# Opinion of the European Committee of the Regions on the proposal for a directive on asbestos

(2023/C 188/07)

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| **Rapporteur:** | Hanna ZDANOWSKA (PL/EPP), Mayor of Łódź |
| **Reference document:** | 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<br>COM(2022) 489 final |

## I. RECOMMENDATIONS FOR AMENDMENTS

### Amendment 1

Recital 3

| Text proposed by the European Commission | CoR 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[65] of the European Parliament and of the Council. 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. | (3) Asbestos is a highly dangerous carcinogenic agent, still affecting different economic sectors, such as building and renovation, mining and quarrying, ***the energy industry, chemical industry, transport,*** waste management and firefighting, where workers are at high risk of being exposed. Asbestos fibres are classified as carcinogens 1A according to Regulation (EC) No 1272/2008[65] of the European Parliament and of the Council. 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. |

**Reason**

Adding to the list sectors where asbestos was frequently used and may currently pose a risk to the health of workers and residents.

**Amendment 2**

Recital 5

| Text proposed by the European Commission | CoR amendment |
|---|---|
| (5) The Europe's Beating Cancer Plan supports the need for action in the field of protection of workers against carcinogenic substances ([1]). Improved protection of workers exposed to asbestos will also be important in the context of the green transition and the implementation of the European Green Deal, including in particular the renovation wave for Europe ([2]). Citizens' recommendations in the framework of the Conference on the Future of Europe ([3]) also highlighted the importance of fair working conditions, in particular the revision of Directive 2009/148/EC. | (5) The Europe's Beating Cancer Plan supports the need for action in the field of protection of workers against carcinogenic substances ([1]). Improved protection of workers exposed to asbestos ***and people directly and indirectly exposed as a result of the occupational activities of third parties particularly at refurbishment, renovation, dismantling and demolition sites or asbestos landfills*** will also be important in the context of the green transition and the implementation of the European Green Deal, including in particular the renovation wave for Europe ([2]). Citizens' recommendations in the framework of the Conference on the Future of Europe ([3]) also highlighted the importance of fair working conditions, in particular the revision of Directive 2009/148/EC. |
| ([1]) https://eur-lex.europa.eu/legal-content/EN/XT/?uri=CELEX%3A52021DC0044<br>([2]) Renovation Wave: doubling the renovation rate to cut emissions, boost recovery and reduce energy poverty, COM(2020) 662 final Conference on the Future of Europe.<br>([3]) Conference on the Future of Europe: Report on the final outcome (May 2022) https://ec.europa.eu/info/strategy/priorities-2019-2024/new-push-european-democracy/conference-future-europe_en | ([1]) https://eur-lex.europa.eu/legal-content/EN/XT/?uri=CELEX%3A52021DC0044<br>([2]) Renovation Wave: doubling the renovation rate to cut emissions, boost recovery and reduce energy poverty, COM(2020) 662 final Conference on the Future of Europe.<br>([3]) Conference on the Future of Europe: Report on the final outcome (May 2022) https://ec.europa.eu/info/strategy/priorities-2019-2024/new-push-european-democracy/conference-future-europe_en |

**Reason**

The green transition sought by all and the EU's ambition to increase the renovation rate of buildings as part of the Renovation Wave could at the same time lead to increased exposure to asbestos — not only for construction workers but also people who are not involved (inhabitants of neighbouring buildings, bystanders).

**Amendment 3**

Recital 8

| Text proposed by the European Commission | CoR amendment |
|---|---|
| (8) A revised limit value should be set out in this Directive in light of available information, including up-to-date scientific evidence and technical data, based on a thorough assessment of the socio-economic impact and availability of exposure measurement protocols and techniques at the place of work. That information should be based on opinions of the Committee for Risk Assessment (RAC) of the European Chemicals Agency (ECHA), established by Regulation (EC) No 1907/2006 and opinions of the Advisory Committee on Safety and Health at Work (ACSH) established by a Council Decision of 22 July 2003 ([1]). | (8) A revised limit value should be set out in this Directive in light of available information, including up-to-date scientific evidence and technical data, based on a thorough assessment of the socio-economic impact and availability of exposure measurement protocols and techniques at the place of work. That information should be based on ***different options presented in*** opinions of the Committee for Risk Assessment (RAC) of the European Chemicals Agency (ECHA), established by Regulation (EC) No 1907/2006 and opinions of the Advisory Committee on Safety and Health at Work (ACSH) established by a Council Decision of 22 July 2003 ([1]). |
| ([1]) Council Decision of 22 July 2003 setting up an Advisory Committee on Safety and Health at Work (OJ C 218, 13.9.2003, p. 1). | ([1]) Council Decision of 22 July 2003 setting up an Advisory Committee on Safety and Health at Work (OJ C 218, 13.9.2003, p. 1). |

**Reason**

The opinions of the aforementioned bodies present different options related to the occupational exposure limits for asbestos and the exposure-risk relationship.

