

# VICTIMS AND CORPORATIONS

Implementation of Directive 2012/29/EU  
for victims of corporate crimes and corporate violence

## Needs of Victims of Corporate Violence: Empirical Findings National Report: Italy

March 2017



This *National Report* is one of the outcomes of the project *Victims and Corporations. Implementation of Directive 2012/29/EU for Victims of Corporate Crimes and Corporate Violence*, co-funded by the conjunct programme “Rights, Equality and Citizenship” and “Justice” of the European Union (Agreement number - JUST/2014/JACC/AG/VICT/7417)

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**“VICTIMS AND CORPORATIONS”**

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of Corporate Violence:  
Empirical Findings**

**National Report:  
Italy**

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## FOREWORD

**Directive 29/2012/EU** carries the potential for a significant change within European criminal law systems: it introduces a set of minimum standards on the rights, support and protection for victims of crimes, and their participation in criminal proceedings, without prejudice to the rights of the offender.

Within the scope of the Directive and its definition of ‘victim’, though, there is a relevant group of victims who have not yet received enough consideration, and whose access to justice may be at stake. They are the **victims of corporate crimes, and particularly of corporate violence**, meaning those **criminal offences committed by corporations in the course of their legitimate activities**, which result in **harm to natural persons’ health, integrity, or life**.

Previous desk researches, a summary of which can be found in our first report (*Rights of Victims, Challenges for Corporations*, December 2016: see <http://www.victimsandcorporations.eu/publications/>), show how corporate violence is at least **as prevalent as violent criminality**. There is ample evidence of the **vast and trans-boundary nature** of this victimisation and, moreover, the number of victims of corporate violence will grow dramatically in the future, facing increasingly complex claims for justice, also due to long latency periods typical of exposure to toxic agents (see §§ 3.2, 3.3 and 3.4).

The project ‘Victims and Corporations. Implementation of Directive 2012/29/EU for victims of corporate crimes and corporate violence’ focuses on three main strands of corporate victimisation: environmental crime, food safety violations and offences in the pharmaceutical industry. Thus, much of the **empirical data** we collected and which provided the ground for this *National Report* were drawn from **interviews** with **victims** of these kinds of corporate crimes and, more specifically, of **environmental crimes** and **crimes in the pharmaceutical sector**. Corporate violence, however, is always a complex phenomenon, so that episodes of **work safety violations**, for instance, often happen to intertwine with other kinds of corporate crimes in the cases we have studied.

More specifically, a deep and **inter-disciplinary preliminary research** (whose results, as previously mentioned, are summarised in the report on the Project’s first findings) has preceded the more operational stages of our

work. Building on the results of this preliminary analysis, a set of **interviews and focus groups** with victims of corporate violence, as well as with other people professionally dealing with these kinds of offences and victims, were designed and performed, leading to the collection of precious information on **corporate violence victims' needs (§ 3.5)** – aimed at providing tools to guide the delicate operation of «**individual assessment**» that **art. 22 of the Directive** establishes as a fundamental and primary duty when working with victims of crime – as well as on the **specific difficulties this group of victims generally faces in accessing justice, victim support and compensation (§ 3.6)**.

As detailed in **§ 1.2**, due to the extreme sensitivity of victims' personal stories and circumstances, a set of **ethical guidelines** was designed (by *Claudia Mazzucato*) to ensure that interviews and focus groups were performed with maximum respect for each person's dignity, freedom, privacy and individual needs. Building on our previous desk research, a set of **guidelines for interviews and focus groups** was designed (by *Katrien Lauwaert* and *Claudia Mazzucato*) to help conducting the empirical research 'in the field' in all three countries involved (i.e. Belgium, Germany and Italy). The Italian team's **qualitative research** resulted, after the analysis of the collected information (coding tree by *Katrien Lauwaert* and *Alexandra Schenk*; Italian coding matrix by *Arianna Visconti*; data coding by *Eliana Greco* and *Marta Lamanuzzi*), in the present *National Report*, reflecting the outcomes of **9 individual in-depth interviews** and **3 focus groups** (carried out by *Claudia Mazzucato*, as interviewer and focus group moderator, with the assistance of *Stefania Giavazzi*, *Alessandro Provera* and *Arianna Visconti*)<sup>1</sup>. Amongst the professionals participating in our interviews and focus groups there were public prosecutors, judges, lawyers and medical doctors; some of the victims interviewed were also active in victims' associations (which, as the reader will see in **§ 3.7**, in Italy appear to provide the largest share of support for victims of corporate violence, due to the lack of those victim support services which are, actually, required by art. 8 of the Directive).

Our empirical research confirmed that victims of corporate violence appear to have an extreme need – quoting from art. 1 of the Directive – to «receive appropriate information, support and protection», and to be made «able to participate in criminal proceedings», as they reveal themselves as a further category – together with more 'traditional' victims of family violence, abuses, human trafficking, terrorism, etc. – of **extremely**

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<sup>1</sup> The Italian research group also wishes to thank Elena Agatensi, Davide Amato, Pierpaolo Astorina, Davide Canzano, Marina Di Lello, Eliana Greco, Carlo Novik, Alessandro Provera, Eliana Romanelli and Marco Trinchieri for their help with the transcription of interviews and focus groups, as well as Alberto Redighieri for the technical support in recording them. A special thank you goes to Federica Elli, for the linguistic review of this *National Report*.

**vulnerable subjects**, also (and often mostly) due to a lack of (public as well as personal) awareness about their victimisation (see in particular §§ 3.6.2 and 3.6.3).

The present *National Report* is aimed, together with the further data collected in Belgium and Germany and analysed in the course of the Project, at **providing any professional having to assist victims of corporate violence with a set of guidelines** that may help them to better understand and assess these **victims' needs**; these guidelines are also published on the Project's website. Building on them, and on a further debate with experts and professionals, the Project staff will then develop, for each of the three involved countries, a series of **specific guidelines for professionals and corporations**, aimed at providing further and more tailored tools to grant an effective implementation of Directive 2012/29/EU for victims of corporate crimes and corporate violence.

For **updates** about the Project's next steps and results please refer to our website: [www.victimsandcorporations.eu](http://www.victimsandcorporations.eu).



# 1.

## METHODOLOGY

### ***1.1. The national approach to the empirical research***

Consistent with the project's goals, a qualitative research concerning the needs of victims of corporate violence has been conducted in Italy, resulting in an overall of 12 empirical activities comprising individual interviews and focus groups, as further described, and followed by qualitative data analysis consistent with the criteria and methodology the project's staff has agreed upon.

The Italian research team has intended the qualitative research as a unique opportunity to access the project's field of investigation, after having completed a thorough desk study of both literature and case law. Interviews and focus groups have therefore allowed the project staff to get directly in contact with the individual and collective experiences of a few of the many victims of corporate violence and with the expertise and points of view of various professionals having dealt with them (judges, prosecutors, lawyers, medical doctors, trade union members).

The staff tried to get in contact with the victims of the Italian landmark cases, having or not those cases resulted in criminal judgments. The response by the victims, victims' associations and professionals that the staff managed to approach has been extremely positive. Their availability and collaboration have been impressive. Yet, the goal of reaching victims of all the major cases has been achieved only partially: practical obstacles, such as the tight timescale of the project and the numerosity of persons involved in these cases, prevented the staff from actually and timely meeting with all the persons it came across with, all over the Country. Nonetheless, interviews and focus groups did give voice to the victims and associations involved in some of the most significant cases for the scope of this study, and to some of the most experienced professionals in the field.

### ***1.2. Ethical issues***

Participation in interviews and focus groups has been completely voluntary, subject to previous, thorough, information on the purposes and scope of the project and of the research, and subject to the participant's written informed consent.

