

## Summary

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## October the 22<sup>nd</sup> Hearing – Eternit bis trial by SILVANA MOSSANO

Is breathing in dust bad for you? Yes, it is. Is spreading dust inside and outside the workplace bad? Yes, it is. Are there precautions that can be taken? Yes, there are.



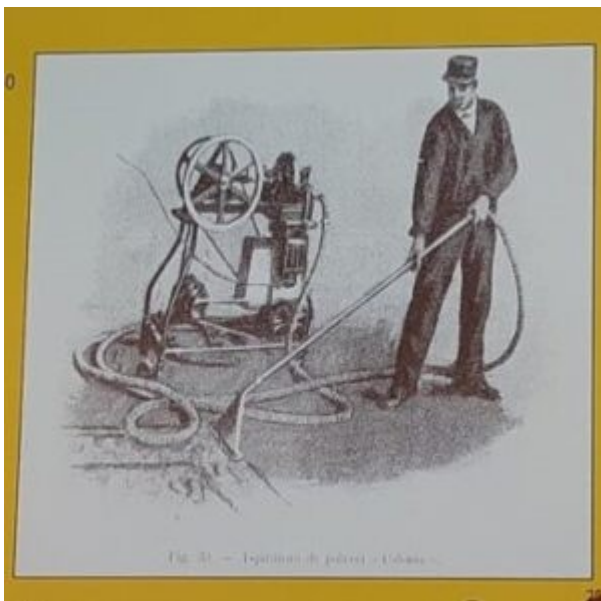
Expert witnesses Stefano Silvestri and Alessia Angelini

In his powerful "Treatise on Industrial Hygiene" published in 1898, Heinrich Albrecht from Vienna (1866-1922) wrote as much. "It was translated from German into Italian", pointed out Stefano

Silvestri, an occupational hygienist with particular expertise in the field of asbestos, former employee of the Institute for Cancer Prevention of Tuscany, member of several Government committees on ministerial commissions, expert witness in several court cases on environmental crimes. In the Eternit Bis trial, being held before the Novara Court of Assizes against Stephan Schmidheiny, accused of wilful murder, of 392 people from Casale and Monferrato, Eternit employees and community members, who died from asbestos, Silvestri was appointed by prosecutors Gianfranco Colace and Mariagiovanna Compare to research into the methods and levels of exposure to asbestos fibre, which was the raw material used in production at the Casale Eternit (a company directly managed by the Swiss entrepreneur between 1976 and 1986, at which point it was closed and filed for bankruptcy).

## ANCIENT TREATISES

In his 123 years old text, Albrecht clearly explained which dust was dangerous and required protection. He recommended not leaving the workplace wearing factory overalls - and thus the need for plants to have changing rooms, wash basins, bathrooms and double lockers so as not to mix work clothes with those worn outside, recommended the use of masks that fit tightly around the face and considered it essential to extract dust where it was produced.



A portable dust extractor of an older generation, but already envisaged many decades ago

Ten years after Albrecht, the *Società Industriali d'Italia per la Canapa e la Juta* published a book entitled '*Sicurezza e igiene nella filatura di heapa e la juta*' (Safety and hygiene in hemp and jute spinning), published by engineer Pontiggia. Here too, there is talk of dust and how to protect oneself, but even more relevant and highly topical is a text by Giovanni Loriga, a university lecturer in industrial hygiene, published in 1910 and republished in 1938. Five postulates summarise the fundamental means of defence against dust. At the hearing on 22 October, Dr Silvestri illustrated them to the Assize Court chaired by Gianfranco Pezone (assisted by Judge Manuela Massino and six jurors or *popular judges*).

## THE FIVE POSTULATES

It is worth recalling what Loriga categorically recommended: 'Prevent the production of dust (either by using materials that do not produce it or by wetting the dusty materials or the dust itself); prevent its dispersion, using closed equipment or in any case avoiding direct contact with the worker; gather the dust at the time and in the place where it is produced; ventilate the environment to reduce the amount of dust that can come into contact with workers; if this is not enough, protect the skin, eyes and breathing organs with suitable means'. Loriga also emphasised the real danger of spreading dust outside plants.



An old grinder

Consultant Silvestri's remark is simple: "There's not much needed compared to what was said over a hundred years ago".

Instead of using the warnings of science, conscience and common sense - "all written in plain Italian," Silvestri reiterated - were not taken into great consideration, otherwise we would not be here today, holding a trial for the deaths of hundreds of people who breathed in that asbestos dust: inside and outside the factory. And it was fatal.

