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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
Subject:	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 - <i>Opinion of the European Economic and Social Committee</i>

Delegations will find attached the opinion adopted by the European Economic and Social Committee on the above proposal.

Other language versions, if needed, will soon be available on the following website:

<https://dmsearch.eesc.europa.eu/search/opinion>



OPINION

European Economic and Social Committee

Protection from exposure to asbestos at work

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on working towards an asbestos-free future: a European approach to addressing the health risks of asbestos
[COM(2022) 488 final]

Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/148/EC on the protection of workers from the risks related to exposure to asbestos at work
[COM(2022) 489 final – 2022/0298 (COD)]

SOC/743

Rapporteur: **Ellen NYGREN**



Referral	European Parliament, 06/10/2022 Council of the European Union, 07/10/2022
Legal basis	Article 153(2)(b) of the Treaty on the Functioning of the European Union (TFEU)
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	23/11/2022
Adopted at plenary	15/12/2022
Plenary session No	574
Outcome of vote (for/against/abstentions)	155/9/49

1. Summary and recommendations

- 1.1 The European Economic and Social Committee (EESC) welcomes the Commission's ambition to reduce the incidence of cancer, and its specific efforts to minimise exposure to asbestos at work.
- 1.2 Science shows that there is no level of asbestos exposure that can be considered safe without the risk of cancer. The EESC, like the European Parliament, therefore recommends that the technical limit value for asbestos exposure under the Directive on the protection of workers from the risks related to exposure to asbestos at work should ultimately be set at a lower level than the Commission is currently proposing, and that a roadmap of complementary measures over and above the Commission's proposals should be drawn up in order to achieve that objective. The roadmap should include financial support for businesses and regions that need it in order to meet the targets.
- 1.3 The EESC proposes a broad public information campaign on asbestos and its deadly risks. There is also a need for training for all workers at risk of exposure to asbestos, provided in the worker's native language or another language in which they are proficient.
- 1.4 The EESC recommends that all workers suspected of being at risk of asbestos exposure should undergo checks, and that a log/passport documenting asbestos exposure should accompany workers when they change their place of work, in order to monitor workers' health.
- 1.5 International regulatory cooperation is needed to effectively address the risks posed by asbestos. The EESC draws particular attention to ILO Convention No 162 and the Rotterdam Convention. In the context of their discussion and implementation, the EU and its Member States should play an active and leading role in promoting better developments in all countries of the world and in international trade chains. EU free trade agreements with other countries and regions should include requirements to step up efforts to ban the use of asbestos and reduce its harmful effects in all countries of the world. The EESC calls on the EU and its Member States to actively promote an international ban on the use of asbestos and protection for workers dealing with existing asbestos during activities such as renovation, demolition and waste management.

2. Background and general comments

- 2.1 Asbestos ban in the EU
 - 2.1.1 Asbestos is a hazardous substance that causes cancer; this has been known for decades. Over the last 40 years, the EU has taken various measures to restrict, and subsequently completely ban, the use of asbestos. In 1999 it banned asbestos fibres of all kinds; this ban entered fully into force in 2005, and applies both to goods produced in the EU and to goods imported into the EU. Directive 2009/148/EC codified the existing rules on the protection of workers from the risks related to exposure to asbestos at work.
 - 2.1.2 As asbestos has been used in the construction industry for a relatively long time, there are still a large number of buildings containing asbestos. Depending on the type of work being carried

out, these hazardous substances may be activated during renovations and demolitions. Asbestos is also present in other sectors, such as mining and extractive industries, waste management and vehicle maintenance. Thus, despite the current ban on the use of new asbestos, there are still large amounts of work where workers are exposed to asbestos. In addition to the workers reported in official statistics, there are also an unrecorded number of third-country nationals who are not always covered by EU and national public statistics. The Commission states that the 2009 Directive on the protection of workers from exposure to asbestos at work is still relevant for the most part, but proposes to update it in the light of the latest scientific knowledge in this field.

2.1.3 The EESC has adopted two opinions on related topics: CCMI/130 on *Freeing the EU from asbestos* and CCMI/166 on *Working with asbestos in energy renovation*. It argues that the total removal of all used asbestos and all asbestos containing products has to be a priority target of the European Union, and encourages the EU to work with the social partners and other stakeholders, including relevant civil society organisations, at European, national and regional level to develop and share action plans for asbestos removal and management. However, in the current circumstances, it is still difficult to reach an "asbestos free" objective rapidly. Therefore, in some EU countries or regions, decision-makers have opted for an "asbestos-safe" strategy.

