

On Wednesday 13 November 2024, the Casale section of the so-called 'Eternit' affair, opens before the Turin Court of Appeal of Assizes. Six hearings are scheduled between now and Christmas.

Stephan Schmidheiny, a now 77-year-old Swiss entrepreneur and the last surviving owner of Eternit (a company that for decades manufactured asbestos products in Italy and around the world, mainly roofs and pipes, chimneys, etc.), is accused of voluntary manslaughter for hundreds of deaths caused by the uncontrolled spread of asbestos fibres, which cause a malignant cancer known as mesothelioma.

Fifteen years 15 years have gone by. In the milky-white dawn of 10 December 2009, only the white, red and green colours of the Italian national flag, reading Eternit Justice, walked by. The flags were capes on the shoulders of hundreds of people who set off for the Turin courts on coaches organised by Afeva (Associazione Familiari e Vittime Amianto- the local asbestos victims' association) from Piazza Castello in Casale, where the first hearing in the so-called Eternit Maxi trial was to start.



I was there, in that now distant dawn, but not off camera. As were others reading this. Sadly, many of those who were there on that dreary day (and on the many days that followed, some hot some cold depending on the seasons) are no longer there. Some have been swallowed up by the same evil - mesothelioma - which they had been fighting when they had boarded the bus to Turin to seek justice.

What is justice? A difficult question to which everyone tries to answer on a personal level, seeking a legitimate answer. I will say that for me, after deep reflection it is the acknowledgement of the evil which so badly affected and still affects our unlucky and courageous town - in the form that, in science and conscience, may consider most appropriate and noble. We must understand who and why this was done and then find a way of banishing this evil by healing the harm it has caused.

SUMMARY

- 1 - The Eternit Bis trial (deaths in Casale Monferrato, Cavagnolo, Bagnoli di Napoli, Rubiera dell'Emilia). Incrimination, preliminary hearing, *ne bis in idem* (double jeopardy), the case is to be heard separately according to location.
- 2 – the Cavagnolo case: trial court and appeal, Court of Cassation which sent it back to the Turin Court of Appeal.
- 3 – the Bagnoli case : trial court and appeal

- 4 – the Rubiera dell'Emilia case: dismissed
- 5 – The Casale Monferrato case: from the preliminary hearing in Vercelli to the sentencing by the Novara Court of Assizes, including the appeal by the defence and the public prosecutor. The appeal at Court of Assizes.
- 6 - Other trials: from the 1980s onwards
- 7 - Eternit maxi-trial: convictions at trial and appeal courts, statute of limitations ruled by the Court of Cassation
- 8 - Public hearings
- 9 - I was there. Thoughts

1 - CHRONICLE OF THE ETERNIT BIS TRIAL

In 2014, the public prosecutor's office in Turin charged Stephan Schmidheiny indicting him with the crime of intentional (i.e. deliberate) homicide, which caused hundreds of deaths in Cavagnolo, Casale, Rubiera and Bagnoli. The judge of the preliminary hearing (aka GUP) Dr Federica Bompieri, first took into consideration the defence's objection concerning the '*ne bis in idem*' (double jeopardy) principle whereby the same person cannot be tried twice for the same facts) and referred the matter to the Constitutional Court, which, after examining the specific case, cleared up any doubts, declaring the defendant liable to prosecution for intentional homicide (in the first Maxi trial, however, he had been charged with a different offence: intentional disaster). Having received this response, Dr Bompieri then reclassified the crime wilful manslaughter. As a result, the original case of Eternit Bis was divided into four parts.



One case was heard in Turin, for two asbestos victims in Cavagnolo; one went to Reggio Emilia, for certain deaths linked to the asbestos processing plant in Rubiera factory; a third ended up in Naples (for 8 deaths in Bagnoli); the fourth case, the largest, was for the Casale victims, that ended up in the public prosecutor's office in Vercelli, in as Casale and Monferrato is in that district.