Particular attention has constantly been paid to the ways victims were approached, contacted, informed, interviewed and followed up. No victim

was approached without a prior ‘filter’ by a contact person or a support person (a member of the victims’ association, a lawyer, etc). Ethical issues concerning privacy, respect of victims’ dignity, prevention of secondary or repeat victimisation have been a major concern. The Italian team strictly complied with the project’s ethical guidelines. Throughout the research, the project personnel has done its very best to ensure a respectful, confidential and sensitive contact with all the subjects involved. Feedbacks received from participants during informal follow-ups are reassuring to this regard: almost all the interviewees and participants to focus groups have reported that participation to the activities resulted in a positive experience and in a form of recognition.

Ethical issues concerning data protection have been dealt according to national regulations and to the Italian “Code of conduct and professional practice applying to processing of personal data for statistical and scientific purposes”. The principle of minimisation of data has been constantly guiding the staff during transcriptions and data coding.

### **1.3. Research activities**

#### **1.3.1. Interviews**

9 semi-structured, face-to-face, individual interviews have been carried out. Interviews involved: 3 victims\*, one family member\* (daughter) of a deceased victim, 2 trade union representatives who are active members of a victims’ association and who have been indirectly affected by the collective harm caused by the corporate crime, 3 professionals (1 medical doctor, 1 former public prosecutor, 1 lawyer). In total 7 men and 2 women participated in the interviews. The average age of the interviewees is 60. The youngest interviewee is a medical doctor aged 44, the oldest interviewee is also a professional aged 76 (magistrate). The age of the interviewed victims ranges from 50 to 74 years old. The average duration of the actual interviews has been of approximately 1 hour and 45 minutes (minimum duration: 83 minutes; maximum duration: 2,5 hours). Interviews have been carried out from July 2016 till January 2017.

Interviews took place in safe, confidential and comfortable places, agreed upon by the interviewees and the researchers, precisely: a) rooms within the Università Cattolica facilities; b) victims’ associations facilities; c) professional interviewee’s workplace.

All the interviews have been conducted by the same interviewer, a senior, experienced and qualified researcher from the project staff in charge of the coordination of the empirical research. Other senior, experienced and qualified researchers from the project staff and one younger researcher from the project’s national Organisation took

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\* Following the definition of Article 2 Directive 2012/29/UE.

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alternatively part in the interviews as ‘interviewer assistants’, in order to share an external point of view and therefore better assess relevant issues and important topics discussed by the interviewees.

### *1.3.2. Focus Groups*

Three focus groups were carried out. They took place in October 2016, January 2017, February 2017, and each one involved small groups of people.

A ‘one moderator’ type of focus group was followed. The same moderator conducted the three focus groups. Moderator assistants were alternatively members of the project staff or of the project’s Organisation.

Overall, 16 persons – 9 men and 7 women – involved themselves in the three focus group meetings. Two focus groups involved victims\* (or mainly victims: a spouse of a living victim and a lawyer also took part in one of the meetings); one focus group involved various professionals (judge, public prosecutor, medical doctor). The selection of the victims followed a ‘case’ criterion, gathering people having experienced victimisation in the same harmful circumstances. Instead, the group selection of professionals followed the criteria based on their recognised competence, direct experience and/or deep knowledge of the issues raised by Italy’s leading cases of corporate violence.

As of the age, 43 is the age of the youngest victim participating in the focus groups, and 78 the age of the oldest one. They are both family member of deceased persons. All the victims of the Thalidomide focus group are of nearly the same age (54-57), because of the defective drug being sold to and used by pregnant women in the same elapse of time. Professionals who took part in the focus group are aged between 58 and 74 years, with a long working experience.

The average duration of the focus groups has been of approximately 3 and a half hours (minimum duration: 2 hours; maximum duration: 5 hours).

Focus groups have been organised in places agreed upon by the participants and the researchers. One focus group with victims took place at the victims’ association headquarter; interestingly, this also enabled the researchers to visit some of the actual places where victimisation occurred. The second focus group with victims was arranged in multiple sessions, partly at an hotel/café meeting room and partly at the office of the victims’ lawyer: this focus group, in fact, took place as a side event of the national assembly of the members of the victims’ association. Nonetheless, the group discussion was safely and confidentially carried out. The focus group with professionals was hosted in an adequate facility within the Università Cattolica campus.

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\* Following the definition of Article 2 Directive 2012/29/UE.

### 1.3.3. General information

All the participants in individual interviews and focus groups have been informed about the contents of the Directive 2012/29/UE and have been given a paper print or a digital copy of the Directive, together with other EU information materials concerning victims' rights (EU Commissions flyers and factsheets).

Interviews and focus groups have been video- and audio-recorded (except for the first interview which has been audio-recorded only), then transcribed *verbatim* by the project staff's trustful collaborators. All transcripts underwent a subsequent anonymisation process. Since three senior members of the Italian team of the project have been directly involved in contacting victims and professionals and in conducting all the interviews and focus group meetings or in co-assisting the interviewer/facilitator, the involvement of a more 'neutral' staff in the coding process has been deemed useful to ensure a clearer interpretation of the many empirical findings. Therefore, data coding and a preliminary data analysis have been entrusted to two qualified (younger) researchers. Transcripts, coding, and data analysis have then been discussed among the members of the research team in order to minimise biases.

The researchers opted *not* to resort to qualitative analysis computer software packages. Rather, the data were coded manually and organised in grids summarising and organising the participants' stories.



## 2.

### THE CASES

#### 2.1. Categories of cases

- Pharmaceutical (product safety)
- Environmental (pollution or contamination having caused death or serious diseases)
- Occupational safety

#### 2.2. Specific cases

##### **THALIDOMIDE CASE** (Pharmaceutical)

Thalidomide is a drug that was originally prescribed as a ‘wonder drug’ for the treatment of morning sickness, headaches, coughs, insomnia and colds. Thalidomide was also used to combat nausea and to alleviate morning sickness in pregnant women. The drug was largely sold in the ‘50s as safe. Shortly after the drug had been placed on market, thousands of infants all over Europe were born with *phocomelia* (a malformation of the limbs). Almost 40% of them died.

The first cases of *phocomelia* emerged in 1960. Thalidomide was pulled from the Italian market in 1962, one year later than in all other European Countries.

A complete identification of victims is only partially possible in Italy.

A criminal proceeding against the pharmaceutical corporations never started. Even today it is unclear how many and which corporations were involved in the distribution, as well in the production, of the drug. It seems that at least seven pharmaceutical corporations placed the drug, with different names, on the Italian market. Furthermore, victims found it difficult to collect their medical records and files in order to get the evidences necessary to suit a legal action.

Italian victims never received a compensation from any of the pharmaceutical corporations involved. Also the German corporation Grünenthal, which developed the drug, never recognized and compensated the Italian victims.

Only in 2008, with the Law n. 244/2007, the Italian victims (but only those born between 1959 and 1965) obtained a compensation fund from the State. The criteria and requisites which allow the access to this fund are

very restrictive and not clear. The associations of victims, still active, asked to review the Law, at least to see recognized the compensation fund also to infants born in 1958 and 1966.

#### **ETERNIT CASE** (Environmental)

The case concerns thousands of people who contracted asbestos-related diseases caused by Eternit, a fibre-cement used for the preparation of tiles, sheets for building construction and water pipelines. As early as in the 60's, various studies demonstrated that the asbestos dust could cause 'asbestosis', as well as a serious form of cancer, named pleural mesothelioma.

The facilities opened in Italy at the beginning of the century, in 1907, and the commercialisation of Eternit lasted until 1992.

The Italian case involves thousands of victims, including the workers of a number of plants, as well as the residents living in the area where plants were located, as a result of the wide spread of the material in the cities and in the buildings of infrastructures. All the victims' diseases are asbestos related (lung cancer, pleural mesothelioma, etc.). Many of them have already died. Even today, a complete identification of all victims is only partially possible due to the long latency of these kinds of diseases.

