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Employment, Social Affairs and Inclusion DG

Working Conditions and Social Dialogue
Health and Safety at Work, EU-OSHA

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Mandate

Update of Commission Recommendation 2003/670/EC concerning the European schedule of occupational disease as regards asbestos-related diseases

Adopted on 30/11/2022

The Advisory Committee on Safety and Health at Work (ACSH) has set up a Working Party “Update of Commission Recommendation 2003/670/EC as regards asbestos related diseases”

Mandate

The remit of this Working Party is,

taking into account that:

- Asbestos is a key occupational carcinogen for which there is no safe exposure level. 78% of cancers recognised as occupational cancer in the Member States are asbestos related¹. In 2016, about 67,000 deaths in the EU-27 were attributable to past occupational exposure to asbestos² and in 2019, this number increased to about 72,000.
- The use of asbestos is banned in the EU since 2005 but it is still present in many older buildings. It is estimated that currently 4.1 to 7.3 million workers are exposed to asbestos, 97% of whom work in the construction sector.
- The number of exposed workers will increase by 4% every year for the next 10 years with a subsequent plateau and then a decrease in the number of exposed workers expected only after 25 years (reduction of around 10% per year).
- This is particularly important in light of occupational safety and health challenges related to the implementation of the renovation wave, which aims to make buildings fit for a climate-neutral future in the context of the European- Green Deal.

¹ European Occupational Diseases Statistics (EODS) - Experimental statistics - Eurostat (europa.eu)

² <https://who-ilo-joint-estimates.shinyapps.io/OccupationalBurdenOfDisease/>.

- Effectively reducing exposure to carcinogenic substances such as asbestos is part of the Commission's Europe's Beating Cancer Plan³ and Zero-Pollution Action Plan⁴.
- For this purpose, the proposal to amend Directive 2009/148/EC (Asbestos at Work Directive) was a priority action announced in President von der Leyen's letter of intent accompanying the State of the Union 2021 and the Commission Work Programme 2022⁵ and in the EU strategic framework on health and safety at work 2021-2027.
- In the EU Strategic Framework on Health and Safety at Work, the Commission committed to improving workers' protection against exposure to asbestos. A relevant proposal COM (2022) 489 final⁶ was adopted by the Commission on 28 September 2022, together with a Communication COM (2022) 488 final on an asbestos-free future⁷.
- Communication COM (2022) 488 final on an asbestos-free future mentions that "As the Treaty does not allow the Commission to propose a legally binding instrument in this field, the main basis for promoting the recognition of occupational diseases at EU level is Commission Recommendation 2003/670/EC⁸. This Recommendation currently covers cancers and other diseases caused by occupational exposure to asbestos. The Commission will consult the tripartite Advisory Committee on Safety and Health at Work (ACSH) on the need to update it in light of the latest scientific findings".
- Commission Recommendation 2003/670/EC concerning the European schedule of occupational diseases⁸ promotes the recognition and compensation of occupational diseases listed in its Annexes, with a view to encourage convergence in recognition of important occupational diseases between Member States.
- Member States are recommended to introduce national legislation on scientifically proven occupational diseases as well as compensation provisions and prevention measures.
- The following asbestos-related occupational diseases are included in Commission Recommendation 2003/670/EC, in Annex I: 301.21 Asbestosis, 301.22 Mesothelioma following the inhalation of asbestos dust, 302 Complication of asbestos in the form of bronchial cancer, 306 Fibrotic diseases of the pleura, with respiratory restriction, caused by asbestos, 308 Lung cancer following the inhalation of asbestos dust; and in Annex II: 2.308 Cancer of the larynx following the

³ https://ec.europa.eu/commission/presscorner/detail/en/ip_21_342

⁴ https://environment.ec.europa.eu/strategy/zero-pollution-action-plan_en

⁵ https://ec.europa.eu/info/publications/2022-commission-work-programme-key-documents_en

⁶ 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. <https://op.europa.eu/s/xczj>

⁷ 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. <https://op.europa.eu/s/xczn>

⁸ Commission Recommendation of 19 September 2003 concerning the European schedule of occupational diseases, OJ L 238, 25.9.2003, p. 28–34

inhalation of asbestos dust⁹.

- Communication COM (2022) 488 final on an asbestos-free future mentions in footnote 27 the following data on asbestos related occupational deaths: Mesothelioma (7,510 deaths), ovarian cancer (2,032 deaths), tracheal, bronchus and lung cancer (61,035 deaths) and larynx cancer (1,173 deaths)¹⁰.
- The high importance of the workforce in Member States, in particular in construction, waste management and other economic activity sectors which deal with asbestos-containing materials.
- While the focus should always be on prevention, it is of utmost importance to support workers and the families of workers who have lost a family member due to an asbestos related disease caused by work.
- Subsidiarity applies to support and compensation issues.

to prepare a draft opinion for adoption by the ACSH plenary in the first half of 2024 to update Commission Recommendation 2003/670/EC concerning other asbestos-related occupational diseases, taking into account all asbestos related occupational diseases already recognised at the national level in Europe, respecting the principles of the recommendation and its annexes.

Justification:

The ACSH assists the Commission in the "preparation, implementation and evaluation of activities in the fields of safety and health at work", and in particular to "give an opinion on plans for Community initiatives which affect safety and health at work"¹¹.

Medical information suggests that there exist some asbestos-related occupational diseases which are not yet included in the Recommendation 2003/670/EC, for example ovarian cancer, which should be assessed whether to be included in the Recommendation. Also, cancer of the larynx following the inhalation of asbestos dust is currently included in Annex II of the Recommendation and it should be assessed whether to move the related item 2.308 to Annex I.

Indicative deadline for the fulfilment of the mandate:

First half of 2024

⁹ The numbers refer to the items in Annex I and Annex II of the Recommendation 2003/670/EC. Annex II constitutes an additional list of diseases suspected of being occupational in origin which should be subject to notification and which may be considered at a later stage for inclusion in Annex I to the European schedule.

¹⁰ The data come originally from the following external study: "Lassen, C. and Christens, F. (COWI); Vencovska, J; Vencovsky, D. and Garrett, S. (RPA), Schneker, K. and Dilger, M. (FoBiG). 2021. Study on collecting information on substances with the view to analysing the 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 report for asbestos. Data from Global Burden of Diseases, Injuries, and Risk Factors Study (GBD) 2019 database.

¹¹ Council Decision 2003/C 218/01 of 22 July 2003 setting up an Advisory Committee on Safety and Health at Work, Article 2.