**Amendment 4**

Recital 9

| Text proposed by the European Commission | CoR 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/cm $^3$ 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. | (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 ***taking into consideration what is already being implemented in some EU Member States, which confirms*** the ***feasibility of implementation of the new OEL***, a revised OEL equal to 0,01 fibres/cm 3 as an 8-hour time-weighted average (TWA) should be established***, with an OEL of equal to 0,002 fibres/cm3, to be implemented within 3 years of the entry into force of this directive***. This balanced approach is underpinned by a public health objective aiming at the safe removal of asbestos. Consideration has also been given to proposing ***a gradual*** OEL ***reduction*** that takes into account economic and technical considerations to allow an effective removal. |

**Reason**

In the Netherlands, the national OEL for asbestos in place since 2016 has been 0,002 fibres/cm³ (measured with Scanning Electron Microscopy-SEM/EDXA). This binding limit value is based on the 2010 report of the Health Council of the Netherlands, which is a key source used by ECHA to derive its ERR.

**Amendment 5**

Recital 11

| Text proposed by the European Commission | CoR 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 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. | (11) Optical microscopy does not allow a counting of the smallest fibres detrimental to health ***and*** it is ***not*** possible to measure an OEL ***lower than*** 0,01 f/cm³ with phase-contrast microscope (PCM). In line with the opinion of the ACSH, a more modern and sensitive methodology based on electron microscopy should be ***gradually introduced,*** while taking into account the need for adaptation and for more EU level harmonisation of different electron microscopy methodologies. |

**Reason**

According to the RAC Opinion on scientific evaluation of occupational exposure limits for asbestos, published on 21 June 2021, 'at present, PCM is not considered a state-of-the-art measurement method for asbestos in the work environment anymore'.

**Amendment 6**

Recital 14a (new recital)

| Text proposed by the European Commission | CoR amendment |
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| | ***(14a) Member States are invited to harmonise national standards and procedures for recognising asbestos-related diseases and introduce a register of asbestos-related diseases. It is essential to include a special scheme for the care and treatment of asbestos-related diseases for all workers (currently or previously) employed in sectors with risk of asbestos exposure as well as members of their families and other people exposed to their environment.*** |

**Reason**

At present only occupational asbestos-related diseases have been identified — the lack of comprehensive and comparable information from Member States does not allow for reliable prediction of mortality caused by things such as pleural mesothelioma or for proper assessment of asbestos-related risks. This also exacerbates disparities in national compensation systems. It is therefore also important to complement asbestos policy in the field of health with a register of asbestos-related diseases (the most common source of information on the number of asbestos-related diseases is based on asbestos-related occupational diseases).

**Amendment 7**

Recital 16a (new recital)

| Text proposed by the European Commission | CoR amendment |
|---|---|
| | ***(16a) Because asbestos-related diseases have a long latency period and there is little awareness of the risks relating to exposure to asbestos, immediately after the directive comes into force the European Commission, together with the Member States, will carry out periodic, intensive and targeted information and education campaigns on the risks of exposure to asbestos and appropriate forms of protection. These actions should be aimed at:***<br>***— workers and their families;***<br>***— employers;***<br>***— building owners and administrators;***<br>***— local and regional authorities;***<br>***— inhabitants of areas where old buildings are predominant;***<br>***— health services, to increase the awareness and skills of radiologists and general practitioners in recognising and treating asbestos-related diseases.*** |

**Reason**

Despite asbestos having been banned in the EU in 2005 and, it would seem, the general awareness of asbestos-related risks, both employees and employers (especially in the construction sector) and the residents themselves and employees of local and regional governments or housing cooperatives/associations have little practical knowledge.