The first criminal proceeding against the corporation started in 2009 and closed in 2015 with a sentence of no prosecution due to limitation of time. The outcome of the trial clearly generated discontent and disbelief. The participation of victims and their associations into this first criminal proceeding was massive. A second criminal proceeding concerning the same facts is still ongoing.

Many of the victims identified during the first criminal proceeding entered into an extra-judicial agreement with the corporation, obtaining a partial compensation of damages.

#### **INFECTED BLOOD** (Pharmaceutical/product safety)

The scandal of infected blood took place in the '80s and '90s. Contaminated haemophilia blood products caused large numbers of people to become infected with HIV and hepatitis C and B. The diseases were spread through concentrate of blood product made from large pools of donated plasma, much of which was collected in prisons or among drug users prior to routine HIV testing. In 1983, the Bayer corporation declared that there was strong evidence to suggest that AIDS was passed on to other people through plasma products.

The test of HIV was available in 1985 and the one for the hepatitis C in 1989. Despite this, in 1993 the Italian Ministry of Health allowed to sell products in stock, still not tested, and therefore not safe.

Official data on the precise number of victims in Italy are unavailable. Italian victims' associations report that about 120.000 persons have been infected by HIV, hepatitis C or B due to contaminated blood. Almost 4500 of them already died. Categories of victims are: haemophiliacs, thalassaemics, and persons infected by occasional transfusions.

The Italian case represents a long history of denegation of justice and compensation for victims.

In the '90s, a criminal investigation started in Trento against the Minister of Health (also condemned for having been corrupted by pharmaceutical corporations in a separate criminal proceeding) and some Italian and foreign pharmaceutical corporations. After 7 years of investigation, due to the limitation period, the accusation against the foreign corporations lapsed. The criminal proceeding was then transferred to Naples but just for a small part of the original count of indictment, and charging only an Italian pharmaceutical corporation. The trial is now ongoing, even if for many cases of victims who brought the civil action into the criminal proceeding the limitation period has already been sentenced.

In 1992, with the law n. 210, the Italian State recognized to almost 30.000 victims a monthly refund to cover medical assistance.

In the following years, thousands of administrative and civil proceedings have been suited against the Italian State to obtain a compensation for damages. In 2003 the Italian State entered into an extra-judicial agreement to compensate the victims who suited the first 700 civil actions. In 2007, the laws n. 222 e n. 244 recognized the right to obtain a compensation fund based on each damage suffered by the victim. But criteria and requisites to obtain the compensation were so restricted that most of the requests have been rejected. Furthermore, in 2008 the negotiation between State and victims aiming to close the ongoing litigations ended and thousands of requests for damages remained pending before the Courts. Some Courts ordered the Health Ministry to pay damages to victims, recognizing that the Italian State was too slow to introduce measures to prevent the spreading of the virus through donated blood, and did not establish proper checks on plasma and plasma-derived products. The State appealed and after the *res judicata* did not pay. For this reason, in January 2016 Italy was condemned by the ECtHR to pay more than 10 millions of Euros to the group of victims (371) who brought the action before the Court.

In 2014, a new Law recognized a lump sum of 100.000 euro as compensation to some categories of victims.

## 3.

### FINDINGS

#### 3.1. Overall observations

The main output of the empirical research, as conducted in Italy, is a substantial confirmation of the project's initial assumptions, their relevance and justification, especially with regard to:

- the *specificity* of corporate violence victimisation, its European and national, social and juridical relevance;
- the *lack of recognition and protection* of victims of corporate violence, resulting in an insufficient consideration of these victims compared to others, despite the often collective dimension of corporate victimisation which should make victimisation more 'visible';
- the *lack of awareness* among regulatory agencies and many practitioners, resulting in the lack of a timely recognition and subsequent protection of victims, and in the lack of an adequate, if any, access to justice and to compensation;
- the *need to foster the implementation of the Directive 2012/29/UE* in Italy, principally in relation to victim support services and victims' assistance, and to *tailorize* the implementation of *the Directive to the specific needs of victims of corporate violence*, who appeared to be a particularly vulnerable group.

The research, in fact, has offered a *qualitative* feedback from various persons (direct victims, family members, victims' association representatives, professionals) on the Directive-sensitive topics that will be presented and discussed in the next paragraphs. As a brief introductory overview, a few more outstanding features, stemming from the empirical research, are selected below and supported by some paramount quotes from interviews and focus groups and by basic references to the Directive 2012/29/UE.

#### a) Severity of corporate violence

Article 22(3) of Directive 2012/29/UE prescribes to pay particular attention, when assessing the individual protection needs, to 'victims who have suffered considerable harm due to the severity of the crime'. Corporate violence affects human life, human health and the environment, causing harmful and often deadly consequences on present and future generations. The narratives of the interviewees and focus groups' participants are impressive in this regard:

«[In Casale Monferrato] every week there is a new diagnosis of mesothelioma, and every week there is a funeral of a villager who dies because of this disease. [...] More and more often the disease strikes young people. [...] In Casale people know that this disease has no cure and that no one ever survived» (professional: medical doctor, Eternit case)

«The entity of the catastrophe is [unimaginable]... Hundreds of people died, out of a population [of Italian haemophiliacs] of three thousands. It was a catastrophe...» (victim of infected haemoderivative drugs).

Many interviewees referred to their case using words like ‘catastrophe’, ‘carnage’, ‘massacre’, ‘war’, etc. Due to the extreme consequences reported and the number of people involved, several victims from various cases even compared the severity of their victimisation to the effects of the terroristic bombings occurred in Italy during the so called ‘years of the lead’ (victims quoted: Milano, ‘piazza Fontana’, 1969; Brescia, ‘piazza della Loggia’, 1974; Bologna railway station, 1980)

«This carnage is not different from the one in ‘piazza Fontana’ or ‘piazza della Loggia’. There has been less clamour and the reason is threefold [...]: first, there was no outburst, no explosion, and therefore it was not heard; secondly, the harm has concerned people who were already sick, and sick from a genetic disease [...]; and third because it was a blood infection [...] there is always that ‘but’ [...] a suspicion...» (daughter of a deceased victim of infected haemoderivative drugs).

#### *b) The collective dimension of corporate victimisation*

According to Article 18 of Directive 2012/29/UE, measures should be made available ‘to protect victims and their family members’. Corporate violence involves individuals, families and entire communities and this topic stands out in this research.

Examples of victimised families and communities with which researchers came in contact are those of the inhabitants of Casale Monferrato (Eternit case) and of the Italian haemophiliacs who perceive themselves as a community.

The whole town of Casale Monferrato has been environmentally exposed to asbestos during decades: this affected Eternit’s workers first; then, silently, the harm outreached their immediate family members, including children, and then slowly all inhabitants were exposed through the polluted environment, where asbestos was ubiquitous. During interviews and focus groups, participants told stories about workers’ wives washing their husbands’ working clothes full of asbestos fibres, which were therefore unknowingly inhaled without any precaution; or about young siblings or cousins playing in the courtyard with asbestos powder as if it was sand, and then being diagnosed, one after the other, during the same week, twenty years later. Medical doctors reported that the peak of the disease in Casale Monferrato is yet to come.

«Victims are not only the sick persons or the dead because of asbestos-related cancers or of asbestosis, victims are also the family members and all the inhabitants of Casale and its surroundings: those who are not sick live in the constant terror to become sick. [...] They have post traumatic stress disorders like the Vietnam veterans or the atomic bomb

survivors, who live in constant anxiety and daily fear to die [...]. Villagers in Casale who have cough do not go to the doctor to get a prescription for antibiotics, but they directly go to get an Rx» (professional: medical doctor, focus group, Eternit case).

