

## **Eternit Hearing November the 21<sup>st</sup> 2022**

**by**

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One might say beware: all those who, given their ages, have lived in houses heated by wood or coal or other fuel stoves, run a great risk. [For the defence] an old stove can be the trigger for mesothelioma. This idea emerged at the Eternit Bis trial held before the Novara Court of Assizes against Swiss businessman Stephan Schmidheiny, accused of the wilful murder (with possible malice) of 392 people from Casale and Monferrato, victims of mesothelioma caused by asbestos. On Monday November the 21<sup>st</sup>, cross of the defence experts Canzio Romano, Occupational Medicine associate professor at the University of Turin, specialist in Diseases of the Respiratory System and Industrial Hygiene, in Epidemiology and Toxicology (former director of the School of Specialisation at the University of Turin) and Claudio Colosio, Professor of Occupational Medicine at the Department of Health Sciences at the University of Milan, with specific expertise in Occupational Toxicology and studies on asbestos exposure, especially in the Asia where asbestos is still used was held.

PP Dr Mariagiovanna Compare selected some cases of the 392 cases examined by the two experts (and already analysed also by defence pathologist Massimo Roncalli, also commissioned, on which to ask for clarification. For example, that of a woman who lived in Monferrato, 'in a SIN town'<sup>1</sup> Casale Monferrato and 48 municipalities in Monferrato (plus two in the Vercelli area and one in the Asti area). According to experts Dr Colosio and Dr Romano, the very fact of living in a town that falls within the 'SIN' should be calculated as a possible source of exposure and asbestos contamination. Professor Romano explicitly stated: 'The 'SIN' exists because it is an area extensively polluted by asbestos'.

### **WHAT IS THE CASALE MONFERRATO SIN?**

Lawyer Esther Gatti, representing some municipalities as plaintiffs, intervened to clarify: 'The SIN area corresponds geographically to the former Health District Ussl 76, where the problem was the decommissioning of the Eternit plant'. The expert kept to their position: 'Not only because the plant was there! Lawyer Gatti pressed on: 'The area was listed as a SIN because in 1996 it had been identified as "a critical area ", given the presence of the plant. The SIN 'refers to Eternit and the way it was abandoned: decontamination was carried out as a priority' and I quote- she adds - 'In the municipality of Casale Monferrato there was the Eternit factory, whose presence and activity determined a huge spread of asbestos in the territory'.

Back to the stove. Prosecutor Compare asked the experts for clarification: 'You indicated the wood stove as a source of possible exposure. On what basis?'. Dr Colosio replied: 'Any object that produced heat had asbestos protection. Nothing is known, indeed, about the technical features of the stove used to heat the house where the lady who later died of mesothelioma lived as a child, but this is enough for the defence to add a further element of doubt. Dr Colosio mitigates his previous statement: 'There may have been asbestos in the stoves, but also in the house irons and boards. It is a hypothesis, the PP suggests. 'Maybe they were well insulated...' replied the expert. One senses that the prosecutor finds it hard to

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<sup>1</sup> The acronym SIN means 'Site of national interest for environmental contamination problems'.

believe that 'a stove has the same risk as the exposure during the period of employment at Eternit'; the experts however, repeat it with determination that, although they admit post-1976 exposures to the fibre (the year in which the defendant Schmidheiny took over Eternit, Note), 'as of today we cannot exclude that those prior to 1976 were, from our point of view, sufficient to cause the disease'. The PP replied: 'But you still cannot exclude the incidence of exposures after 1976'. Dr Romano's sharp reply: 'No one can. And Dr Colosio: 'We doctors reason in terms of probability'.

## **MULTIPLE SOURCES OF CONTAMINATION**

The experts do not, of course, rule the Eternit plant out as sources of fibre contamination and, albeit with difficulty (and they sometimes forget to mention it), the former *Piemontese* area where the open-air crushing of failed asbestos products took place, to be then reintroduced into the production cycle. However, they consider that contamination was limited to a radius of 700 to 800 metres. The data reported by another defence consultant, Andrea D'Anna are taken as good and irrefutable: the plant and the former *Piemontese* emitted 630 billion fibres per hour; while the sources in the rest of the city (i.e.: roofs of buildings, insulation with dust and courtyards) were emitting 3566 billion fibres per hour. Do the maths and it turns out that the Ronzone cluster - plant and former *Piemontese*, with full-scale operations - accounted for 15% of the total fibre emissions in Casale, according to the defence expert witnesses.

