

EUROPE'S ASBESTOS LEGACY: ONGOING CHALLENGES, INTERNATIONAL SOLUTIONS

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Europe is haunted by its asbestos past. It has been predicted that for the period 1995 to 2029, more than half a million Europeans will die of asbestos-related cancers and diseases.¹ This equates to the elimination of the population of a city the size of Manchester, Lyon, Gdańsk, Lisbon or Nuremberg. The widespread and uncontrolled mining, processing, and use of asbestos throughout the continent has produced a tsunami of asbestos-related disease, death, hardship and heartbreak. A paper which analysed the global incidence of deaths from mesothelioma, a signature cancer caused by exposure to asbestos, found that between 1994 and 2008 more than 50% of all fatalities took place in Europe.² Six of the ten countries reporting the highest numbers of mesothelioma deaths were in Europe; they were: the UK, Germany, France, the Netherlands, Italy and Spain.

Europe's Asbestos History

Europeans were amongst the earliest adopters of asbestos; they took to it like the proverbial duck to water. In the 19th century, European inventors and technicians were at the forefront of efforts to capitalize on the opportunities offered by asbestos technologies. According to a key historical document:

“A factory for asbestos fabrics and paper was then [19th century] established in Italy and a period of intensive development, with an ever widening range of uses, followed the Paris Exhibition of 1878. Special spinning and weaving machinery was developed, the earliest uses for asbestos fabric being fireproof garments and safety curtains for theatres. Brake linings of woven asbestos were first made in England in 1896. Asbestos packings for steam glands were made from carded Italian fibre wrapped in cotton. Asbestos paper was used as an insulating material and this in turn led to the production of millboard. Asbestos cement was invented in about 1900.”³

Over 140 years ago, UK businessmen developed, patented and sold asbestos-based products for engine packing, insulation, fireproofing and construction including blocks, rope, millboard, boiler coverings, textiles, tape, powder, putty, cement and paint. By 1885, there were more than 19 asbestos manufacturers and sellers in Glasgow.⁴ By the dawning of the 20th century, there were 52 asbestos manufacturers listed in the Glasgow Post Office Directory and factories manufacturing asbestos products – such as Turner Brothers Asbestos Company – were operational in England. On March 30, 1900 Austrian engineer Ludwig Hatschek applied for a patent on the technology for the production of Eternit asbestos-cement. In 1903, an Eternit asbestos-cement factory was established in Niederurnen, Switzerland with others following soon afterwards in Poissy, near Paris (1904), Haren,

¹ This figure has been produced using figures cited in this text: Peto J, Decarli A. *The European Mesothelioma Epidemic*. Br J Cancer. 1999 Feb;79(3-4):666-72.

² Delgermaa V, Takahashi K, et al. *Global mesothelioma deaths reported to the World Health Organization between 1994 and 2008*. World Health Organization Bulletin 2011;89:716-724C. doi:10.2471/BLT.11.086678

³ HMSO. *Asbestos and certain Asbestos Products*. 1973. p. 9, paragraph 27.

⁴ Johnston R, McIvor A. *Lethal Work*, p. 10. Tuckwell Press. 2000.

Belgium (1905), Lomma, Sweden (1906), Casale Monferrato, Italy (1907), Rostow, Russia (1908) and Braila, Romania (1910).⁵

European countries, if we include the former Soviet Union,⁶ have consumed in excess of 100 million tonnes of asbestos between 1920 and 2012. This equates to 52% of all the asbestos used during that period. If Russia, Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are excluded, usage in the remaining European countries totals 44 million tonnes, 23% of global consumption.

European Asbestos Data 1950-2012 (tonnes)

| Year | Production | Imports | Exports | Apparent Consumption | % of Global Consumption |
|------|------------|-----------|-----------|----------------------|-------------------------|
| 1950 | 273,862 | 341,701 | 109,167 | 506,396 | 40 |
| 1960 | 713,644 | 657,896 | 199,240 | 1,172,300 | 54 |
| 1970 | 1,242,904 | 1,036,695 | 480,530 | 1,799,069 | 51 |
| 1975 | 2,093,713 | 1,412,792 | 809,414 | 2,697,091 | 62 |
| 1980 | 2,275,064 | 1,259,254 | 732,286 | 2,802,032 | 59 |
| 1985 | 2,706,495 | 654,961 | 429,241 | 2,932,215 | 67 |
| 1990 | 2,476,933 | 423,313 | 317,952 | 2,582,294 | 65 |
| 2000 | 984,113 | 225,467 | 505,405 | 704,175 | 35 |
| 2010 | 1,214,100 | 196,458 | 956,352 | 454,206 | 22 |
| 2011 | 1,223,100 | 112,952 | 817,510 | 518,541 | 25 |
| 2012 | 1,241,200 | 178,684 | 1,089,963 | 329,921 | 17 |

Source: United States Geological Survey.