«My uncle and my father died of mesothelioma. None of them worked at the Eternit implant [...]. It is something you carry inside yourself forever... for the fear that it may happen to you. All the times you have backache, you tell yourself: 'this time it's my turn'» (family member of deceased victims, focus group, Eternit case).

In the Thalidomide case, mother-child bonds were at the heart of victimisation, having pregnant mothers been involuntary carriers of the harm caused by the defective drug *they* took. In the Thalidomide case, furthermore, corporate violence has even 'created' a whole new, unintentional 'community' nationwide, but, in fact, worldwide. This community is composed of the hundreds people all over Italy, who, at the beginning of the '60s, were born with a 'typical' disability named after the teratogenic drug taken by their mothers during the pregnancy. These victims' life falls together with their victimisation: they were *born* 'victims', and their victimisation started even before the birth. Their collective identity carries the name of the actual cause of their deformities and disabilities: they are the ones affected by the 'Thalidomide Syndrome'; they are the 'Thalidomide babies', or – in Italian – 'i talidomidici'. The mothers of the Thalidomide babies are an invisible group of victims, since the case has been perceived and treated as a problem concerning only foetuses and born children, not mothers, who besides perceived themselves as the guilty party.

*c) Complexity of corporate victimisation and vulnerability of victims of corporate violence*

The Directive's Recital 56 stresses the need to 'take into account the personal characteristics of the victim such as his or her [...] health, disability, residence status, communication difficulties, relationship or dependence on the offender'.

These aspects are recurrent in the interviews and focus groups. Corporate violence in the pharmaceutical sector, for instance, may often hit people who are already sick and in constant need of pharmaceutical treatment. But corporate violence victims may become sick as a result of the harm suffered.

«Mesothelioma is a rare tumour. You are a victim twice. You are a victim of the disease, and you are a victim of the therapeutic protocols» (professional: medical doctor, Eternit case)

«There were people there who were f... furious; their rage did not spring only from a medical condition induced by curing another one – a iatrogenic harm -, but rage was springing from having been ignored until that moment» (victim of infected haemoderivative drugs).

As of *communication difficulties*, interviewees reported, almost invariably, their need to be supported in facing the corporation's informative and

organisational power and/or the legal technicalities during criminal and civil procedures or during out of court settlements.

«Back then, we needed almost everything, since we found ourselves with our feet stuck in the middle of something, without even knowing what a mesothelioma was» (family member of a deceased victim, Eternit case)

A unique form of *dependence* on the corporate offender emerged from interviews and focus groups, which entails the need of victims to be supported in rebalancing – or interrupting (when possible) – the relationship with the corporate offender. This dependence, for instance, is related to survival in the case of the haemophiliacs, whose life *still* depends on the pharmaceutical companies. In the Eternit case, the dependence on the corporation is related to the employer-employee relationship, but also to the economic impact of a big implant on a whole territory and to the environmental and territorial link between the factory site and the places where people actually live.

«I called it a *lethal* embrace, which prevented workers and their conscience from emerging» «This firm gives me so much [...]: summer camps at the seaside for children [...], scholarships, Christmas presents, factory shops [...], good wages... How possibly could workers protest? It was impossible, impossible... [...]» (trade union representative and member of the victims association, Eternit case).

As of *residence status issues*, the three major cases addressed thoroughly during the research (asbestos, infected haemoderivatives, Thalidomide) share common features: a) the international, European and national dimension of the victimisation (victims are present in several Countries; victimisation occurred in several Countries); b) the involvement of multinational corporations that have their headquarters outside the Country of residence of the victims; c) the involvement, locally, of national subsidiaries or separate national firms, which resulted in corporations and local firms trying to shift their responsibilities, if not even trying to 'pass the buck'; d) the obstacles in accessing compensation due to the succession of different, multinational and national, corporations in the production and/or the selling of defective products.

«Some of the members of our Victims Association and some other non-member victims claimed a compensation. The constant response from the [multinational] corporation was 'icy': 'we have nothing to do with Italy. We are sorry, but the drug was not sold by us in Italy [...] and therefore we have no responsibility towards you...'» (victim, focus group, Thalidomide case).

«This is the famous drug produced by the Austrian corporation, a corporation we have never managed to reach because of the international letters rogatory» (victim, infected haemoderivatives).

#### d) *The deceitful nature of corporate violence*

Almost invariably, participants to interviews and focus groups reported a sort of tragic deception and a form of delusion: this is due to the 'promise'

of a better life associated to the corporate activity or product, and, even more tragically, to the *initial* experience of an *actual* improvement of life conditions. Hailed as scientific progress, advanced technological products, ‘wonder pills’ or the ‘new’, up-to-date factory which would have entailed welfare and economic growth, corporate activities and products, instead, had an inner, and hidden, negative nature which caused opposite consequences. What should have brought about social and/or economic improvement, well-being, better health conditions revealed progressively its lethal or harmful nature. And when things were clear... it was too late.

«They were called the ‘magic drugs’. And in fact they were [...], it’s crazy but they were so effective» «This was a revolution in the life of the haemophiliacs, because haemorrhages could finally be treated» (victims of infected haemoderivative drugs).

«... the fascination of the big factory, of the secure workplace [...], of the new factory...» (trade union representative and member of the victims association, Eternit case).

#### *e) The persistence over time of corporate violence*

Corporate violence is neither a new phenomenon, nor a problem that can be considered overcome. The cases examined during the empirical research show this clearly: the Thalidomide and infected haemoderivatives cases date back a few decades, and yet victims had to struggle until recently in order to receive some forms of indemnisation and/or compensation. Long latency periods typically related to asbestos exposures impact with access to justice and ways to claim it. Furthermore, asbestos clearing treatments are far from being completed in Italy, not to mention the fact that the ban of asbestos is not a concern worldwide. Other environmental cases, approached during interviews and focus groups, show how corporate violence is ongoing (such is the case, for instance, of pollution related to the ILVA implant in Taranto).

### **3.2. Typologies of harm**

All participants reported a heavy toll in physical harms, including deaths, long-term illnesses and invalidating diseases.

In the cases referring to contagion by HIV and/or HCV through contaminated haemoderivative drugs, more specifically, harm ranges from the acquisition of an infection requiring constant monitoring and further pharmaceutical treatments (not always covered by the National Health System), to the development of the related disease (AIDS and/or consequences of HCV), implying long and painful sufferings and, in hundred of cases, death. Actually, about 80% of the Italian haemophiliacs treated between the Sixties and the first half of the Eighties were infected with HCV, while about 50% of the same patients were infected with HIV; consequently, in the following years, about five hundred Italian haemophiliacs have been killed by the diseases spread through the contaminated drugs (many of them children or young adults). In some



cases, mainly due to the lack of information during the first years of this 'epidemic', other people – spouses and partners – got infected, developed the diseases and died, thus increasing the psychological sufferings of the victims.

«Hundreds of people died in a community of three thousand. [...] This was a catastrophe in every respect. Not just an epidemic disaster, which it certainly was, but a social catastrophe too» (victim of infected haemoderivative drugs).

Exposure to asbestos also generated an 'epidemic' of harm to health going from asbestosis to lung cancer and, eventually, death. Thousands of premature deaths in the locations of asbestos-producing factories are reported, and thousands more are expected, due to a very long latency period. The affected people were workers employed in the factories, but also family members – particularly spouses, exposed to asbestos while washing their husbands' overalls – and, more generally, residents in the areas surrounding the plants (about 80% of the annual new diagnoses concern people exposed to environmental contamination), including children exposed to asbestos' dusts dispersed in the environment (also due to unsafe transportation and disposal methods), who have afterwards developed, or are now developing, the related illnesses (at an age generally far younger than the workers). Asbestosis, mesotheliomas and other related harm to health imply long, invalidating and painful sufferings for the affected, and the certainty of death, as there are no cures for them.