### **THE ROLE OF The *SIL***

How could an unrestrained and prolonged spread of the deadly fibre known to be a carcinogenic, since the mid-1960s, have been allowed? Silvestri pointed out that, in 1975-76, Eternit had set up *SIL*, the company department in charge of hygiene and work, closely linked to the German Asbestos Institute in Neuss, directed by Professor Robock, an internationally renowned scientist trusted by Schmidhiény. Over the years, *SIL* carried out several samplings to ascertain the presence and concentration of asbestos dust in the Casale plant, but, in the expert who has examined all the available documentation said " the picture represented by Eternit, through the activities of *SIL*, the Occupational Hygiene Service, appears not to be faithful and, in fact, there was a higher and more widespread pollution than the company declared". In particular, 'it is difficult to verify the accuracy of the monitoring carried out by *SIL*; no testing was carried out in the changing rooms, in the canteen and in special conditions such as maintenance, accidents and hygiene incidents, at night, during cleaning operations and during waste crushing operations with a mechanical shovel'. Furthermore, 'there are no documents indicating the destination of the waste (the so-called dust)'.

### **THE TRAINING COURSE**

On the other hand Silvestri has recovered information (among the papers filed in the now finalised trial against Amiantifera Balangero) of a "training course for technical managers, held by Professor

Robock in December 1976, in Neuss. "Instructions were given on how to deal with exceptional events". What kind, for example? "The refusal of a worker to enter the workplace deemed to be harmful", or how to deal with the "arrival of journalists, trade unions, public bodies, etc".

And how were the technical managers to deal with the instructions given at the training course? It is advisable," they were told, " to refer to German or American legislation on dusting standards, which are less restrictive in contacts with Italian trade union, medical and state organisations, ", i.e. they allowed a concentration of 2 fibres per cubic centimetre. Because, instead, 'the concentration of 0.5 fibres per cubic centimetre (on which the discussion in Italy was focused at that time, ed.) was not accepted because the asbestos industry replied that they could not adapt and would be forced to close'. Another one of Robock's recommendation to the technical managers at the end of the course: 'In any discussion, disassociate yourself from Dr Selikoff's thinking'. Selikoff was the scientist who, had declared to the world that asbestos is carcinogenic and causes death not only to those who work with it at the beginning of the 1960s.

## **HIGHER BENEFITS TO INAIL (the National Workers' Compensation Fund)**

The fact that asbestos dust was harmful was also demonstrated by the fact that companies that used this mineral had to pay INAIL a higher benefit: there were seventeen in the whole province of Alessandria: those who, like Eternit, used it on a massive scale as a raw material, and those who used materials or tools containing asbestos in their production cycle. "Pursuant Law 780 of 1975, the criteria for calculating the higher benefits were changed, with the result that the sums owed by Eternit to Inail would have increased considerably," Silvestri explained. "Unless", continued the consultant, "they had been able to demonstrate that the concentration of dust in the workplace was below 1000 fibres per litre", i.e. half of the threshold limit value proposed by Enpi (National Accident Prevention Agency) at the time. Casale's Eternit company brought the results of its own SIL's measurements to INAIL in Rome, which showed a fibre concentration below the threshold value. Inail accepted the measurements and considerably reduced the amount of the higher benefits to be paid by the company.

## **BRIDGING PENSIONS**

Trade unions and workers in Casale at one point were denied the so-called 'bridging pensions'. What is it? This was the principle: asbestosis sufferers (a disease caused by high accumulation due to prolonged exposure to asbestos dust), needed to work in a place free of fibre, but could not do so at Eternit because asbestos was a raw material required for production. If the company doctor were to certify the were no longer fit to work they were entitled to a 'bridging pension', equivalent to one year's salary, to have time to find another job or to retire if of the age. Well, Alessandria's INAIL rejected the requests of the workers of Casale: "You are not entitled to it," they were told, "because the dust is now below the threshold limits".



The Casale Eternit plant

The Unions took several cases were taken before the Courts (magistrate Giorgio Reposo). It was on that occasion that the judge appointed Professor Michele Salvini of the University of Pavia to verify data. This is when the well known episode of Prof Salvini who went up a ladder to gather the dust at one and a half metres, which had escaped the careful cleaning operations carried out before the inspection. Asbestos levels were still beyond the limits, and so the magistrate granted the workers the right to a "bridging pension (*rendita di passaggio*)". As well as providing precise information for Judge Reposo, Salvini's report became an authoritative reference point on the actual environmental conditions of the Ronzone factory in Casale to be used in trials to come.