The vast majority of the asbestos fiber used in Europe was chrysotile asbestos. Of the seven million tonnes of asbestos consumed in the UK, 2% was crocidolite, 8% amosite and 90% chrysotile. In Spain and France consumption was 2.6 and 4.3 million tonnes respectively, the majority of which was chrysotile although France also used crocidolite and amosite⁷ and Spain crocidolite. Chrysotile and amosite asbestos were used in Denmark;⁸ in Bulgaria chrysotile and anthophyllite were used; in Belgium, chrysotile and crocidolite were imported for use.

Commercial Strategies to Protect Asbestos Markets

From the early 20th century, asbestos vested interests centralized their efforts to increase sales, control prices and silence critics. The industry's successful manipulation of government asbestos agendas, scientific research and medical discoveries ensured that despite mounting evidence regarding the harmful repercussions of human exposures to asbestos, legislation to curtail usage was postponed time and time again. European-based industry representatives pioneered many of the public relations strategies and commercial

⁵ Ruers, B. *Eternit worldwide: the double standard*. In: *The Polluter Pays*. 2005.

⁶ Statistics published by the United States Geological Survey up to 2013 included data from Russia and the former Soviet territories of Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

⁷ French response to questionnaire.

http://ibasecretariat.org/Brussels/bruss_rep_quest_resp_french_2012_eng.pdf

⁸ Danish response to questionnaire.

http://ibasecretariat.org/Brussels/bruss_rep_quest_resp_denmark_2012_eng.pdf

initiatives used to create a climate in which sales of toxic products could flourish. In 1929, the Swiss Eternit company, in collaboration with the British asbestos giant Turner & Newall and owners of European Eternit companies, established an organization designed specifically to advance the interests of asbestos-cement producers; the birth of the S.A. Internationale de l'Asbeste-Ciment cartel (SAIAC) was a pivotal moment in the history of the industry.⁹ SAIAC members agreed to exchange technical knowledge, centralize research activities, standardize product ranges and organize the export business.¹⁰ Working together SAIAC members divided up global markets, pressurized national governments, fixed retail prices, and extracted favourable business terms from asbestos producers.

The mutuality of interests skilfully manipulated by industry representatives throughout the 20th century prioritized commercial interests to the detriment of workers, consumers and members of the public. On November 24 & 25, 1971 The First International Conference of Asbestos Information Bodies took place in London. It was attended by 34 delegates from the following national associations:

| Country | Industry Body |
|----------------|--|
| Belgium | Commissie Voorlichting Asbest/Comite d'Information de l'Amiante (Asbestos Information Committee) |
| Denmark | Danish Asbestos Information Group |
| Finland | Finnish Asbestos Information Group |
| France | Chambre Syndicale de l'Amiante (Asbestos Syndicate) |
| Germany | Wirtschaftsverband Asbest e.V. and Wirtschaftsverband Asbestzement e.V. (Asbestos Trade Association and Asbestos-Cement Trade Association) |
| Holland | Commissie Voorlichting Asbest/Comite d'Information de l'Amiante (Asbestos Information Committee) |
| Italy | Associazione Nazionale degli Industriali Amiantieri (National Association of the Asbestos Industry) |
| Norway | Norwegian Asbestos Information Group |
| Sweden | Swedish Asbestos Information Group |
| UK | Asbestosis Research Council (ARC), Asbestos Information Committee (AIC), Hill & Knowlton (UK) Ltd. (Public Relations Company) |
| U.S. | Asbestos Information Association of North America ¹¹ |

It is of interest to note that of the fourteen organizations in attendance, 13 were European.