**Amendment 8**

Article 1, point (4)

| Text proposed by the European Commission | CoR amendment |
|---|---|
| (4) in Article 7(6) the first subparagraph is replaced by the following:<br>'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).<br>(*) Determination of airborne fibre concentrations. A recommended method, by phase-contrast optical microscopy (membrane filter method), WHO, Geneva 1997 (ISBN 92 4 154496 1).'; | (4) in Article 7(6) the first subparagraph is replaced by the following:<br>'Fibre counting shall be carried out ***during the transition period*** by phase-contrast microscope (PCM) in accordance with the method recommended in 1997 by the World Health Organization (WHO) (*), ***while the implementation of the OEL of equal to 0,002 fibres/cm³ will require*** electron microscopy (EM).<br>(*) Determination of airborne fibre concentrations. A recommended method, by phase-contrast optical microscopy (membrane filter method), WHO, Geneva 1997 (ISBN 92 4 154496 1).'; |

**Reason**

Since optical microscopy cannot measure an OEL lower than 0,01 f/cm³ with phase-contrast microscope, a more modern and sensitive methodology based on electron microscopy should be used, in line with the opinion of the ACSH.

**Amendment 9**

Article 1, point (4a) (new point)

| Text proposed by the European Commission | CoR amendment |
|---|---|
| | ***(4a) Article 7(7) is added as follows:***<br><br>***'7. Given the cost of high-quality laboratory equipment used for asbestos fibre research, it is recommended that certification centres be set up in larger urban centres, working on behalf of stakeholders and for monitoring purposes. Laboratories carrying out asbestos analysis must be accredited in accordance with the applicable quality management system standard for testing laboratories.'*** |

**Reason**

It is necessary to ensure the functioning (and co-financing) of certified laboratories equipped with appropriate sample testing equipment. This will reduce the financial burden on employers in addition to ensuring that research is reliable. Accreditation of laboratories according to the quality management system standard will guarantee their competence to carry out reliable analyses. It will also ensure uniform control of laboratories in all EU countries.

**Amendment 10**

Article 1, point (5)

| Text proposed by the European Commission | CoR amendment |
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| (5) Article 8 is replaced by the following:<br><br>*'Article 8*<br><br>Employers shall ensure that no worker is exposed to an airborne concentration of asbestos in excess of 0,01 fibres per cm³ as an 8-hour time-weighted average (TWA).' | (5) Article 8 is replaced by the following:<br><br>*'Article 8*<br><br>Employers shall ensure that no worker is exposed to an airborne concentration of asbestos in excess of 0,01 fibres per cm³ as an 8-hour time-weighted average (TWA) ***with an OEL of equal to 0,002 fibres/cm³, to be implemented within 3 years of the entry into force of this directive***.' |

**Reason**

The proposed two-step approach to the changes to the binding limit value takes into consideration the need for a transitory period of adaptation. Besides, the more ambitious OEL proposed has been implemented in the Netherlands since 2016 and is based on the 2010 report of the Health Council of the Netherlands, which is a key source used by ECHA to derive its ERR.

**Amendment 11**

Article 1, point (6a) (new point)

| Text proposed by the European Commission | CoR amendment |
|---|---|
| | ***(6a) Article 15 is replaced by the following:***<br>***'Article 15***<br>***Before carrying out demolition or asbestos removal work, firms must provide evidence of their and their workers' formally verified competence in this field (connected also with periodic training), which shall be established in accordance with national laws and/or practice, and in line with EU guidelines, to be developed by the European Commission in cooperation with the tripartite Advisory Committee on Safety and Health at Work (ACSH).'*** |

**Reason**

Self-explanatory.

II. **POLICY RECOMMENDATIONS**

THE EUROPEAN COMMITTEE OF THE REGIONS (CoR),

1. welcomes the European Commission's work on the revision of the Directive on the protection of workers from the risks related to exposure to asbestos at work, which seeks, among other things to prevent a new wave of asbestos victims while implementing the ambitious goals of the Renovation Wave. At the same time, it calls for further action to be taken to effectively and comprehensively prevent work-related cancers;

2. notes that the directive treats asbestos in a very fragmented manner, limiting the problem to only protecting workers from risks to their health and safety arising from exposure to asbestos at work;

3. points out that:

— 80 % of asbestos was used in the manufacture of building materials,

— more than 220 million buildings or structures were built long before the ban on asbestos (a significant amount may still contain asbestos),

— 78 % of occupational cancers recognised in the EU are related to asbestos,

— the average time from exposure to the first symptoms appearing is 30 years,

— it is estimated that between 4,1 and 7,3 million workers are currently exposed to the harmful effects of asbestos fibres;

