effective, proportionate, and dissuasive fines shall be established for sellers and lessors of buildings who do not commission the prescribed screening and report it to the competent body before selling or renting out the property, with a period of liability of 30 years.
- In case the screening shows the presence of asbestos, the owner should be required to have the asbestos removed by a certified operator and in accordance with the identified safe removal prescriptions. The owner should benefit from adequate financial support in the context of the national removal strategies (see above).
  - **An EU framework for the financial support to building owners** should guarantee public financing for the safe removal of asbestos, in the spirit of just transition and social responsibility. This should significantly help prevent illegal and unsafe removal. The ETUC proposes to set up this needed financial back-up for asbestos removal in the context of the European Recovery Strategy and the Building Renovation Wave.
  - **Enforcing applicable laws and regulations through a boost of labour inspections** is crucial to guarantee that during the implementation of the Renovation Wave and the Asbestos Removal Strategies employers and building owners comply with all applicable health and safety rules in practice. The ETUC calls for extended support, and more resources (finance, training, number of inspectors in the field) for labour inspectorates to significantly improve the number, frequency, and quality of the inspections. The EU and the Member States should go well beyond the International Labour Organisation's (ILO) minimum objective of one inspector for every 10,000 workers.

**Asbestos must be kept out of the circular economy** to protect workers from unknowingly reusing dangerous materials. Life-cycle-management of building materials is an important part of the circular economy. In the framework of the new EU Circular Economy Action Plan (which is supposed to include a strategy for a sustainable built environment, methodologies to track and minimise the presence of substances of concern in recycled materials - and articles made thereof, and a harmonised information system for the presence of substances of concern), the registration of existing asbestos in existing buildings and infrastructure (see above) should be a first step to eliminate asbestos from the circular economy. Particular attention should be paid to safe working conditions for workers dealing with asbestos containing waste. Landfills for asbestos waste cannot offer sustainable long-term solutions. The Commission and Member States should use all the tools to support investments in cost-effective technologies for asbestos inertisation methods, including channelling public spending through dedicated Important Projects of Common European Interest (IPCEIs).

### 3.5 The need to achieve a global ban on asbestos

Elsewhere in the world, asbestos continues to be produced and used. The ETUC calls on the European Commission to work for a global ban on asbestos and to make the listing of chrysotile asbestos in Annex III of the Rotterdam Convention a top priority. Furthermore, controls and market surveillance to prevent the entry of any asbestos-containing products into the single market must be strengthened. Vessels carrying asbestos as cargo in transit shall not be allowed to dock or use port facilities

or temporary storage within the EU. Ships containing asbestos which are out of use shall only be dismantled in EU approved ship recycling facilities and shall not be exported to third countries where health and safety measures for workers are not on a par with EU standards.

## **ETUC response to question 2**

ETUC believes that binding EU legislative action is needed on the 3 (group of) substances under consideration and therefore sees no need to launch a negotiation procedure pursuant to Article 155 TFEU concerning the revision of the Chemical Agents Directive and Asbestos at Work Directive to make progress on this.

However, this does not rule out discussing issues together with employers and seeking converging positions on related matters.