Papers circulated at the meeting provide a fascinating insight into the predominant issues being considered by the industry at that time. One of the main themes was “Attacks on Asbestos and Our Defenses;” ways of manipulating national governments and influencing public opinion were outlined. In Holland, death by committee was an effective way of bogging down proposed restrictions. When a French delegate asked A. R. Kolff van Oosterwijk “Is there a general public consciousness of the 'risk' (of asbestos) in Holland?” he answered: “I think NOT.” In the UK “regular informal discussions between various members of the Factory Inspectorate” and civil servants in the Home Office, the Department of the

⁹ Rosselli M. *The Asbestos Lie*. European Trade Union Institute, 2014. p.53.

¹⁰ Ruers B. *'Eternit and the SAIAC Cartel'*, in D. Allen and Laurie Kazan-Allen (eds), *Eternit and the Great Asbestos Trial*. International Ban Asbestos Secretariat. 2012. p. 15-20.

¹¹ Kazan-Allen L. *The Asbestos War*. International Journal of Occupational Health, 2003;9: 173-193. DOI: <http://dx.doi.org/10.1179/oeh.2003.9.3.173> or http://ibasecretariat.org/lka_asbestos_war.php

Environment, the Department of Health and Social Security, the Customs and Excise Department and the Department of Employment ensured that industry's proposals were incorporated into official doctrine. In his paper A. A. Cross, Chairman of the Environmental Control Committee of the ARC, proudly boasted:

“They [the Factory Inspectorate] have also sought the co-operation of the Council [ARC] in developing improved procedures and products, for example, they sought our advice on the question of sprayed asbestos with the result that all sprayed asbestos insulation contractors in the United Kingdom have now accepted as standard procedure the predamping of asbestos fibre which, as a result of measurements taken by Government Officials, has been reclassified by them and other Government Departments as a low risk operation.”

Confronting Europe’s Asbestos Challenges

Given the industry’s financial, social and political clout, it is little wonder that European citizens are now facing an asbestos pandemic. Unfortunately, amongst EU member states, the support available, medical treatment provided and compensation paid to the injured varies dramatically not only from country to country but also within countries. A 2006 survey funded by the European Commission found large discrepancies in the operations of asbestos regulatory regimes and insurance systems in Germany, Austria, Belgium, Finland, Denmark, Spain, France, Italy, Norway, the Netherlands, Portugal, Sweden and Switzerland.¹² In the UK, which was not included in the 2006 review, there remains a postcode lottery for medical treatment and a divergence in the legal entitlement of asbestos victims – people with pleural plaques are no longer entitled to claim compensation in England or Wales but can do so in Scotland and Northern Ireland. A 2013 research report entitled *Asbestos-related Occupational Diseases in Europe* examined the situation in 14 Central and East European (CEE) countries: Bulgaria Croatia, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Serbia, Slovakia, Slovenia and Turkey.¹³ The authors concluded:

“almost all [CEE] countries struggle with the problem of under-reporting of occupational diseases. The causes mentioned include: lack of knowledge, information, motivation among doctors, and the bureaucracy of the system... the number of recognised asbestos-related cases differs greatly between countries, due to:

¹² Whereas mesothelioma was recognized as an occupationally-caused disease in Denmark in 1959, this step was not taken in Spain and Belgium until 1978 and 1982, respectively. The acceptance of asbestos-related lung cancer as an occupational disease was achieved in 1942 in Germany but in six other countries it took until the 1980s; although France, Italy and Belgium did not fall into line until 1985, 1994 and 1999, respectively, they had already recognized asbestos-related lung cancer as an occupational disease when associated with asbestosis in the 1970s. The recognition of other asbestos-related cancers proved even more problematic. An example of this was the lack of consensus regarding the right of an asbestos-exposed worker with cancer of the larynx to be recognized as suffering from an occupational disease. In Germany, Denmark and France hundreds of such claims have been acknowledged; this has not been the case elsewhere.

Eurogip. Asbestos-related occupational diseases in Europe. Recognition, statistics, specific systems. 2006. <http://www.eurogip.fr/en/publication-asbestos-related-occupational-diseases-in-europe.-recognition-statistics-specific-systems.php?id=38>

¹³ Kooperationsstelle Hamburg IFE. Asbestos-related occupational diseases in Central and East European Countries. European Federation of Building and Woodworkers. 2013. http://ibasecretariat.org/efbww_rep_2013_eng.pdf

- “the size of the exposed population due to economic activities (e.g. production or repair)
- the year of the provisions for protection of workers exposed to asbestos; the policy of detecting workers exposed to asbestos dust in the past; Poland and Slovenia are particularly active in this area, and the results of their initiatives are reflected in recent statistics
- political, economic and legislative obstacles in CEE countries: Croatia, Estonia, Latvia, Lithuania, Slovakia and Slovenia became independent in the 1990s
- the system for recognising occupational diseases: late registration of non-malignant diseases on the occupational disease list
- low rates of certification of occupational diseases: lack of medical expertise and diagnostic equipment, organisational problems.”