2 - THE CAVAGNOLO CASE

In the case of the two deaths in Cavagnolo (where an Eternit factory, formerly Saca, was operating), the same judge, Federica Bompieri, sent the accused Schmidheiny back to court for the reclassified offence of manslaughter. The trial in Turin ended with Schmidheiny being sentenced to four years' imprisonment for the deaths of two people: Giulio Testore, a former employee who died of asbestosis, and Rita Rondano, a local woman who died of mesothelioma in 2012. On appeal, the contractor was acquitted of the mesothelioma case and sentenced to one year and eight months for the death of Testore, who, it should be remembered, suffered from asbestosis. Asbestosis is a dose-dependent disease, i.e. the consequence of continuous and massive exposure to asbestos dust. On the 9th of May 2024, the Court of Cassation quashed the judgment sending it back to the Turin Court of Appeal: the trial has to be heard by another court. At the hearing on October the 23rd 2024, before the court presided over by Dr Gianni F. Reymaud, assisted by Dr Marco Dovesi and Dr Desiré Perego, the Turin public prosecutor Sabrina Noce requested that the trial be re-investigated, with the hearing of a number of consultants, on the causal link between exposure to asbestos and the disease. At the next hearing on Friday November the 15th, the prosecutor's consultants Donata Bellis, Massimiliano Bugiani, Luca Mingozzi, Corrado Magnani and Dario Mirabelli will be heard, as will the defence consultants Canzio Romano, Massimo Roncalli, Danilo Cottica, Pierluigi Nicotera and Giuseppe Nano (the hearing for one of the defence consultants will be postponed until December the 9th, 2024). What does 'ra new trial mean'? It means that, in addition to what is already contained in the trial documents, the Court needs to examine certain critical aspects in greater depth, particularly the technical and scientific aspects, by calling witnesses and/or consultants.

3 - THE BAGNOLI CASE FOR 8 MESOTHELIOMA DEATHS

The Naples Public Prosecutor's Office, re-submitted the request for Stephan Schmidheiny to be charged with murder. Subsequently, on the 6th of April 2022, the Naples Assize Court reclassified the crime as murder and sentenced the accused to 3 years and 6 months in prison, finding him responsible for the death caused by asbestos of one of the eight victims - Antonio Balestrieri - listed in the indictment. The sentence handed down in the trial court was confirmed on appeal in June 2024. The verdict has not yet been heard in the Court of Cassation, as the time limit has not yet expired, but it almost certainly will; and the Court of Cassation will have no choice but to declare the case time-barred anyway, because too much time has passed since the death.

4 - RUBIERA, EMILIA CASES

The Reggio Emilia case was for two victims from Rubiera, to whom 50 others were added following a complaint lodged by the Emilian municipality where one of Eternit's most recent Italian plants operated. However, the case was dismissed; although it was acknowledged that there had been massive exposure to asbestos at the Rubiera plant throughout the 1960s and 1970s, the Emilia Judge of the first hearing (GUP) did not see a definite causal link between the deaths and the actual responsibilities of the defendant.

5 - CASALE MONFERRATO CASES

The initial file concerning the Casale victims was sent to the Vercelli Public Prosecutor's Office (which Casale comes under, as we have already mentioned). After examining the documentation

received from Turin and investigating further, the Vercelli public prosecutor's office, followed the same approach as the Turin public prosecutors and requested that Schmidheiny be sent to trial for murder. Dr Fabrizio Filice, the judge of the preliminary hearing agreed and sent Schmidheiny back to court on this charge. Murder is an offence heard by the Court of Assizes; however, Vercelli has no Court of Assizes so the first trial was held in Novara.

On the 7th of June 2023, the Novara Assize Court, presided over by Dr Gianfranco Pezone (with Dr Manuela Massino), reclassified the crime of voluntary manslaughter as involuntary manslaughter, albeit aggravated, sentencing the accused to 12 years' imprisonment with a 5-year ban on holding public office for a group of 9 victims (for whom the crime of manslaughter was doubly aggravated by the fact that he had committed the act in breach of the health and safety regulations on the prevention of accidents at work) and by the fact that he had acted wilfully, that is with prior knowledge, and for a second group of 138 victims (for whom only the aggravating circumstance of having acted in breach of the health and safety regulations on the prevention of accidents at work). For the doubly aggravated manslaughter of 199 victims, the statute of limitations applied; the crime was time barred. In 46 cases, the trial judges acquitted the accused.

The defence and the prosecution both appealed. The defence seeks Schmidheiny's acquittal, while the prosecution insists on the murder indictment.

As we have already written, the appeal trial before the Assize Court begins in Turin on Wednesday 13 November at 9 a.m., in the large courtroom 1 named after judge Giuseppe Casalbore (between 2009 and 2012, he presided over Eternit's Maxi trial). Subsequent hearings will take place on Wednesdays: after 13 November, they will be held on 20 and 27 November, and 4, 11 and 18 December.



PP Dr Compare

The Court of Appeal is presided over by Dr Cristina Domaneschi, President of the 5th Criminal Section of the Turin Court of Appeal, with Judge Elisabetta Gallino. The defendant is represented by lawyers Astolfo Di Amato and Guido Carlo Alleva. The public prosecutor's office has appointed Sara Panelli as prosecutor and Gianfranco Colace and Mariagiovanna Compare as additional prosecutors.



The defence lawyers

6 - OTHER TRIALS

In the 1980s, the Casale labour court heard a case against Inail (the workers' compensation agency) concerning payment, which was won by the workers. On that occasion, magistrate Giorgio Reposo ordered a technical assessment by Professor Michele Salvini of Pavia University, which revealed a high level of dust inside and outside the Eternit factory in Casale, contrary to what the company had tried to make Inail believe. Professor Salvini's report was, and continues to be, a very important element in all the trials that followed.

