

October the 24th , 2022 Eternit Hearing (Summary)

by

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The frontal attack by defense expert witnesses went full out: all the arguments outlined by the prosecutors' and plaintiffs' expert witnesses were repeatedly targeted. The attack had begun at the September the 21st hearing at the Novara Court of Assizes where the Swiss businessman Stephan Schmidheiny, stands accused of the murder of 392 people from Casale, who died [...] of asbestos related diseases.

The defense experts [...] were Prof Canzio Romano, formerly a professor of Occupational medicine, specializing in Diseases of the Respiratory System and Industrial Hygiene, and in Epidemiology and Toxicology (former director of the School of Specialization at the University of Turin), and Prof Claudio Colosio, professor of Occupational Medicine at the Department of Health Sciences at the University of Milan, whose expertise is in Occupational Toxicology and studies on asbestos exposure, especially in Asia where asbestos is still used.

Professor Romano [...] took about six hours to question the scientific arguments on which the prosecution rests, especially those of epidemiologists Prof Corrado Magnani and Dr Dario Mirabelli. Or, rather, all the technical-scientific arguments on which the indictment rests were filtered through the sieve of the strategy of doubt. Doubt, indeterminacy is the release that allows the escape route for the defendant, that is, a hypothetical acquittal.

On Monday October the 24th, prof Romano resumed, [...] with a sequence of targeted detailed and constructed attacks, the result of a full-bodied, articulate, and meticulous study. He challenged the possibility of establishing when the mesothelioma developed and disputed the cumulative dose argument (i.e., that greater fiber exposures do not correspond to greater risk of becoming ill). He rejected the argument that continuing asbestos exposure would lead to an earlier onset of the disease and maintained there were many sources of asbestos dust in Casale. Lastly, he disputed that, when Schmidheiny owned and managed Eternit, there was extensive knowledge about the actual danger of asbestos.

WHEN THE DISEASE BEGINS

Professor Romano discussed latency which [...] indicates the period between the time of exposure to asbestos and the diagnosis of the disease. He questioned the model of tumor growth illustrated by prosecution experts Magnani and Mirabelli and produced opposing arguments on carcinogenesis [...] and the duration of the latency phases [induction, pre-clinical phase, latency, and onset [...]]. He said [...] "it is impossible, in the individual, to define on a scientific basis the moment when the tumor should be considered irreversible." In detail, "It is not possible, in the individual, to identify when and for how long the agent (i.e., the asbestos fiber) produced its effect, when the process of carcinogenic transformation began and when the process that produced the cancer ended" The defense counsel concluded "There is no certainty." By denying the possibility of establishing when mesothelioma developed he maintained one cannot say it occurred in the decade between June 1976 and June 1986 when Schmidheiny was at head of Eternit.

CUMULATIVE DOSE

Professor Romano also stated that "the dose of asbestos giving rise to cancer can be small, even relatively insignificant" in the face of "short or very short exposure." Again, "The models of carcinogenesis (i.e., tumor origin, ed.) of mesothelioma from asbestos, described in the formulas of various study authors, shows that the time from the first exposure is a key determinant of subsequent risk, and, according to these models, there is a preponderant causal responsibility of exposures that occurred in the earliest periods." In other words: the earliest exposures are the ones that matter; later exposures are no longer influential, according to defense counsel. On the contrary, the prosecution's experts argue, based on their studies, many of which were conducted in the Casale Monferrato area, that the risk of developing cancer increases with increasing exposures and that exposures subsequent to the first ones also produce an additional, accelerating and anticipatory effect of mesothelioma.

Prof Canzio Romano saw this as "blatantly erroneous, forcing the data: for the purposes of epidemiology, one can accept approximations, but it is a mistake to go from the epidemiological conclusion that the frequency of mesothelioma depends on cumulative exposure to the biological conclusion that any increase in exposure results in an increased risk of mesothelioma." [...] According to the studies of the prosecutor's consultants, fiber clearance is thwarted by the introduction of new fibers and, therefore, the risk of mesothelioma also always continues to increase. Prof Romano disagreed and questioned the scientific knowledge about "clearance," and the timing of it, especially between one type of asbestos and another.