Proactive Asbestos Strategies

Measures to address the multiplicity of asbestos challenges in European countries have been implemented on regional as well as national levels; these include measures on:

Victims’ Rights: In 2002, an Asbestos Disease list was set up at the Royal Courts of Justice to streamline the legal process so that UK asbestos victims received compensation during their lifetimes.¹⁴ The introduction of new procedures, the imposition of strict deadlines, the use of information technology and telephone conference calls speeded up the process and consequently cut legal costs. Nowadays, it is not unusual for a case to be completed within three months, although five months is more usual. (Appendix 1). British asbestos claimants can seek compensation through the courts or from government sources which include the: Industrial Injuries Disablement Benefit Scheme, Diffuse Mesothelioma Payment Scheme, Pneumoconiosis etc. (Workers’ Compensation) Act 1979, Workers’ Compensation (Supplementation) Scheme and the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Scheme (Appendix 2). Navigating the complicated benefit system is often facilitated by asbestos victim support groups located throughout the country, primarily in asbestos hotspots like Manchester, Liverpool, Glasgow, Southampton, etc.¹⁵

Justice: High-profile lawsuits by asbestos victims against national governments and corporate criminals in Malta, Switzerland, France, the Netherlands and Italy have raised awareness of asbestos crimes perpetrated in Europe.¹⁶ The most famous of these cases is the Italian lawsuit against Eternit executives Stephan Schmidheiny and Jean-Louis de Cartier de Marchienne. In 2012, they were found guilty for their part in the humanitarian catastrophe caused by Eternit's asbestos operations in Italy; they were sentenced to 16 years in prison and ordered to pay thousands of injured parties compensation estimated at more than €5 million.¹⁷ The appeal in this case had nearly reached completion when on May 21, 2013 the death of

¹⁴ Kazan-Allen L. *Judicial Innovation at the Royal Courts of Justice*. In: 20th Anniversary Edition of the British Asbestos Newsletter., p. 11-13. http://www.britishasbestosnewsletter.org/ban_78.pdf

¹⁵ List of international asbestos victims’ support groups.
http://ibasecretariat.org/lka_gp_list.php

¹⁶ Ruers B. *First Asbestos Claim Brought Against the Dutch State*. February 24, 2014.
<http://ibasecretariat.org/br-first-asbestos-claim-brought-against-the-dutch-state.php>
Verdict of European Court of Human Rights. *Case of Brincat and Others v. Malta*. July 24, 2014.
http://ibasecretariat.org/brincat_and_others_v_malta_july_2014.pdf

¹⁷ Kazan-Allen L. *Postscript to the Great Asbestos Trial*. February 18, 2014.
<http://ibasecretariat.org/lka-postscript-to-great-asbestos-trial.php>

91-year old Louis de Cartier de Marchienne was reported. With his demise, the criminal case against him and Etex, the company of which he was a director, was vacated. On June 3, 2013, the Appeal Court verdict in the case against Swiss billionaire Stephan Schmidheiny increased the prison sentence from 16 to 18 years!¹⁸ The Court of Cassation, Italy's Supreme Court, will issue its ruling in this case on November 19, 2014 in Rome.

Epidemiology: Belgium was both geographically and metaphorically at the heart of Europe's asbestos saga. National asbestos stakeholders were wealthy and politically connected, as a result of which a public policy of denial was embraced by politicians, civil servants, scientists, workers and members of at-risk communities even as the number of asbestos-related deaths rose. In 2013, the Belgian asbestos victims' group ABEVA (Association Belge des Victimes de l'Amiante/Asbest in Belge: Vereniging van Asbestslachtoffers [Belgian Association of Asbestos Victims]) published the results of investigations which documented 320 asbestos deaths in the Belgian Eternit towns of Kappelle-op-den-Bos, Tisselt and Harmignies. The research project, led by ABEVA's Eric Jonckheere, accessed official files, communal records and individual memories to ascertain the names of people who were suffering from or had died from asbestos-related diseases.¹⁹ The announcement of these findings reverberated throughout the media.