## THE ABSESTOS INDUTRY BECOMES CONCERNED

In the late 1970s, the asbestos industry became very concerned about on more strictly monitored concentrations of asbestos fibres in the workplace. Silvestri found a trace of these fears on a sheet of paper, in handwritten notes, "that I found," said Silvestri, "amidst mountains of papers recovered from the archives of the Balangero Asbestos Mine (*Amiantifera in Balangero*). It refers to a meeting held on 17 November 1978 at the headquarters of Assocemento in Rome. At the meeting Ania members, the Association of Asbestos Producers, expressed concerns about over the proposed asbestos law. However, Costa, the Eternit manager, informed the meeting that the Minister of the time promised to appoint senior managers from the Labour, Industry and Health sectors "to examine the asbestos bills and the decree. He also added that any decision would be made in consultation with the representatives of the industry". The same handwritten note stated that the leadership of the Confederation of Industrialists (*Confindustria*), had also intervened with ENPI 'to slow down the introduction of legislation on asbestos fibre concentration levels'. "I don't know who wrote that piece of paper, there is no signature, no letterhead and no stamp," Silvestri admitted, "but the confirmation of its validity lies in the facts. The limit values proposed by ENPI in 1978 never became part of the law. The then EC (now EU) Directive 477, which introduced a limit of 1,000 fibres per litre of chrysotile asbestos and 200 fibres per litre of crocidolite or mixed asbestos, was incorporated only in August 1991. Some underhand work was needed," he said, "and that meeting delayed the introduction of the limit values in our country by 13 years.

## MESOTHELIOMA CLASSIFICATION

So far we have only referred to the scrupulous attention scientists started paying over a century ago, to the spread of dust, and in the case of asbestos as carcinogenic and deadly.



Expert witness Alessia Angelini

The asbestos fibre, which is very thin and invisible to the eye, manifests its virulent viciousness by producing mesothelioma, "a neoplasm with a high etiological fraction (i.e. the risk of which is strongly linked to specific exposure to asbestos, ed.) that has been the subject of epidemiological surveillance since 1988: the collection of data on the onset of the disease makes it possible to estimate its incidence in order to plan public health interventions".

The next expert witness, Dr Alessia Angelini spoke about this in the second part of her report: Angelini is a chemical engineer; after having worked as labour inspector, she is currently working for the Institute of Oncological Prevention of Tuscany (as was Silvestri), and is in charge of managing reclamation and disposal of asbestos on behalf of the Region and of the classification of mesotheliomas according to the guidelines issued by the National Mesothelioma Registry in 2003.

"We start with the diagnostic survey," Angelini explained, "and once the diagnosis has been made, we proceed with the case history, through direct interviews with the patient (or a family member) and carried out with the help of a standardised questionnaire.

"Data- added Angelini, -are entered annually in the Regional Mesothelioma Registers and then pooled in the national register (ReNaM). Inail periodically publishes a report based mainly on the trend in the number of cases associated with various parameters, including production sectors, geographical areas and the classification of cases according to the definition of exposure. The last one was released in 2018 (with reference to cases arising up to 2015); the 7th Report is currently being prepared".

## **OCCUPATIONAL, FAMILY, & ENVIRONMENTAL MESOTHELIOMA CASES**

The result is this breakdown: 70% of mesotheliomas have an occupational origin (and, of these, 87% men and 13% women), 4.9% have a family origin (and, of these, 14.5% men and 85.5% women): "It was not even required to shake the overalls, it was enough to be close to the worker when he returned home with his work clothes or dusty hair," Angelini pointed out); 4.4 per cent of the cancers had an environmental origin, 1.5 per cent a non work related origin; the remaining 19.9 per cent was attributable to unknown exposure (no information on exposure is available) or unlikely exposure (the precise source of exposure cannot be identified). "This is a qualitative classification, i.e. referring to the source of exposure and not to its duration, frequency or intensity".



As for the 'environmental cases' (i.e. people who develop mesothelioma without ever having worked with asbestos or without having lived with a worker in the sector), the consultant reported that '80% of the cases were scattered over four Italian sites: Casale, Broni, Bari and Biancavilla'. In the first three locations there were factories for the production of products containing asbestos (Eternit and Fibronit), in Biancavilla (Catania) there was the Monte Calvario quarry from which fluoroedenite, a particular type of asbestos, was extracted.