## **ROOFTOPS FLAKED IMMEDIATELY!**

A disturbing detail emerged at Monday's hearing on the 'eternit' (AC) roof coverings. This was reported by Professor Colosio. These are his words: 'The deterioration of the roofs began a few months after installation'. How, how? But what are we talking about? Are they as saying that for years, indeed for decades, Eternit (and other similar factories) produced artefacts that flaked and spread deadly fibres a few months after their installation? Does it mean that as soon as they were made, the products should have been sealed and taken immediately to a landfill, because their use, for which they were built, was the source, in a very short time... a matter of months, says Prof Colosio..., of widespread criminal contamination. So much for eternity!

## **BUT WHY ONLY IN CASALE?**

Prosecutor Gianfranco Colace is not convinced. He asks question after question because it doesn't add up. He turns to Professor Romano: 'Why did you bring the data of the cohort of workers from Sia (Società Italiana Amianto di Grugliasco) to explain the Eternit case, and not those of the cohort of Eternit workers from Casale? We have the data of the Eternit workers' cohort!'. Prof Romano answered: 'I needed the data from the Sia plant to explain models'; that is, in the defence expert's opinion, the main risk factor for mesothelioma is the latency period between the beginning of exposure and the onset of the disease. PP Dr Colace is puzzled. 'If I, however, now ask you for an analysis of mesothelioma mortality for the Eternit cohort, what can you tell me about the duration of exposure and latency?' The consultant: 'I don't know'. Both Professor Romano and Professor Colosio remained firm on one point: the whole area was contaminated; the plant was only one of the sources of exposure. 'But why - here's the question many people are asking - why in Casale, and in Broni, and in Bari, and in the shipyards, why were there and are there more deaths than elsewhere? AC Eternit roofs were (and are) everywhere. Yet the map showing asbestos mortality shows much higher

concentrations in certain areas. Casale is one of them'. And again: 'Why is it that, analysing the situation in Casale, the most significant 'clusters' are around the plant, while as you move further away, the incidence of disease decreases? To clarify, we explain that a 'cluster', in epidemiology, represents a group of several cases of the same pathology occurring in a specific place and in a specific time frame. The Prosecutor insisted on the question of clusters; the experts play it down: 'According to your expert witnesses, it is so'. "And not according to you?" Prof Romano: 'I don't know'. PP Colace insisted: 'If the risk depends mostly on latency and little on cumulative exposure, why are mesotheliomas concentrated in certain areas? The maps speak clearly, the concentrations are well highlighted...'. The consultant replies that he has 'never said that the dose is not relevant' but denies the existence of a cumulative dose. The public prosecutor does not give up: 'Professor, from the data and the maps showing the distribution of mesothelioma cases, it emerges that the more you are exposed, the more you get mesothelioma. Expert defence witness Prof Romano retorts: 'It's more likely,' provoking Colace's reaction: 'Likely? Casale is a certain fact, not probable!'. The prosecutor quotes and projects formulas, models, tables, scientific studies. The examination is pressing, the expert witness loses the thread. At the end he admits: 'I am a bit tired'.