Medical Care: A health monitoring program was established in 2000 under the provisions of Poland's Asbestos Ban Act to provide free check-ups to former workers from 28 Polish asbestos-processing factories. Between 2000 and 2011, 7,026 patients underwent 20,596 examinations. Twenty per cent of those eligible under the Amiantus Programme were seen; the majority (53.2%) were from the asbestos-cement industry. From the data collected, it was clear that the health of many of the patients was adversely affected by their exposure to asbestos. According to Dr. Beata Swiatkowska, over the 11-year period, "radiographic changes were observed in 3,209 (46%) patients and pulmonary parenchymal opacity in 4,293 (61%) patients... deterioration was detected in 1,817 (26%) people in total, including radiological findings in 861 (12.3%) people." Recommendations based on these findings were made which included the implementation of legal obligations that asbestos producers maintain a database of workers with information on their asbestos exposures and workplace conditions; the setting up of monitoring programs with standardized record collection; and establishing basic criteria for the diagnosis of occupational asbestos-related diseases.²⁰

Public Mobilization: For decades, the plight of asbestos victims was invisible. Work done to identify the injured, collectivize and visualize their experiences has been crucial in the battle for asbestos justice. The French umbrella group ANDEVA (Association Nationale de Defense des Victimes de l'Amiante [National Association to Defend Asbestos Victims]) has been at the forefront of the mass movement by asbestos victims. In October 2012, ANDEVA gathered representatives from 20 countries in Paris to take part in a series of events to quantify the worldwide impact of asbestos and progress both short and long-term goals. The activities which took place included: informal discussions, a conference entitled "The International Day of Asbestos Victims," a round-table discussion and a mass demonstration

¹⁸ Kazan-Allen L. *2013 Appeal Verdict in the Great Asbestos Trial*. June 6, 2013.

<http://ibasecretariat.org/lka-2013-appeal-verdict-in-great-asbestos-trial.php>

¹⁹ Kazan-Allen L. *Belgium's Asbestos Killing Fields*. May 23, 2013.

<http://ibasecretariat.org/lka-belgium-asbestos-killing-fields.php>

²⁰ Kazan-Allen L. *Conference: Europe's Asbestos Catastrophe*. November 9, 2012.

<http://ibasecretariat.org/lka-bruss-europes-asbestos-catastrophe-report-2012.php>

in the heart of Paris which attracted thousands of French and Italian victims and supporters.²¹ On a smaller scale, but also effective are activities undertaken on the UK's annual Action Mesothelioma Day. On a designated Friday in July, victims' groups and mesothelioma charities mount information sessions, public rallies, church services and balloon/dove releases to increase asbestos awareness and raise funds for vital research into asbestos-related diseases.²²

Outreach Work: Even though 97% of all cancers are reported to the Danish Cancer Registry, a significant number of asbestos victims remain uncompensated. In 2007, the BAT-Kartellet DK, a construction trade union, embarked upon an outreach program to trace "lost asbestos cases"; they identified 60 claimants with asbestos-related illness which cost insurers €10 million. In September 2014, the UK's GMB union launched an initiative to provide asbestos removal operatives, who work in an industry where union membership can result in dismissal, a national voice.²³ Commenting on this development Dave Hulse, GMB national officer, explained that under current regulations, asbestos removal licensees must adhere to a raft of guidelines including:

"worker involvement in the process of removing and disposing of asbestos safely. Without a properly trained, licensed and regulated workforce who are complying with regulations, companies will be at risk of having the license removed... GMB has had extensive discussions with asbestos removal workers from all parts of the UK. From these discussions it has become apparent that there is a lack of meaningful worker involvement in all areas of health, safety or welfare provisions. A large number of workers have also expressed concerns about the poor quality of the training being delivered by training providers... GMB is urging all companies who employ asbestos removal operatives to join with the GMB to seek to raise standards in the industry and to ensure that the elements in the licenses are fully complied with."²⁴