2.1.4 The current Commission proposal reduces the technical limit for airborne asbestos from 0.1 fibres per cm³ to 0.01 fibres per cm³ as an 8-hour time-weighted average (TWA).

2.2 The EU's ambition to fight cancer

2.2.1 Europe's Beating Cancer Plan was presented in 2021 as a multifaceted way to fight cancer. In its opinion SOC/677, the EESC welcomed the plan, an important part of which is action for the primary prevention of cancer. In this vein, it should be seen as an effective option to take action against exposure to asbestos, a subject that is already well known, as such action specifically reduces the risk of new cancer cases and existing research has already identified asbestos exposure as the main cause of work-related cancer. As the risk factors of mesothelioma are multicausal (e.g. nanofibers beside asbestos) EESC proposes that people working in asbestos exposure should receive a document about the fact of exposure.

2.2.2 In this context, it is worth pointing out that even the general public may be exposed to asbestos without being workers, for example by being in a place close to an ongoing refurbishment or demolition. It may also be the case for private individuals who renovate their own homes without having the expertise or knowledge of the risks involved. In addition, asbestos may be released in ventilation systems and cause people to be exposed without their knowledge. The EESC therefore recommends educating the public through all possible channels, including the media, which have a high degree of responsibility here.

2.3 General comments

2.3.1 The EESC supports the Commission's ambition to combat cancer in various ways. Limiting the risks of exposure to asbestos is a concrete step towards reducing cancer cases. We have extensive scientific knowledge about the dangers of asbestos and the direct link between

asbestos exposure and cancer. Based on the latest scientific knowledge that the Commission has gathered in this area, it is now proposed to proceed with updating the legal framework accordingly.

- 2.3.2 Every case of cancer entails costs for society, as well as suffering and loss for individuals. By limiting exposure to asbestos at work, a significant number of cancer cases can be avoided. The EESC therefore calls on all stakeholders to make every effort to combat exposure to asbestos. This applies in particular to protecting workers who are exposed to asbestos exposure in the course of their work, but also to disseminating general knowledge in order to raise public awareness of the risks posed by asbestos.

3. **Specific comments**

- 3.1 Lowering the technical limit for tolerated quantities of airborne asbestos fibres is the most ambitious measure the EU can take when amending the Directive. The EESC welcomes the Commission's initiative and believes that it provides a good basis for moving forward in the longer term towards zero tolerance of exposure to asbestos at work.
 - 3.1.1 The Commission proposes to amend Article 8 to reduce the limit from 0.1 fibres per cm³ as an eight-hour time-weighted average (TWA). The directive also states that the exposure of workers to dust arising from asbestos or materials containing asbestos at the place of work must be reduced to a minimum and in any case to as low a level as is technically possible below the limit value laid down in in Article 8. In this context, the EESC points out that the social partners can go beyond the new limit that will apply under the Directive and take appropriate measures to further reduce the presence of asbestos fibres in workplaces.
 - 3.1.2 According to the International Commission on Occupational Health (ICOH)), there is no level of exposure that can be considered safe without the risk of cancer. At the EESC hearing on 31 October 2022, Prof. Jukka Takala showed that about 90 370 people die each year in the EU from asbestos-related cancer, demonstrating the need for a reduced limit value. Therefore, the EESC believes that the EU should go beyond what is proposed by the Commission and that the technical limit should ultimately be set at 0.001 fibres/cm³, after a reasonable transition period. A roadmap to achieve this should be established, containing proposed measures – including financial ones – to support businesses and regions that need such measures to meet the targets.
- 3.2 Before starting renovation or demolition work, the employer is expected to identify which materials may contain asbestos. This requires the employer to be able to access and use sources of information from the property owner and other available sources, or alternatively screening the building. The EESC advocates the introduction of registers to gather information on each property in this respect, starting with those that are undergoing renovation with a view to gradually expanding to include other buildings. This information should be organised by the Member States in a manner agreed jointly within the EU in order to obtain comparable data on where asbestos is deemed to be present (country/locality/functionality of a building/part of a building) and in what quantities (approximation of asbestos forms and quantity per square meter), etc. The European Agency for Safety and Health at Work (EU-OSHA) could be asked to contribute to the development of a harmonised regulatory framework for the property register.