In the case of Thalidomide-induced foetal malformations, the consequence was phocomelia, a severe pathology affecting the normal development of the body, so that the interviewed victims were born lacking one or more limbs or parts of them. Therefore, they struggled with this handicap for the entire life, and so did their families.

A wide range of psychological and social harm are related to the physical ones.

Victims reported pervasive anguish and fear for the long-term harmful consequences on their health, in several cases (particularly for people exposed to asbestos or infected haemoderivatives) made worse by the hurt, anger and impotency due to having seen fellow workers/patients and/or family members undergoing the same path of illness and death.

In particular, people inhabiting the areas surrounding asbestos facilities live in constant fear of developing the related diseases, suffering a huge amount of constant stress, and, once affected, knowing they will certainly die. Professionals dealing with this kind of patients in particular report high levels of anger, frustration and rumination, to the extent that often a proper PTSD (Post Traumatic Stress Disorder) can be diagnosed, to both patients and their relatives, who, in several cases, are one and the same.

In one case, a victim infected with HIV through haemoderivatives drugs reported having unknowingly passed on the disease to the partner, who ultimately died: in such a case, the suffering and bereavement of the loss

are exacerbated by the feeling of being to some extent responsible for another person's death, and can last for decades.

In some cases – particularly for people infected with HIV – the disease also affects the victims' (and their families') social status, because of the strong stigmatisation related to HIV and, after the contagion on a large scale of haemophiliacs was made known to the public, also to haemophilia itself. Parents of infected children particularly fear for their future, both because of the disease itself, and of the social reaction to it; more generally, infected people (or just haemophiliacs) and their relatives also experience, on occasions, social stigmatisation and exclusion, and in any case, constant fear of it, because of public opinion's fear of HIV, and because of the social stigma that such a disease carries.

Social stigmatisation was also reported by victims of Thalidomide, due to the physical deformities they were born with and which, one victim reported, for long years they have struggled to conceal and failed to integrate in their self-image:

«I was quite apt at concealing [my malformation], I was a real artist, so much so that many people, after having known me for several years, told me: 'It's not possible, I've always seen you with two hands, I can't believe [...]'. I was really good at it. [...] This aunt of my boyfriend's realized [I lack one hand] and told all the village [where we were on holiday]. I got up and the procession started: people were coming to have a look at the weird beast. They made gestures [the interviewed mimics a person staring at her arm] and asked 'How do you manage to wash your face?'. These kinds of things. At the third person I packed» (victim of Thalidomide).

But also in the asbestos cases, one family member of a deceased victim lamented a sort of social stigmatisation of people having developed an asbestos-related illness, who were to some extent 'blamed' for their condition.

In the haemoderivative case, the contracted infection also heavily affects sexual and family life, which has to adjust to the always present risk of contagion and to the constant need for precautions:

«The limitation that my father [an haemophiliac who got infected with both HIV and HCV] felt the most [...], which brought him the greatest suffering – I actually believe he thought about suicide because of this – was that he really could not conceive to live feeling unsafe when hugging his daughter. And then the illness took over [...], it was extremely invalidating, [...] on a daily basis it was like precipitating into hell» (daughter of a victim of infected haemoderivatives).

Parenthood is also severely limited or impossible, as a natural pregnancy would be too dangerous, a medically-assisted one is often too costly and difficult, and adoption is generally denied because of their precarious health condition.

More generally, due to the long-term effect of harm to health occurred in all the analysed cases, families of victims see their life heavily disrupted: every aspect of it revolves around the malady of the affected person/persons, often for long years or even decades; when the person

affected is a child, worry and anguish for the future, as well as practical issues, are constant and dominating elements in the parents' life.

When the affected person died, as it has often happened, bereavement, rage, anguish, and long-term traumatising due to the premature loss were reported. Some relatives reported their inability to ever get over their bereavement and rage, which impact all aspects of their lives.

Illnesses and deaths also brought with them economic consequences, such as impossibility or reduced ability to work, loss of income, huge medical expenses. In the cases of exposure to asbestos, the closure of implicated facilities left hundreds or thousands of people without a job, while the environmental contamination was still to be dealt with.

Community life was also affected, particularly in asbestos cases – where local population was slowly but steadily decimated, NHS got under stress and proved unable, at least for some years, to deal with the 'epidemic', and local economy was disrupted – and in haemoderivatives cases – where the solidarity within the haemophiliac community (a feature indispensable to effectively fight against a rare and invalidating disease) was disrupted by social stigmatisation attached to HIV as well as by the fragmentary and irrational distribution of compensations.

### **3.3. Perception of harm**

Perception of harm was generally deferred, for longer or shorter periods. While in Thalidomide cases the harmful effects were perceived at the end of the pregnancy, with the birth of the affected children, haemophiliacs took generally years to realize they had developed one or more further illnesses besides their original one, also because of an initial lack of medical knowledge on the involved viruses (HIV and HCV). And while haemophiliacs were, however, generally screened for contagion as soon as their doctors realized the risk they had been exposed to (through potentially contaminated drugs), in the asbestos cases, even if the dangerousness of asbestos' dust had been known for a long time, no systematic screening of the potentially affected population was planned and medical screening on the workplace was practically non-existent; thus, people realized they had been affected only at the manifestation of the first symptoms, years or even decades after their exposure. Currently, there is a sort of reversal of this situation, as people living (or having lived) in areas surrounding asbestos plants tend to connect any physical malaise to an asbestos-related disease, living in fear of developing mesothelioma, and having to subject themselves to specific medical checks far more frequently than the general population.

Also the scope and seriousness of harms were generally not immediately realized. On the one hand, several related health and practical problems only emerged through the years, as the diseases developed and/or, in case of affected children, they grew up and had to face new life's challenges; on the other, especially in asbestos and haemoderivatives

cases, a lack of medical knowledge made impossible for years to realize the full scope and the exact future development of the harm suffered (for instance, HCV was not, initially, exactly distinguished from other forms of hepatitis and studies on HIV were just at the beginning when the contagion started to affect haemophiliacs), so that, for some years and till the first deaths, the new disease was just perceived as a sort of ‘complication’ of the already existing, ‘more serious’, haemophilia.

Slowly, full consciousness of the real scope of the harm emerged, either through direct experience (worsening of symptoms, deterioration of health), or through knowledge of other peoples’ cases, or through better medical information, and generally through a mix of all these. This generally brought an all-encompassing, life-changing effect, as this kind of harm to health heavily affects (see above, § 3.2 and below, § 3.4) every aspect of a person’s (and usually also of their family’s) life, from working abilities to social and family interactions.

Partly for the same reasons, the victimisation was, quite often, initially not perceived as such, and only slowly the affected people started to realise that their sufferings might be due to the responsibility – and even the criminal responsibility – of someone.

For instance, in the haemoderivatives case, while the connection between HIV/HCV contagion and the drugs assumed to control haemophilia was immediately apparent, it took years for the victims to realize that the drugs contamination was due to failures, of a potentially criminal nature, in the collection and processing of blood on the corporations’ part, as well as to a lack of control and intervention by public authorities.

In the asbestos-related cases, for decades asbestosis was accepted as a ‘normal’ professional illness for workers involved in that production, and the public was not aware of the connection between asbestos and lung cancer (mesothelioma), nor of the possibility of developing asbestos-related diseases in ways other than working in factories where asbestos was employed (the first registered cases of workers’ relatives developing fatal asbestos-related diseases emerged in the Eighties). Only slowly victims realized that hazards related to asbestos were far more widespread, that the business had known about them long before public opinion, and that asbestos production and commercialization had been managed in a very negligent, or even reckless, manner.