## **THE 'ENVIRONMENTAL CASES' IN CASALE**

"Eternit in Casale produced a large number of occupational mesotheliomas, several family mesotheliomas, and exported the risk of exposure to the city environment, i.e. outside the factory, much more heavily than elsewhere," Angelini explained. Why was that? "Because Eternit had multiple sources of environmental pollution. Examples: "The circulation of raw materials and finished products by road, crossing large areas of the city: from the railway station to the storage warehouses in Piazza d'Armi and the Ronzone plant and vice versa, from the warehouses to the various directions for the sale of the products, from the arrival of part of the raw material from the Balangero quarry in the lorry boxes, from the arrival of production waste from outside Casale to the former Piemontese area (almost opposite the plant) for the crushing of the waste, which took place in the open air. Other sources: the distribution or sale to private individuals of the powder, deriving from processing waste and containing crocidolite (the most dangerous "blue asbestos", with a carcinogenic potency a hundred times greater than that of chrysotile or "white asbestos"); the "Bagna" landfill on the left bank of the Po, on the Morano embankment, where the waste, now completely unusable, was disposed of; the "fans" that expelled contaminated air without filters from inside to outside the factory; the social habits (the workers left the factory three times a day, wearing dusty overalls and hair, and stopped at the bar, the shop, the after-work club or to visit relatives) and the formation of the so-called "beach", due to the discharge of dirty water and sludge from the production cycle on the right bank of the river.

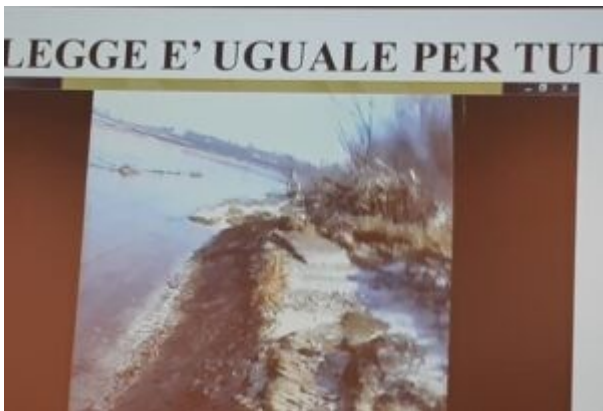
## **THE 'PROMENADE': STROLLING ALONG THE BANKS OF THE RIVER**

About the riverside beach. Angelini proposed a virtual walk in that area, projecting a video Silvestri made in 1996, before the reclamation, ("on my own initiative"). Silvestri had personally gone there to get an idea of the situation, accompanied by Bruno Pesce (former secretary of the CGIL Union of Casale and still tireless spokesperson for Afeva (the Association of Asbestos Victims and Families) and Giampaolo Bernardi, a former Eternit worker and strenuous anti-asbestos activist, who died of mesothelioma.



A view of the "beach" on the left bank of the Po, taken from the film shot in 1996 by Stefano Silvestri

A skirmish broke out between the defence lawyer Guido Carlo Alleva (defending with his colleague Astolfo Di Amato) and the prosecutor Colace over the showing of the film, not so much on the merits of the images of the "beach" (vivid, as never seen before, and on which it was easy to imagine the carefree "beastly hot Sundays" of many people from Casale in bathing suits and picnics), but on the formal acquisition of the document by the court.



A view of the "beach" on the left bank of the Po, taken from the film shot in 1996 by Stefano Silvestri



Lawyers and prosecutors at the hearing on 22 October 2021 of the Eternit Bis trial



## CONCLUSIONS

"Nothing was ever done to counteract exposure to risk or, at least, to limit it," concluded Angelini. This is why Casale is an emblematic case for environmental mesotheliomas. "It was a known fact that asbestos was carcinogenic," the expert continued, "but nothing was done to contain emissions inside and outside the factory. Throughout the factory's productive period and after its closure in 1986: "Eternit did not contribute and cooperate with the authorities by indicating contaminated sites or by participating in the clean-up of the dust and left the factory in a terrible state of repair. The clean-ups were entirely financed with Italian public money. All this," she concluded briefly, "has contributed to increasing the asbestos risk in the population. Today, those who fall ill with mesothelioma (still at the impressive rate of about fifty new cases a year) are almost entirely citizens who did not set foot in the Ronzone plant.