Remediation: Under the Programme for Asbestos Abatement in Poland, the Government set a deadline of 2032 for the creation of an asbestos-free Poland. Research efforts documented asbestos consumption patterns throughout the country and identified areas where usage was particularly high, most of which were in Eastern Poland. A decontamination strategy was formulated through consultations which began in 2009 amongst government ministries such as the Ministries of Finance, Environment, Infrastructure, and Agriculture, federal and regional inspectorates, non-governmental organizations, administrative units and municipal authorities. In 2009, it was estimated that there were 14.5 million tonnes of asbestos-containing products in Poland. Under the programme, by the end of 2012, 28% (4 million tonnes) had been removed. Between 2013 and 2022, a further 5.1 tonnes (35%) were to be removed, with the remaining 5.4 tonnes (37%) scheduled for removal by 2032.²⁵

²¹ Kazan-Allen L. *Storming the Asbestos Barricades*. October 18, 2012.
<http://ibasecretariat.org/lka-storming-the-asbestos-barricades.php>

²² Palmer H. *Manchester's Action Mesothelioma Day*. July 4, 2014.
<http://ibasecretariat.org/hp-manchester-action-mesothelioma-day-jul4-2014.php>

²³ Kazan-Allen L. *UK Asbestos Policy: Unfit for Purpose?* September 11, 2014.
<http://ibasecretariat.org/lka-uk-asbestos-policy-unfit-for-purpose.php>

²⁴ GMB. *Safe Removal And Disposal Of Asbestos*. September 1, 2014.
<http://www.gmb.org.uk/newsroom/safe-removal-and-disposal-of-asbestos>

²⁵ Kazan-Allen L. *Conference: Europe's Asbestos Catastrophe*. November 9, 2012.
<http://ibasecretariat.org/lka-bruss-europes-asbestos-catastrophe-report-2012.php>

Dialogue: For decades, asbestos propagandists were able to silence opponents. Even when their monopoly over national asbestos agendas began to dissipate, their entrenched position and influential friends ensured they retained control of the dialogue. Asbestos was, they asserted, a minor occupational health issue; improved factory conditions would alleviate disease; blue and brown asbestos were the culprits, white asbestos was safe; the incorporation of white asbestos into an asbestos-cement matrix ensured that fibers would not be liberated. Ban asbestos campaigners have fought assiduously to expose these lies. The “Asbestos is a Killer” booklets published in 2014 by the Building and Wood Workers International and Industriall in English, Spanish, French and Russian are a much valued resource for at-risk workers faced with the daily battle of keeping themselves and their colleagues safe from hazardous exposures.²⁶

Training: The EU’s 15 million construction workers remain at high risk of hazardous exposures even though asbestos use has been banned in the EU. Acknowledging the threat posed by billions of tons of asbestos-containing products within the European infrastructure, the European Federation of Building and Woodworkers (EFBWW) developed a campaign to progress the goals of making Europe an asbestos-free zone and banning asbestos worldwide. Stakeholders consulted included unions, labor federations, asbestos victims’ groups, employers’ organizations, labor inspectorates, national prevention institutes, EU member states and key EU decision makers at the European Commission, European Parliament and Council of Ministers.

As a result of the discussions which ensued, an Asbestos Initiative Report approved by the European Parliament was adopted on March 14, 2013. The 62 suggestions included calls for specific measures to address asbestos challenges faced by workers as well as members of the public. Other outcomes of these collaborations were: campaign material,²⁷ Asbestos Information Material Modules, conferences, action days, a European certification scheme for asbestos trainers, research projects on the recognition and compensation of asbestos-related diseases in East and Central European countries²⁸ and the publication by Construction Labour Research of the book: *The long and winding road to an asbestos-free workplace*.²⁹

Concluding Thoughts

Unfortunately, even in countries where progress has been made the human and legal rights of the injured are under constant bombardment by insurers, defendants and governments. In 2014, the effectiveness of European health and safety regulations are being negatively affected by government cuts in financial budgets and staff numbers. In such a climate, there

²⁶ BWI and Industriall. *Asbestos is a Killer*. 2014.

http://www.industriall-union.org/sites/default/files/uploads/documents/Asbestos/a4_asbestos_8pp_en_web.pdf

http://www.industriall-union.org/sites/default/files/uploads/documents/Asbestos/a4_asbestos_8pp_ru_web.pdf

http://www.industriall-union.org/sites/default/files/uploads/documents/Asbestos/a4_asbestos_8pp_es_web.pdf

http://www.industriall-union.org/sites/default/files/uploads/documents/Asbestos/a4_asbestos_8pp_fr_web.pdf

²⁷ EFBWW Asbestos Campaign documents and posters.