THERE WAS MORE THAN JUST ETERNIT

"It is not possible to explain the excess mortality of malignant mesothelioma found in the Casalese area solely on the basis of the presence of the Eternit plant," said Professor Romano. Resuming the arguments of Professor Andrea D'Anna (already examined on July 18 and cross-examined on Sept. 21), he reiterated that there were other factories in the area that used asbestos and, in addition, there were other sources of contamination attributable to so-called "misuse." [see D'Anna]

[...] It is worth recalling that dust and processed asbestos came directly from the Eternit plant, but, like his fellow consultant, Romano also confidently stated that "96 percent of the dust and 99 percent of the wrought were installed before 1976." As if to say: Schmidheiny couldn't do anything about it. So, putting aside the defendant's extraneousness with respect to "improper uses," the defense counsel insisted on the risk of contamination from those sources, especially if one lived at a distance of 500 meters, or even more up to 1,500 to 2,000 meters from the factory. Prof Romano questioned the validity of the substantially concentric risk belt map, in which the Ronzone factory is the centerpiece, depicted by the prosecution consultants; moreover, he strongly insisted that having lived in areas where there was dust, asbestos products or roofs and coverings, or having otherwise frequented those areas "posed a risk, even after 1976"; however, he hastened to add, "the origin of this risk must be traced back to the date of installation," which, he dates back to before 1976. [...]

WHAT WAS KNOWN

A study conducted in 1959 by Johannesburg scientist Chris Wagner and published in 1960 caused a major shake-up: it documented 33 cases of pleural mesothelioma in a limited area of

South Africa where asbestos quarries were concentrated and had thus highlighted the existence of a causal link between that type of cancer and asbestos. Professor Romano quoted him, but the subject, he downplayed, was a matter of debate among scientists. In his opinion, "mesothelioma was 'officially' presented to the scientific community by Irving Selikoff, at the Conference on the Biological Effects of Asbestos, organized in 1964 by the Academy of Sciences in New York. "But it cannot be said," he added, "that at that date it was established scientific knowledge" about the causal link between asbestos and mesothelioma. "Selikoff himself, in 1979, said there were still many aspects to be ascertained. "Then let's not talk about Italy, where "in the 1980s," Romano said, "fire safety standards were being fully applied in steel-framed buildings for civil use, which provided for the use of asbestos" with fire retardant action. Then in 1973, in a ministerial decree of April 18, mesothelioma was not included among occupational diseases; the entry of mesothelioma among tabulated diseases came with Presidential Decree 336 of April 13, 1994. [...] These and other historical references led the defense counsel to assert that it was not true that there was awareness of the danger of asbestos in the years when Stephan Schmidheiny owned Eternit. The Italian state did not know, scientists discussed it, and how did ordinary people know? Effectively, ordinary people did not know. A former Eternit worker who, at the maxi-disaster trial held in Turin, said, "If I had known, like hell I would have continued working there!" comes to mind. But someone a little higher up knew something; for example, Ezio Bontempelli, head of the Sil (Occupational Hygiene Service, established by the Eternit company in 1976), bought a house in Casale and, when he realized that there was dust on the sidewalk in front of the entrance, had it removed before he stepped over the threshold. And Schmidheiny, did he not know? Well, then why did he convene the Neuss conference in 1976, gathering his senior executives, to make them aware of the serious risks caused by asbestos? What did he tell them about the serious dangers of asbestos to make them leave that gathering "shocked" (as Schmidheiny put it at the close and as one of the group's CEOs testified)?

THE DIAGNOSES AND RECORDS

For each of the victims, Professor Colosio then prepared specific forms, analyzing each case from a clinical point of view, considering the pathology already illustrated by Professor Massimo Roncalli. Professors Colosio and Romano admitted that without the clinical signs it would not occur to them to make further investigations, but the clinic and radiography (x-rays and CT) "are only the starting point. Immunohistochemical investigation is necessary and: if this is not convincing, the diagnosis cannot be confirmed in the clinical picture."

Professor Romano added "metastatic tumors to the pleura far outnumber primary malignant pleural mesothelioma," meaning that some of the tumors that were diagnosed as mesothelioma in Casale and its surroundings were actually metastases of other tumors. And the doubt had already been raised that doctors in the Casale area diagnose mesothelioma with ease? [...]

Something, however, does not add up. Is it possible that only in Casale and surroundings are there patients affected by so many forms of cancer (that look like mesothelioma, but are not) that cause precisely those metastases to the pleura? Why does this not happen in other cities? Is it possible that only in and around Casale were asbestos roofs the source of so much contamination (on a par with the plant, according to defense experts) and in other cities,

where asbestos roofs were also there in similar quantities--and there are still plenty of them) this did not happen? [...]

The numbers don't add up. The numbers of sick people and victims. But every number has a name, indeed, every number is a name: without uncertainty, without doubt. And woe to those who say it is rhetoric.

NEXT HEARING

The Eternit Bis trial resumes on Monday, Nov. 21, for cross-examination by defense consultants Romano and Colosio, who will be called upon to answer questions and any requests for clarification by prosecutors Gianfranco Colace and Mariagiovanna Compare, as well as plaintiffs' lawyers.