In the Thalidomide case, while the harm was immediately perceptible at birth, for a long time parents were unable to realise it actually was an harm (and not an ‘act of God’), as the link with the use of the drug that had actually caused the phocomelia was largely unknown. Even after information on the possible teratogenic effect of Thalidomide started to circulate, it was strenuously denied by the pharmaceutical industries involved and it took years of legal battles to have the harm acknowledged.

### **3.4. Consequences of harm**

As already suggested (see above, § 3.2) the suffered harm implied, for all victims of corporate violence participating in the research, long-term and life-changing consequences.

Those who are still alive, albeit approaching their malady with different attitudes (see § 3.7.1), highlight the daily difficulties of dealing with diseases that affect, in different degrees, their professional, social and private life. Family members of deceased people also generally had to struggle with their loved ones' health problems for a long time before they were taken from them, and afterward underwent dramatic bereavement (children having lost a parent at a young age and parents having lost a child appear to be the most traumatised), and also, in many cases, a significant loss of income after the death of the family 'breadwinner'. These kinds of long-term, severe illnesses developed by the victims require them and, generally, their family members too, to entirely rebuild their lives around the malady, because of time-consuming medical analysis and treatments (in some case not even available near the place of residence), invalidating symptoms and related increased needs for support and assistance, precautionary measures to be taken to avoid contagion (for HIV/HCV infected haemofiliacs), fear of social stigmatisation (particularly for the latter group).

In asbestos cases, in particular, the entire community's life was progressively rebuilt around the harmful consequences of environmental pollution, as the population affected even today lives in fear of developing asbestos-related diseases and generally feels the need to get medically checked and tested at the slightest symptom of physical malaise. Medical experts and professionals particularly pointed out the need for the local NHS involved to develop new strategies and find adequate resources to deal with an unprecedented cancer epidemics, with respect not only to medical treatments, but also to psychological support for patients with no hope of recovery and their families, who often appear to need help in managing anger and frustration (which are often vented on the doctors themselves), and often suffer from forms of PTSD (see also above, § 3.2). One relative of a deceased victim lamented such high levels of stress and fear that they assumed that a severe, though not asbestos-related, oncologic disease they had developed was causally linked to those feelings.

«Thirty years have passed since [the factory] was closed and we are still dying. Actually, there are more and more deaths. What really characterises [our community] is the extreme worsening of quality of life which, paradoxically, widespread information [about asbestos dangerousness] to citizens [...] increased. Paradoxically, information eventually increased fears: the more a community member is informed, the more they fear that their symptoms, which, as they have heard about, are a warning of an incurable, fatal illness. One of the things we are still unable to really accept and handle is this collective fear to live in a city different from others, a sort of plague-stricken city that still can see no way out from this epidemic» (doctor, asbestos case).

More generally, uncertainty about the future (one's own future and/or that of the affected family member) weighs heavily on these victims, with respect both to illnesses' forthcoming developments, and to related practical issues (work, income, assistance, family relationships, etc.).

In the asbestos cases, a further source of uncertainty, worry and moral dilemmas for all the affected parties (victims, families, trade unions, local communities) was the tight relation between the source of the harms – factories dealing with asbestos – and the victims and their community dependency on those same productions for their economic survival.

The realisation, often quite long in coming (see above, § 3.3), of the possibly illegal, and even criminal, nature of the harms suffered, and the heavy difficulties in getting any kind of acknowledgment, recognition, redress and punishment (see below, § 3.6), were generally reported to have had heavy consequences on victims' lives and attitudes. Under this respect, the length, bureaucratic attitude, and lack of effectiveness of judicial proceedings, together with the uncooperative or hostile attitude of the involved business, the extreme difficulties in getting adequate information, and the lack of preventive controls, first, and of adequate support and effective remedies from public institutions, later, appear to have undermined the victims' confidence in the State and its agencies, eliciting feelings of betrayal, mistrust, and anger.

Victims appears angered at, but also disillusioned in, corporations (particularly, one victim of Thalidomide expressed their anger at feeling they had been treated like 'guinea pigs' by the pharmaceutical industry), but their anger is generally as great or even greater against the State, which, they perceive, failed them at a deeper level, firstly by not adequately protecting them even after dangers were known or knowable to public authorities, then by failing to support them, to make corporations and corporate agents accountable, to provide timely and/or sufficient redress (for details, see § 3.6 below). Several family members of people deceased because of asbestos-related diseases openly stated they felt victimised three times: once because of the crime suffered, a second time because of State's lack of support, and a third time by the constant fear of getting ill as a consequence of exposure to Eternit.

One aspect that elicited feelings of frustration and anger, and a lack of closure for many interviewed victims was the lack of one or more identifiable individual 'culprits' (within either the business or the public institutions deemed involved in the offences for various reasons) and the consequent perception of having to fight against giant, impersonal, opaque organizations with no hope of ever getting any kind of admission of responsibility.

### **3.5. Victims needs**

During interviews and focus groups victims not always expressed their needs as such, but, in several cases, they emerged through their narratives of what had occurred and of the problems they had to face. Even more

frequently, different needs appeared strictly intertwined and all part of a comprehensive urgency to get recognised in their painful vicissitudes and in their dignity of human beings (i.e., not just ‘objects’ of someone else’s action, be they corporations, law enforcement agencies, the State, or others): for instance, in the narrative of one victim of infected haemoderivative drugs who expressed a strong need for clear and understandable information, by both public institutions and doctors, this request was actually strongly linked to an intimate necessity of feeling treated like a human being and a citizen and, thus, of full recognition, which, in turn, was strictly related to a request for adequate support and compensation.

Therefore, any distinction made in the following sections is, at least to some extent, simplistic and arbitrary, and so is only meant to facilitate a more detailed and comprehensive screening, as well as a better matching with the Directive’s terminology and provisions.

### *3.5.1. Recognition needs*

The need to feel recognised emerged in all victims’ testimonies. What they felt had always been denied to them was, basically, a proper acknowledgement of their dignity and humanity, as corporations and public institutions generally appeared to consider them as mere ‘numbers’, ‘practices’ or ‘problems’. The lack of recognition for the harm suffered, of its wrongful nature, and of the heavy consequences on their lives was one of the main sources of distress for these victims.

Victims generally felt abandoned by the State and by civil society and the media, and left completely (or almost completely: see also below, §3.6) alone with their struggles, but for reciprocal support through victims organizations. Nobody – neither media and public opinion, nor public institutions, and even less involved corporations, appeared interested in hearing them out:

«And, really, when nobody hears you out, you don’t exist» (victim of infected haemoderivatives).

Several victims stated that, also because of this, they felt many times victimised: once by the perpetrators of the crime, once by the State – and, therefore, also as citizens – and public institutions, because of their bureaucratic attitude and inactivity, once by media, or society at large, because of stigmatisation or indifference.

Many of the issues raised by victims – the need to have responsibilities officially and publicly ascertained, the need to receive some sort of apologies, the need to get compensation, the need to receive timely, complete, clear and understandable information (not just on their legal standing, but on the facts of their case, on their health situation and perspectives, etc.), the need for their cases to be reported in a complete

and not sensationalist way by media, etc. – relate to a more basic need to feel recognised *as persons*. For instance, in the haemoderivatives case, one interviewed victim (who had also been for a long time a leading figure in the victims' association) expressly stated that an offer of compensation from one company was not considered receivable, albeit being quite consistent, because of the way of its presentation, as the corporation wanted to pass it as 'human aid', thus denying the basic wrongfulness of the victims' sufferings and pretending to bestow on them what was basically perceived as charity.

More generally, some victims expressed the need for a more 'dialogic' and 'human' relationship between public institutions and (citizens in general as well as, in particular) victims, so that they could be more directly and actively involved in decisions ultimately affecting them in a very direct and relevant way.

### 3.5.2. Protection needs

Protection needs expressed by interviewed victims and professionals were basically of two kinds.