4. recommends a two-step approach, whereby three years after the introduction of the binding limit value of 0,01 f/cm$^3$, a more ambitious OEL of 0,002 f/cm$^3$ is introduced. The Committee urges by the same token that optical microscopy is gradually replaced by the more accurate electron microscopy, suitable for the detection of asbestos when OELs lower than 0,01 f/cm$^3$ apply;

5. notes with concern that the current rate of asbestos removal in the EU is far from satisfactory and varies from one Member State to another, as do the application of action strategies, inventory and monitoring methods and methods used to remove asbestos;

6. urges the European Chemicals Agency (ECHA) or, where appropriate, another European competent body to develop a uniform approach to the detection of asbestos-containing products. A register of potential asbestos-containing products would be desirable in order to facilitate early detection by Member States. Welcomes by the same token the European Commission's proposal for a legislative initiative entitled Asbestos screening, registering and monitoring, aimed to bridge the gap among national actions in this field. The introduction of mandatory screening and registration of asbestos in buildings and the development of national strategies for asbestos removal should lead to the implementation of a coordinated, and comparable approach throughout the EU, thus creating a safer environment and achieving a higher level of protection for EU citizens. The Directive should also address the need to protect emergency services (including fire-fighters, police, doctors and rescue workers) from the risks associated with exposure to asbestos by creating an up-to-date and accessible database containing reliable data on infrastructure with confirmed or likely presence of asbestos;

7. notes that in order for the directive to be successful, Member States and EU institutions should actively involve local and regional authorities at all stages of coordination and implementation of the revised directive;

8. supports the adoption of a common EU framework to make it easier to detect and then safely remove asbestos in the EU's building stock. The Committee calls on the European Commission and Member States to develop and encourage the implementation of a common, systemic and systematic approach to tackling the problem of asbestos (from inventory method, through information and education campaigns, programmes to support residents, contractors and local and regional authorities in removing asbestos, to solutions for health protection and asbestos storage);

9. notes with concern that in some EU Member States it is permissible to dismantle asbestos products themselves. Points out that, as training of workers is essential to prevent risks from occupational exposure to asbestos, European guidelines on the certification of required skills are needed to ensure that the same standards are applied across the EU. Therefore, urges for the development of European guidelines on the certification of skills required from workers for the safe removal of asbestos-containing components;

10. calls on the Commission to create mechanisms to safely speed up the eradication of asbestos by raising awareness, more effective education and protection for workers and inhabitants through effective, attractive and targeted education and information programmes (including among local and regional authority and health service staff);

11. notes that the green transition sought by all and the EU's ambition to increase the renovation rate of buildings as part of the Renovation Wave could at the same time lead to increased exposure to asbestos, particularly for construction workers. This is why it is essential to put in place solutions to monitor asbestos removal more effectively, with a special system of healthcare and treatment for asbestos-related diseases (for workers currently and previously employed in sectors exposed to asbestos);

12. draws attention to the need to initiate and financially support the innovative activities of R & D centres for the safe disposal, preservation and storage of asbestos (e.g. under Horizon). In most countries, storage of hazardous waste is still used in landfills or in dedicated storage facilities for asbestos waste. An increase in the rate of asbestos removal is equivalent to a significant increase in the storage area for this dangerous mineral. At the same time, recommends creating a network of cities and regions facing the problem and impact of asbestos in their territory; The aim is to develop cooperation involving the exchange of practices and the creation of partnerships for the implementation of joint transnational research projects co-financed by the European Union;

13. notes that the main reason for the slow rate of asbestos removal is that only dismantling and disposal of asbestos products (particularly Eternit roofs) are funded. Residents often do not have enough money to pay for the building materials and services to replace roofs and therefore forego investment. There is a need to introduce new subsidy mechanisms and incentives (e.g. tax relief, subsidies);

14. in order to protect workers exposed to asbestos and minimise the impact of asbestos on the environment, joins the call for a European strategy for asbestos removal, which would ensure an integrated approach of different policies and implement systemic and effective solutions in all Member States on inventory, monitoring, safe disposal, storage and education (training) methods;

15. emphasises that local and regional authorities should be granted direct access to European Structural and Investment Funds to carry out plans for the safe removal of asbestos — the impact will not be effective unless municipalities and regions receive direct funding;

16. calls for the establishment of a financial framework using (ESIF) funds to support building owners and thus link the safe removal of asbestos with other public policies and programmes (such as energy efficiency, better living conditions, social housing and disease prevention).

Brussels, 16 March 2023.

*The President*
*of the European Committee of the Regions*

Vasco ALVES CORDEIRO