### **MULTISTAGE THEORY**

Lawyer Laura Mara, one of the plaintiffs' lawyers, draws attention to a publication by the Italian Association of Epidemiology (Aie) in the scientific journal 'Epidemiology and Prevention', which took place in 2020. "In the final conclusions of the document, is the multistage theory confirmed or not, i.e., that all exposures count, from the first to the last, certainly with a greater weight of the first ones, but without excluding the effectiveness of the subsequent ones too?". Professor Romano, who is familiar with the work, agrees that, yes, 'this is what was written. However,' he adds, 'the fact that those conclusions have not been disproved does not mean anything...'. Lawyer Mara insists that 'that publication was signed by several authoritative Italian scientists...'. Prof Romano interjected: 'Many are expert witnesses of the public prosecutor...'. The plaintiff's lawyer reacted, raising the tone of her voice: 'That is a nasty insinuation. A few of the signatories few have been called as expert witnesses by the prosecution. In any case, the PP's experts,' she points out, 'are public officers in their role! The President of the Court, Gianfranco Pezone, called for order. The defence expert corrects himself: 'Mine was not a malicious insinuation, simply... experts are chosen by the parties according to their beliefs ... Not everything is shared just because it is published... There are different points of view...'. And anyway: 'I have nothing to explain'. Lawyer Giacomo Mattalia, then, asked about a patient, whose diagnosis of mesothelioma was classified only as probable and not certain by the defence experts: in fact, they do not rule out that it was a metastasis resulting from colon cancer. "Are there any precise elements suggesting?" the lawyer asks. Professor Colosio replies: 'Well, how can I put it, medicine is not an exact science, there are variations... However, we said that, in that case, mesothelioma was probable'.

### **THE TRIAL CONTINUES**

Only one of the three hearings already scheduled till the end of the year remains: December the 12th. Those of November the 28<sup>th</sup> and December the 19<sup>th</sup> were cancelled. The Court accepted some of the requests made by the prosecutors to clarify aspects that, in their opinion, had been left open or confused. Therefore, on Monday 12 December, Rosarino

Secreto will be heard: he was employed by the Casale company Bagna, contracted by Eternit to dispose of scrap and waste from the plant. He will be asked to explain how and where he took these waste materials. An Arpa (Regional Health, Safety, and Environment Agency) representative, identified by the public prosecutor's office, will also be heard, in a discussion with a defence expert and one of the civil parties, on how asbestos was dispersed in the air from the various sources, with calculation and measurement methods. A hearing has also been set for Monday January the 16<sup>th</sup> for a confrontation between the prosecution's expert witnesses Prof Corrado Magnani and Dr Dario Mirabelli, a plaintiff's expert and experts from the defence (Professors Canzio Romano and Pierluigi Nicotera); they will have to express their evaluations on recent studies on the anticipation of the disease and the role of cumulative exposure to the fibre in addition to the lung load of fibres and the so-called 'clearance'. The Court rejected the Prosecution's request to examine Dr. Federica Grosso, who heads the Department of Mesothelioma of the Alessandria Hospital and to whom many Casale patients are referred to, on the diagnosis and survival of patients, with the new therapies. Prosecutors had asked for her to be heard to clarify doubts raised by the defence's arguments, which attempted to explain the increased survival of some patients by the fact that the primary disease was another tumour with related metastases to the pleura and not mesothelioma. Chief Judge Pezone, however, believes that these elements can be drawn on and analysed by the Court in the documentation that has already been delivered by the parties.

## **DISCUSSION**

After the hearings of 12 December and 16 January, unless there are unforeseen events, the debate will be closed, and the discussion will begin with the Prosecutor's and the plaintiffs' and defence's closing speeches. Then the Assize Court (President Pezone, with judge Manuela Massino and the members of the Jury (Giudici popolari)) will meet in chamber to decide the verdict. Predictions are always risky, especially since this trial is very delicate and complex; it might be reasonable to expect the verdict around Easter, unless the judges need more time to assess the considerable amount of documentation.

## **COURT OF APPEAL FOR THE 'CAVAGNOLO ' TRIAL**

On November the 29th, the Turin Court of Appeal is scheduled to deliver its verdict on Stephan Schmidheiny in one of the Eternit Bis proceedings. In this case, the trial concerns the death of two people from Cavagnolo (a former worker and a local resident). The public prosecution requested for the confirmation of the verdict of the court of first instance (four years for manslaughter, with wilfulness; the defence for acquittal).

<https://www.silmos.it/eternit-bis-attenzione-alle-stufe-e-ai-tetti-deternit-che-si-sfaldavano-dopo-pochi-mesi-dallinstallazione/>