One falls outside the scope of the Directive but, nonetheless, appeared very strongly felt: it was the feeling they *should have been protected* by public institutions against the suffered harm *before* they occurred, and so that they should have *never* occurred. Complaints about public institutions' failure to enact proper controls, late and little effective interventions, suspicions of connivance with the involved business and/or of public actions or inactions motivated by economic reasons weighted against the safety and health of hundreds or thousands of citizens, all relate to this kind of basic need of *preventive* protection.

As for the needs of protection *in the aftermath* of suffered victimisation, several have emerged.

The issue of protection against intimidation and retaliation specifically emerged in the asbestos case, with respect to victims and/or victims advocates who were also employees of the corporation involved, and who reported illegitimate disciplinary sanctions, professional deskilling, mobbing, etc. On a larger scale, the corporation's strategy of declaring bankruptcy and shutting down the factories without providing for clearing of the site and/or reemployment of workers was, to some extent, also perceived as a sort of retaliatory-intimidating measure or, at least, as a way to let all the weight of the environmental contamination fall on the local community's shoulders, against which the workers and the community at large should have been protected by the State:

«There is a fundamental duty to protect these workers, so as not to set them against the transformation, or reconversion, or closure of the factory, but instead to give them an alternative, because this is the duty of any society which aims at resembling a civil society» (trade union member and victims association member, asbestos case).



The issue of repeat victimisation was frequently raised.

In the asbestos case families were affected by asbestos-related diseases one member after the other, one generation after the other: in the same families, people often suffers first as relatives of one or more deceased victims, and then as people who, in turn, develop the same kind of disease. Workers had been exposed for years to asbestos, and people unable to leave the contaminated area had been exposed exposed daily for decades and, in many places where no o little clearing occurred, are still exposed daily to dangerous asbestos dusts and fibres. Protection from repeat victimisation, therefore, implies here, first and foremost, clearing of all contaminated sites in the quickest and most effective way possible.

In the haemoderivative case many victims suffered contagion from both HIV and HCV; also, they are generally unable to ascertain exactly when and by which drug they got infected, as the negligent collection and handling of blood was quite widespread and the victims received, through years, dozens or hundreds of infusions, almost all potentially infected. As the haemophiliacs community was a little and quite close one, besides, several of these victims also suffered for the loss of acquaintances, friends, relatives; a particularly painful experience was, for some of them, discovering to have infected, in turn, their partner, so that, besides being victimised as infected patients, these individuals were victimised as spouses/partners, too, in a way that also makes them feel to some extent responsible for the death of a loved one.

As for secondary victimisation, this appears basically a constant, albeit this is not always due to failures of the criminal justice system – as several of these victims never got actively involved in criminal proceedings. But the lamented indifference and inactivity of public institutions (for further details see below, §3.6.3) represents a huge factor of distress for these victims, who more than once lamented they had felt treated disrespectfully by the system on the whole and betrayed also as citizens. With specific respect to judicial proceedings – be they criminal or civil in nature – specific worries emerged with respect to unsafe drugs cases, where a big source of distress was the perceived risk (and in some cases the actual experience) of having very private details on one's health made public in the proceedings (with an added risk of social stigmatization in the haemoderivative case: see also above, §§ 3.2 and 3.4).

### *3.5.3. Information needs*

The need for adequate information was a constant in all interviews and focus groups.

On the victims' part, information needs pertained to several areas.

They expressed the need for correct, complete and understandable information about the legal options open to them and about the working and possible outcomes of judicial proceedings, which they had not always

been able to get from public institutions or, more generally, law practitioners.

As all cases implied harm to health and physical integrity, quite frequent was also the expression of a need for correct, complete and understandable information about their health status, their perspectives and the nature, causes and future developments of their conditions, to be conveyed in an empathic and considerate way.

Finally, several victims expressed a need for knowledge of all the facts which led to their victimisation and of the individual responsible, which many (especially in the Thalidomide case) lamented had been almost completely frustrated by corporations and public institutions. This need appears related not only, in some cases, to a perceived lack of 'closure', but also to a strong desire (expressed by almost all participants) to prevent similar crimes in the future.

Professionals and victim support operators who were interviewed basically agreed on the centrality of victims' need for information, and law practitioners especially stressed the need for correct, complete and understandable information about all legal options open to the victims and about the working and possible outcomes of judicial proceedings, so as not to raise unrealistic hopes; thus, feeding also feelings of bitterness and betrayal on the victims' part. In this respect, a better training of all professional figures involved – starting from police forces, lawyers and public control agencies, which are usually the first to get in touch with this kind of victims – is deemed indispensable and urgent.

#### *3.5.4. Support needs*

The deficiencies of public support were one of the issues most frequently raised by both victims and professionals interviewed and one of the main reasons adduced for the central, even vital, role played by victims associations in all the cases analysed (see also below, § 3.7.2.1).

As no specific victims support services exist in Italy, this situation appears easily understandable: victims associations and similar organizations (in the asbestos case, for instance, also trade unions played a part) are, basically, the only possible source of information and support (besides legal, medical and psychology professionals for people with the economic resources to pay them). The feelings of 'loneliness' and 'abandonment' manifested by many of the victims are largely related to the absence of adequate and specialised public structures, and the often bureaucratic attitude of the existing ones (which, anyway, have only sectorial competences, for instance: INAIL – the National Institute for Insurance against Work-related Accidents –, ARPA – Regional Agencies for Environmental Protection –, NHS, social services, etc.).

Support deemed necessary by victims and victims associations representatives pertains to several different issues.

Medical support (diagnostic and therapeutic) appeared to be a primary necessity (see also below, § 3.6.5), with a need for ‘tailored’ competences for rare pathologies (like mesotheliomas or phocomelia) and complex clinical situations (like that of haemophiliacs infected with one or more viral diseases), as well as for access to experimental therapies and, more generally, for more resources to be invested in medical research:

«Victims [of mesotheliomas] are twice victims: because of their pathology and because of discriminations in accessing the therapies. They have less options than patients with more common cancers and investments are lower» (doctor working in a local specialised unit of NHS, asbestos case).

Continuative and specialized psychological support and counselling were also felt by many as a primary need (so much so that medical professionals dealing with asbestos-related diseases stressed the importance of having built a local network of integrate medical and psychological assistance). Some victims particularly stressed the need to share their stories and feel considered, heard out and understood.

Quality legal information and support appear particularly important, as the great disparity of resources, compared to those of the involved corporations, was stressed and many victims could not afford the high legal expenses implied by complex and long proceedings, also considering the complexity of the legal system in general, as well as of the specific legal questions.

Finally, economic support would not play a secondary role: in many cases the offence involved direct economic losses, as the working and earning ability of the victim was reduced or annihilated by their health problems and/or death, as well as indirect ones, like the significant expenses shouldered by the victim and/or their family for medical treatments, assistance to disabled victims, private psychological support, and the like.

### **3.6. Access to justice, victim support and compensation**

#### **3.6.1. Social informal network**

Family and friends support has been reported as a crucial part in coping with victimisation, and sometimes the ways families managed to help victims in integrating their status in everyday life has been fundamental for survival and in overcoming social stigma: this is particularly true for Thalidomide and HIV infected victims.

«I have been lucky to be backed up by a beautiful family, otherwise this would have been much different... [...] My father took me everywhere, using up all his money, [...] even to the United States [to find ways to cure me]» (victim, Thalidomide case)

### 3.6.2. *Media*

All in all, both victims and professionals mostly reported a difficult relationship with media, which are generally considered neither sensitive nor supportive to the victims' problems and needs.