- 3.3 Training of workers at risk of exposure to asbestos is important. The EESC highlights that it is of the utmost importance for such training to be given in the worker's native language or another language in which they are proficient, including in cases where the workers come from a country other than where they work and may therefore not have a good command of the language of their country of work. This applies both to EU citizens and to workers from non-EU countries.
- 3.4 The EESC also recommends informing the general public more broadly about asbestos and its risks in order to raise awareness of this among both workers and commissioners of work that may involve the handling of asbestos, as well as individuals and authorities lacking more in-depth knowledge of the topic. The EESC calls on the Commission to organise an information campaign on asbestos and its deadly risks, in cooperation with the Member States, the social partners and relevant civil society organisations. The EESC could be the platform for an international conference to raise awareness of asbestos and its harmful effects and how these can be avoided.
- 3.5 Occupational health services have the duty to effectuate work ability examinations (preliminary, periodically and final) of workers exposed to asbestos, and these certificates are presented to the employer. When asbestos exposure is over, the result of the final examination is presented both to employer and employee and a special documentation, log/passport documenting asbestos exposure that follows the workers throughout their whole life in order to monitor their health and to be able to identify cases of work-related illness, of the possible late effects of the asbestos exposure where necessary. This documentation must be presented to both employers and workers, and it must also cover undocumented and migrant workers, and it is given to the worker, in order to be presented in all further medical examination to ensure lifetime follow up of the possible late effects of the asbestos exposure. The EESC calls on the EU and the Member States to promote access to occupational health services specialised in this field.
- 3.6 Occupational injury insurance must cover cases of illness arising from exposure to asbestos. The EESC recommends that the EU and the Member States work to ensure that cancer cases arising from suspected exposure to asbestos are treated with a presumption of correlation when assessing entitlement to compensation from occupational injury insurance, as there is extensive and clear scientific evidence of the relationship between asbestos exposure and cancer. An international solidarity fund should be raised up to ensure the right to compensation.
- 3.7 It is advisable for the Member States to cooperate, via the labour inspectorates to verify that adequate training is given to workers at risk of asbestos exposure in construction, mining and extractive industries, transport, road and tunnel construction, and waste management. Cooperation can ensure that relevant registers of buildings containing asbestos are maintained and made available nationally and within the EU. The EESC points out that there must be enough labour inspectors (i.e. health and safety inspectors) to carry out these tasks.
- 3.8 International regulatory cooperation is needed to effectively address the risks posed by asbestos. In this context, we would point out that ILO Convention No 162 and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in

International Trade are examples of existing regulatory frameworks within which the EU and its Member States can and should play an active and leading role in promoting better developments with regard to asbestos in all countries of the world and in international trade chains. EU free trade agreements with other countries and regions should include requirements to step up efforts to ban the use of asbestos and reduce its harmful effects in all countries of the world. The EESC calls on the EU and its Member States to actively promote an international ban on the use of asbestos and protection for workers dealing with existing asbestos during activities such as renovation, demolition and waste management.

Brussels, 15 December 2022

Christa Schweng

The president of the European Economic and Social Committee

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N.B. Appendix overleaf.

APPENDIX to the OPINION
of the
European Economic and Social Committee

The following amendments, which received at least a quarter of the votes cast, were rejected during the discussion (Rule 43(2) of the Rules of Procedure):

AMENDMENT 1

SOC/743

Protection from exposure to asbestos at work

Point 3.1.2

Amend as follows:

<i>Section opinion</i>	<i>Amendment</i>
According to the International Commission on Occupational Health (ICOH)), there is no level of exposure that can be considered safe without the risk of cancer. At the EESC hearing on 31 October 2022, Prof. Jukka Takala showed that about 90 370 people die each year in the EU from asbestos-related cancer, demonstrating the need for a reduced limit value. Therefore, the EESC <i>believes that the EU should go beyond what is proposed by</i> the Commission and that the technical limit should <i>ultimately be set at 0.001 fibres/cm³</i> , after a reasonable transition period. A roadmap to achieve this should be established, containing proposed measures – including financial ones – to support businesses and regions that need such measures to meet the targets.	According to the International Commission on Occupational Health (ICOH)), there is no level of exposure that can be considered safe without the risk of cancer. At the EESC hearing on 31 October 2022, Prof. Jukka Takala showed that about 90 370 people die each year in the EU from asbestos-related cancer, demonstrating the need for a reduced limit value. Therefore, the EESC <i>welcomes</i> the Commission <i>proposal</i> and <i>believes</i> that the technical limit should be <i>further reduced</i> after a reasonable transition period. A roadmap to achieve this should be established, containing proposed measures – including financial ones – to support businesses and regions that need such measures to meet the targets.