<http://www.efbww.org/default.asp?Issue=Asbestos Documents and Posters&Language=EN>
Information modules.

<http://www.efbww.org/default.asp?Issue=Asbestos&Language=EN>

English module: http://www.efbww.org/pdfs/10%20-%20EN_Leporello.pdf

Also available in French, German, Italian, in Spanish, Polish, Hungarian and Lithuanian.

²⁸ EFBWW. 2013 - *Asbestos related occupational disease in Europe*.

<http://www.efbww.org/default.asp?Issue=Asbestos%20diseases&Language=EN>

²⁹ *The long and winding road to an asbestos-free workplace*. CLR International Books. 2013.

<http://www.i-books.nl/subject/society/economics/thelongandwindingroadtoanasbestosfreeworkplace.html>

is absolutely no doubt that shortcuts will be taken and lives put at risk from exposures to asbestos. Constant vigilance by civil society is an absolute necessity if we are to safeguard occupational and public health from the asbestos hazard. As the examples cited in this paper illustrate, tackling Europe's asbestos legacy and delivering justice to the injured are achievable objectives. The prospects for successful campaigns are improved by strategic thinking, collaboration with broad-based grassroots networks, the use of creativity to capture public and media attention, integrating awareness projects within comprehensive frameworks and the use of innovative means of communication.

An example which ticks all the boxes is Betty, Australia's first mobile asbestos house.³⁰ Betty has been working for just under two years to raise asbestos awareness in a country where more than one in three domestic properties contain asbestos. She is:

“a purpose built, mobile model home designed to demonstrate where asbestos might be found in and around any Australian home built or renovated before 1987. Her exterior resembles a typical fibro [asbestos-cement] home but when opened up, she has extensive audio and visual information including a bathroom, kitchen, living room, man shed/garage and a dog house.

This interactive resource is part of an integrated and evolving public relations campaign designed to create a conversation about asbestos through a forward-looking proactive strategy. Other modules which reinforce Betty's message include the radio and television commercials “Are you playing renovation roulette?” and the hugely successful Blue Lamington Drive (a lamington is an iconic Australian dessert which consists of sponge cake coated in chocolate sauce and covered with desiccated coconut).³¹ Although the focus of this multi award-winning campaign has been on the domestic risk from asbestos to home renovators, their families and neighbors, in 2014 the campaign is being broadened to incorporate warnings to at-risk tradespeople. Raising the profile of the asbestos hazard feeds into the debate on Australia's worst occupational killer, thereby bringing pressure to bear on employers, property owners, government officials and others to take action.³² An asbestos-free future is possible!

³⁰ All About Betty! http://www.asbestosawareness.com.au/betty-nsw#!__betty-nsw

Also see: Asbestos Awareness. <http://www.asbestosawareness.com.au/>

³¹ For the Blue Lamington Challenge, bakers shared samples of their wares with friends, family or work colleagues to raise funds for asbestos research and support work.

³² Betty on the open road video. <http://vimeo.com/80178222>

Appendix 1

Typical Timetable for a Hypothetical Mesothelioma Case³³

| Activity | Date |
|--|------------------|
| Initial interview with new client, obtaining detailed witness statement in respect of employment history and asbestos exposure | September 3 2014 |
| Request medical records from General Practitioner and treating Hospitals and employment history from the Inland Revenue | September 10 |
| Receive employment history/ research defendants and their employer's liability insurers and write to them setting out details of the claim against them | September 19 |
| Receive medical records and instruct medical expert | October 8 |
| Meet with client to gather details of financial loss/obtain pension or income details | By November 1 |
| Receive medical report | October 27 |
| Complete schedule of financial loss and serve on the defendants or their employer's liability insurers/nominate solicitors | November 10 |
| If no settlement offer received within 21 days, issue and serve court proceedings against the defendants | December 1 |
| Receive defence | December 15 |
| Expedited fast track hearing (case management conference by telephone) | December 17 |
| Judgement entered against the defendant and interim payment of £50,000 made to the client. Matter listed for hearing to assess quantum of damages to be paid | January 2 2015 |
| Settlement offer usually received well in advance of quantum hearing, case is settled | February 9 2015 |

³³ Prepared by Guy Darlaston, Partner at Irwin Mitchell Law Firm, UK.