## WHAT ABOUT THE OTHER PLANTS?

"Was Eternit the only factory that used asbestos in Casale?" inquired President Pezone. "Others used materials containing asbestos, but they were indirect users and did not pollute the outside world. The main judge detailed the question: 'Wasn't Fibronit also in Casale? And the expert witness replied : 'Fibronit had plants in Broni and Bari'. And not in Casale? No, Fibronit had its registered Headquarters in Casale, first Cementeria Italiana Fibronit, then Fibronit spa, then Finanziaria Fibronit spa (with full participation in a third production site in the province of Matera, Materit srl in Ferrandina). Fibronit, had offices in Casale in Via Mameli, was declared bankrupt on 13 March 2003.

## NEXT HEARING

The Eternit Bis trial will continue on Monday, October 25: about twenty families of the victims will be heard and Massimo Pozzi , regional CGIL Union secretary.



Picket outside the courtroom of the University of Novara where the Eternit Bis trial is taking place. As well as the Afeva activists, on Monday 22 October there was also a large delegation from Legambiente.

## **OGR (formerly a Fiat plant) and asbestos trials**

**From La Repubblica – Turin page October 18<sup>th</sup> 2021**

A trial for asbestos at the Ogr (The railway repairs centre) , has come at a time when there is only a memory of the old railway workshops, transformed by one of the most important redevelopment projects into a large exhibition and events centre, a restaurant and even a Covid hospital. There is only one defendant alive considering the initial list, and that is the company doctor, who is now in his eighties. The number of plaintiffs who died or contracted asbestos related diseases has shrunk reduced as a result of settlements with the railways, which are still civilly liable for what happened at the Officine Grandi Riparazioni. In the 1980s, when prosecutor Raffaele Guariniello lead the battle the plant on Corso Castelfidardo and Via Boggio was the first asbestos trial in Italy.

The preliminary hearing that opens today in front of the Court of Turin marks the passing of an era. For some time now, the trial has no longer been the place to obtain justice, and the trial that is about to open is a case in point. First of all, the Supreme Court of Cassation has quashed many of the criminal trials of asbestos victims, stating it was impossible to find those responsible among the directors who have succeeded one another over the years at the top of the companies and who caused or not avoided the illness of many employees or family members who washed overalls impregnated with asbestos fibres. Time has also done its work, taking most of the defendants away as they died of old age. Compensation is sought in civil courts, where companies, not managers, are liable. "Yet the battle in court, even in criminal law, is still important and that is why we appeal to all families who have had relatives who were victims of asbestos to turn themselves in to the process, also to provide with their testimony an aid to justice," says Massimiliano Quirico, who with the association Sicurezza e lavoro intends to become a plaintiff with the lawyer Giacomo Mattalia. In this latest trial at the Ogr, which opens in Turin, the only defendant is Vincenzo Santoro, born in 1940, a freelance doctor called by the Railways as an external medical consultant, defended by Alberto Mittone. Prosecutor Elisa Buffa charged him with manslaughter for "having culpably cooperated with the director, managers and foremen (now deceased) in causing the death of 11 workers from pleural mesothelioma cancers". Among them were a carpenter who assembled and disassembled panels on the wagons, a mechanical adjuster who repaired the pneumatic systems of the trains, an upholsterer who removed the padding from the old seats, a welder assigned to the maintenance of the engines and other workers who worked in the 1960s and 1970s and only discovered in the 2000s, until 2016, that they had developed pleural mesotheliomas from which they had no escape. According to the prosecutor's office, the doctor had not 'subjected the workers to medical examinations in order to ascertain their physical fitness and had not repeated the tests at regular intervals'. In addition, as a labour consultant, according to the prosecution, he had not helped the employer in the adoption of remedies against the inhalation of asbestos fibres. But the factory is no longer there, and with it the archive of documents that would be useful not only to the prosecution, but also to the defence in asserting their case, has also disappeared. Thus, the judge Irene Gallesio could grant a robust postponement to ensure that all the victims' families get an out of court settlement, the courtroom and thus allow the defendant to close the trial with an shortened sentence.

## **His father died from asbestos and he funds research –**

from la stampa. Turin page (p 67) October the 18th 2021

(Summary)

Oscar Peano who worked for the Gardens dept of the city of Turin died a year ago. He had worked for a year at the Balangero quarry many years previously. His son Marco Peano and his partner Francesca Marson launched a web appeal to gather money for research and reached 25,000 €. The money will be used to pay for a coordinator at the Alessandria hospital and will also manage/coordinate clinical and preclinical studies on mesotheliomas.