Then, at the beginning of the 1990s, a trial was held in Casale against Eternit executives for manslaughter (at the end of the proceedings, the statute of limitations had run out, with the exception of one case for which compensation was awarded).

Another trial was held in Siracusa (Sicily) , where one of Eternit's Italian plants operated.



Subsequently, between 2009 and 2014, the Eternit Maxi trial was held, following complex investigations by the Turin Public Prosecutor's Office (Dr Guariniello), which led to the indictment for malicious disaster of two defendants: in addition to the Swiss entrepreneur Schmidheiny, also the Belgian Louis de Cartier.

7 - MAXI-TRIAL ETERNIT

The pool of Turin prosecutors – Drs Raffaele Guariniello, Gianfranco Colace and Sara Panelli - had asked for Schmidheiny and the Belgian Louis de Cartier to be charged with malice aforethought.



Drs Guariniello, Colace and Panelli, PPs in the Eternit Maxi trial

Judge Cristina Palmesino began the preliminary hearing on the 6th of April 2009 and, at the end, on the following 22 July, ordered that the two defendants be charged with the offence of intentional disaster. The trial started on the 10th of December 2009. On the 13th of February 2012, the court, presided over by Giuseppe Casalbore, sentenced the two defendants, Eternit's last surviving owners, to 16 years' imprisonment each. At the Appeal, in June 2013, the Court, presided over by Alberto Oggé, sentenced Mr Schmidheiny alone (Mr de Cartier, who was very old, had died in the meantime) to 18 years' imprisonment. On the 19th of November 2014, the Court of Cassation ruled

that the offence of intentional disaster was time-barred, making the limitation period run from the closure of the Casale plant in 1986.



Plaintiffs' lawyer D'Amico (standing)

8 - OPEN PROCEEDINGS

In summary, the criminal proceedings still open are as follows:

1. - Eternit bis, Bagnoli strand, pending a possible trial before the Court of Cassation
2. - Eternit bis, Cavagnolo section, the new trial began on 23 October before the Turin Court of Appeal.
3. - Eternit bis, Casale Monferrato branch, the trial before the Court of Appeal begins on 13 November.

9 - I WAS THERE

So on 13 November 2024, we set off again for Turin. We return to Maxiaula 1, which in October 2016 was named after Judge Giuseppe Casalbore (who died in October 2013). Memorable was his pronouncement of the sentence, which lasted several hours and which, out of respect, he read standing up, naming the victims one by one.



Judge Casalbore of the 1st Eternit Maxi trial, The Court room was named after him following his death in 2016

On Wednesday, many of the faces from 15 years ago will be back in their places.

The need for justice - i.e. recognition of a wrong suffered - is still strong and unresolved. Everyone is affected and needs to come out of it. But you are not the same people as you were then: the work of the last five years has modified, added to and enriched our understanding. I hope that this is the case.

The justice to which we aspire has had to find its way through opposing positions and theses, sometimes extremely painful, judicial and otherwise, and even through the pitfalls of ordinary misunderstandings, which absolutely must be healed in the knowledge that the objective at stake is on an altogether different scale.

Time has passed and the justice we aspire to has aged, let's say it has wrinkled; it certainly does not give in to clarity and intellectual and moral honesty, but it also calls for resolution. The hope is that on this path, which has also been marked by the tenacity, we will finally achieve the greatest, most desirable and most indispensable goal: curing mesothelioma.

15 years ago, I was there at that dawn. Many of those reading today were there. On the 13th of November 2024, in the same room 1 of the Turin courthouse, we will all be there, even those who, after a while, were forced to stop. Faces that speak of our determination, faces of life, faces of love.



Romana Blasotti Pavesi, first president of Afeva (Associazione familiari e vittime amianto) in Casale, who died on the 11th of September 2024 at the age of 95

But when we meet in a few days' time, their eyes will be there, attentive, sharp and severe.

There will be many, many of us, and there will be room for everyone, no one will be left out. Until the end.

<https://www.silmos.it/eternit-bis-anche-la-pubblica-accusa-ha-impugnato-la-sentenza-della-corte-dassise-ecco-i-motivi/>

<https://www.silmos.it/eternit-bis-ecco-perche-i-difensori-di-schmidheiny-contestano-e-impugnano-la-sentenza-dellassise/>

<https://www.silmos.it/morto-enzo-merler-il-maxiprocesso-eternit-prese-avvio-da-una-sua-segnalazione-alla-procura-di-torino/>

<https://www.silmos.it/lettera-aperta-a-herr-stephan-schmidheiny-nella-giornata-delle-vittime-dellamianto/>