Comments:

The five month timeline projected for this case is about average in the experience of UK asbestos practitioners. Some cases settle in 3 months but that is rare; these would usually be cases with only one defendant and in industries, such as the power and shipbuilding industries, where there are well-known histories of hazardous exposure. The vast majority of cases settle out of court.

Appendix 2

The Industrial Injuries Disablement Benefit (IIDB) Scheme³⁴

The Industrial Injuries Disablement Benefit (IIDB) Scheme provides non-contributory, no-fault weekly benefits for disablement due to prescribed asbestos diseases that arise during employment (not self-employment); victims of take-home exposure (such as children exposed to asbestos dust on their Father's work clothes), para-occupational exposure (such as wives who washed asbestos-contaminated clothing) or environmental exposure are not eligible. Unlike state compensation schemes in most other countries, IIDB payments are not related to earnings; awards are made according to a scale of disablement of 1-100% with a maximum weekly payment of about £163.60.

IIDB is tax-free and is administered by the Department of Work and Pensions (DWP). Recipients of IIDB may also be eligible for special tax-free allowances:

- Constant Attendance Allowance (CAA)
- Exceptionally Severe Disablement Allowance (ESDA)
- Reduced Earnings Allowance (only for disablement prior to 1.10.1990).

Other income-related state benefits which might be claimed in some circumstances are:

- Statutory Sick Pay
- Incapacity Benefit
- Disability Allowance
- Attendance Allowance
- Carers Allowance
- Pension Credit
- Income Support
- Housing Benefit
- Council Tax Benefit
- Bereavement Benefits.

Eligible sufferers can also apply for tax-free payments under other headings: (1) Personal Independence Payments (for under 65 year olds) (2) Attendance Allowance (for over 65 year olds); these awards overlap with CAA and ESDA respectively.

For exposure to asbestos prior to July 5, 1948 other schemes under which asbestos sufferers might claim are: the Workers' Compensation (Supplementation) Scheme and the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Scheme. Some asbestos-related disease sufferers may also qualify for a lump sum payment £17,000 (\$34,704/ 4,017,885 JPY) on average under the Pneumoconiosis etc. (Workers' Compensation) Act 1979. Applicants with prescribed diseases whose asbestos exposure took place in the Armed Forces may make a claim for a war pension.

Diffuse Mesothelioma Payment Scheme

This scheme is established by the Mesothelioma Act 2014 and makes payments to those victims of diffuse mesothelioma who are eligible or to eligible dependants of those who have died from mesothelioma. Key features of the scheme are:

³⁴ Prepared by Guy Darlaston, Partner at Irwin Mitchell Law Firm, UK.

- a) Only those diagnosed on or after 25 July 2012 are eligible to a payment under the scheme.
- b) Where a person dies after 25 July 2012 but before the Act, the claim is treated as if the Act had been in force at the time of death.
- c) There is a three year time limited from date of diagnosis or the date regulations establishing the scheme come into effect, whichever is later. The Regulations came into force on 6 April 2014. For those diagnosed between 25 July 2012 and 6 April 2014, applications can be made up to 3 years from 6 April 2014.
- d) Where an Applicant makes a claim under the scheme but then dies, the claim may be pursued by his/her Personal Representatives.
- e) A Dependant of someone who has died of mesothelioma may make a claim if the deceased was eligible for a payment but did not make a claim.
- f) Where there are no dependants and the victim dies before making a claim, a claim cannot be made by their estate.
- g) A relevant employer must have negligently or in breach of statutory duty, exposed the victim to asbestos dust – the victim or dependant must still be able to establish a legal liability on the employer to pay compensation.
- h) The claimant must not have pursued an action for damages against the relevant employer or any employer's liability insurer of the employer at the time of the victims exposure.
- i) The claimant must be unable to bring an action for damages against an employer or any employers liability insurer of the employer at the time of exposure because they cannot be found, no longer exist or for any other reason.
- j) Payments will be made by reference to a tariff based on the victim's age – these will be 80% of "average compensation."
- k) The scheme will provide:
 - A procedure for making claims and may impose time limits within which applications must be made
 - Applicants with a right to seek a review of decisiona made under the scheme, but may impose time limits for requesting a review;
 - A right of appeal.
- l) The scheme became operational in July 2014.
- m) The scheme is funded by a levy on current insurers.
- n) DWP benefits paid to the victim will be repayable to the Compensation Recovery Unit and may be offset in full in the usual way against payments made under the scheme.