Outcome of the vote:
In favour: 68
Against: 106
Abstention: 16

AMENDMENT 5

SOC/743

Protection from exposure to asbestos at work

Point 3.3

Amend as follows:

<i>Section opinion</i>	<i>Amendment</i>
Training of workers at risk of exposure to asbestos is important. The EESC highlights that it is of the utmost importance for such training to be given in the worker's native language <i>or another language in which they are proficient, including in cases where the workers come from a country other than where they work and may therefore not have a good command</i> of the language of <i>their</i> country <i>of</i> work. This applies both to EU citizens and to workers from non-EU countries.	Training of workers at risk of exposure to asbestos is important. The EESC highlights that it is of the utmost importance for such training to be given in the worker's native language <i>regardless of level the employee knows</i> the language of <i>the</i> country <i>where the work takes place</i> . This applies both to EU citizens and to workers from non-EU countries.

Outcome of the vote:
In favour: 30
Against: 159
Abstention: 13

AMENDMENT 2

SOC/743

Protection from exposure to asbestos at work

Point 1.1

Amend as follows:

<i>Section opinion</i>	<i>Amendment</i>
The European Economic and Social Committee (EESC) welcomes the Commission's ambition to reduce the incidence of cancer, and its specific efforts to minimise exposure to asbestos at work.	The European Economic and Social Committee (EESC) welcomes the Commission's ambition to reduce the incidence of cancer, and its specific efforts to minimise exposure <i>/zero tolerance</i> to asbestos at work. <i>The long-term plan of the EESC can only be realised with the cooperation and financial support/fund of the EU institutions, Member States, regions, businesses, social partners and the relevant non-governmental organisations</i>

Outcome of the vote:
In favour: 21
Against: 173

Abstention: 12

AMENDMENT 3

SOC/743

Protection from exposure to asbestos at work

Point 1.2

Amend as follows:

<i>Section opinion</i>	<i>Amendment</i>
Science shows that there is no level of asbestos exposure that can be considered safe without the risk of cancer. The EESC, like the European Parliament, therefore recommends that the technical limit value for asbestos exposure under the Directive on the protection of workers from the risks related to exposure to asbestos at work should ultimately be set at a lower level than the Commission is currently proposing, and that a roadmap of complementary measures over and above the Commission's proposals should be drawn up in order to achieve that objective. The roadmap should include financial support for businesses and regions that need it in order to meet the targets.	Science shows that there is no level of asbestos exposure that can be considered safe without the risk of cancer, <i>which causes great losses to society, to the next generation, the economy and social spending</i> . The EESC, like the European Parliament, therefore recommends that the technical limit value for asbestos exposure under the Directive on the protection of workers from the risks related to exposure to asbestos at work <i>(0.01 fibres/cm³)</i> should ultimately be set at a lower level than the Commission is currently proposing <i>(0.001 fibres/cm³)</i> , and that a roadmap of complementary measures over and above the Commission's proposals should be drawn up in order to achieve that objective. The roadmap should include financial support for businesses and regions that need it in order to meet the targets.

Outcome of the vote:

In favour: 22

Against: 174

Abstention: 12

AMENDMENT 6

SOC/743

Protection from exposure to asbestos at work

Point 1.3

Amend as follows:

<i>Section opinion</i>	<i>Amendment</i>
The EESC proposes a broad public information campaign on asbestos and its deadly risks. There is also a need for training for all workers at risk of exposure to asbestos, provided in the worker's native language <i>or another language in which they are proficient</i> .	The EESC proposes a broad public information campaign on asbestos and its deadly risks. There is also a need for training for all workers at risk of exposure to asbestos, provided in the worker's native language, which <i>must be documented</i> .

Outcome of the vote:
In favour: 25
Against: 164
Abstention: 5

AMENDMENT 4

SOC/743

Protection from exposure to asbestos at work

Point 1.4

Amend as follows:

<i>Section opinion</i>	<i>Amendment</i>
The EESC recommends that all workers suspected of being at risk of asbestos exposure should undergo checks, and that a log/passport documenting asbestos exposure should accompany workers when they change their place of work, in order to monitor workers' health.	The EESC recommends that all workers suspected of being at risk of asbestos exposure should undergo checks, and that a log/passport documenting asbestos exposure should accompany workers when they change their place of work, in order to monitor workers' health. <i>The digital system that catalogues asbestos exposures by introducing and using the same technical terminology should be established in all Member States.</i>

Outcome of the vote:
In favour: 18
Against: 192
Abstention: 8