The majority of victims stressed a basic lack of media interest for the episodes of corporate violence which had affected them, which were usually reported in a very superficial and simplistic way, without giving to the public opinion a full account of their complex causes and effects; one victim perceived that the lack of individual, clearly identifiable 'criminals' was one of the main features that made these cases not 'newsworthy'. Interaction with media was reported as generally difficult, basically because journalists seemed to be more interested in stories of pitiful and sensational 'human cases' – thus making pressures on the victims to give details of their personal stories – than in giving a full account of complex cases that had a relevant collective dimension (with the exception of some individual journalists, which one victim said were 'sensitive' and 'attentive').

The superficiality and sensationalism of media's approach to news in general was in some cases reported as harmful to the victims: in the haemoderivatives case, the alarmism and stigmatising way in which the media conveyed information about HIV and AIDS in general, during the same years in which the contagion of haemophiliacs was being discovered, caused the latter a huge social harm (see also above, § 3.2), contributing to associate all the haemophiliacs community, in the public's mind, to a disease that was presented as an extremely infective 'plague' with morally negative implications; in the Thalidomide case, one victim lamented that the superficial way in which the problem was (however scarcely) covered by the media contributed to present it to the public as an 'accident' and an 'act of God' with no responsible, and even expressed the suspicion that, to some extent, the media might have yielded to external pressures in doing so.

In the case of asbestos more mixed views emerged: while interviewed professionals (prosecutors and judges) lamented the distortion of facts and the superficiality of media in reporting the cases, and their disproportionate focus on judicial proceedings instead than on causes and responsibilities for the environmental and human tragedy (so much so that the case was presented more as a failure of the judicial system than as an offence caused by individuals who had violated the law and exposed thousands of people to harm), one representative of support organizations expressed appreciation for the support that at least some media gave to their fight for recognition of the ongoing 'massacre'.

### 3.6.3. Politics

Opinions about the attitudes of politicians and public institutions are generally very negative, with a few exception with respect to local institutions and/or individual political representatives.

Basically, both victims and professionals interviewed lamented a long indifference and inactivity on the State's part in all the cases analysed; victims generally stress they felt let down and abandoned by the State, so much so that they would have been basically alone had they not managed to self-support through victims' associations; victims also stressed the bureaucratic attitude of public institutions towards them and their cases, so that they did not feel considered as 'victims' and, generally, not even 'persons', and in some cases even perceived the State as hostile:

«I always felt we were alone. Yes, our people, the young ones, the city, the community, they were with us, but basically we were alone, a fundamental element was missing, the State was not there, and this perception was always strong. I really perceived we were David [against Goliath]» (trade union member and victims association member, asbestos case).

«We experienced first-hand that the State was our enemy. It behaved like a cruel, cynical opponent» (victim of infected haemoderivatives).

Particularly in the cases of haemoderivatives and Thalidomide, some victims lamented the feeling that, in some ways, the State had been 'captured' by the corporations, so it was more on their side than on that of victims and citizens, and that it refused, in a way perceived as irrational and 'scandalous', to make corporations at least economically accountable for the harm by recovering the funds that, at least belatedly and in a partial way, had been allocated by public institutions to support victims (one victim stated that this, in particular, had offended them also as citizen, after having been offended as victim of the crime). In this respect, also in the asbestos case the impossibility to recover compensation from bankrupted firms was perceived as a huge failure on the State's part.

Victims agree that politicians and public institutions generally started to take note of victims' complaints and of the underlying sufferings and harms only because of associations and, even more, media pressure. Their reaction was, however, mostly deemed slow and inadequate; several victims lamented a sort of paternalistic and 'merciful' attitude on the politicians' part, deemed quite humiliating: they were treated more like pitiful objects of fatalities, to be paid lip sympathies and, eventually, given some charity, than as victims of a wrong to be redressed. Particularly in the haemoderivatives case, the law on compensation for infected patients, albeit perceived as an improvement on previous complete inactivity, was judged under many respects still inadequate, partial, and slowly and incorrectly applied, so much so that victims were forced to appeal to the European Court of Human Rights to get Italy sentenced to pay for the excessive length of the litigation (that had had to be undertaken by victims'

associations) on compensations' reassessment. When a joint responsibility on the State's part was perceived as a relevant feature in the causation of the harm, like in the haemoderivatives and Thalidomide cases, victims generally lamented the complete lack of assumption of responsibility on the State's part as a particularly distressing factor for them.

While national political representatives and public institutions were generally perceived by victims as distant, careless, indifferent and opportunistic, local politicians and public institutions generally got a better evaluation. The difference emerged, specifically, in the asbestos case, where local administrators – possibly because they were part of the same community affected and living under constant danger of asbestos-related diseases and deaths like their fellow citizens – are generally described as sensitive, supportive, proactive, and generally quite important in bringing the case to the attention of national public opinion and institutions.

As for the opinion expressed by professionals (particularly prosecutors, judges and lawyers), they basically shared victims' evaluation on the inadequacy of State's action at both the preventive and at reaction stages. Prosecutors and judges particularly stress the fact that the judiciary is too often required to act a sort of 'deputy' of both lawmakers and the public agencies that would be competent for preventions and specific controls, which, in turn, places an impossible task, and a far too high level of expectations, on the work of tribunals. Anyway, some progresses by public administration have been acknowledged during the last years.

#### 3.6.4. *Public sector. Access to justice*

##### 3.6.4.1 *Criminal proceedings*

l) Some participants reported the lack of information in relation to the right to *access to the justice system* in general, and more specifically, to the criminal justice system. Difficulties to inform the victims were described as strictly related to the high number of victims involved in these types of criminal proceedings.

«The most relevant problem from the victims' point of view is the information, especially at the very beginning of the proceeding... the difficulties are related to the fact that victims are so many and not necessarily connected, obtaining information even on the access to justice is a problem... when information exists, it is offered by the associations, which are private association with their interests. I've never seen a public association or entity informing victims on their rights» (professional, focus group on environmental cases).

Another obstacle in accessing justice is strictly related to *time*. Investigations and criminal proceedings start too late, when memories are confused. Victims are seldom likely to relive a past they do not want to remember.

«After twenty years I'm so tired... I don't want to tell my history again, so I wouldn't like to see the case reopened and to go to trial now» (victim of Thalidomide).

Some victims also reported about the *difficulties in managing* the interrogations conducted by the public authorities and, in general, *their relationship with the investigators*. Some participants referred that the investigators did not know the personal history of each victim, and often, they did not have the expertise to dialogue with the victims.

«I was really woozy after the dialogue with the Public Prosecutor... even worse with the police officer... because they were telling me that my doctor had prescribed me the drug in a wrong way... but they were not doctors, nor specialists of my disease, and they don't even know the history of the families and the patients» (victim of infected haemoderivative drugs).

«I was really in difficulties while being heard by the Public Prosecutor. I thought that I started that examination as a victim but at the end I could result the perpetrator. That was my impression... » (victim of infected haemoderivative drugs).

II) Many victims reported their need and desire to contribute to the *investigation phase*. They want to help the Public Prosecutor in finding evidences, and contribute to the investigation as best as they can.

Many victims also consider extremely important their role *during the trial*. They want to testify and participate into the criminal proceeding.

«N. was asked about the way they used to work inside the plant, R. told about her experience... these are heavy things to listen to, things which hurt, but, at the same time, I think that these things must be told. I could not participate in all the hearings, because I was working, but I was always there when an hearing was important. I was always there» (victim's family member, Eternit case).

In these kinds of proceedings, victim's requests blend in a kind of *collective action*.

«There is a huge difference between having a single victim or an entire theatre full of victims, or better, full of family members of deceased victims... all there for the same reasons and for the same liabilities. Impressions and requests are completely different, because when the number of victims is so high and the facts under judgment are the same, solidarity among victims raises and the request of justice become collective... a collective request of justice is stronger than an individual one» (victims' lawyer).

Therefore, victims reported the need to *organize the participation* into the trial with a collective strategy. They also highlight the importance of collaborating with the public authorities to manage their participation.

«We gained the trust of public authorities, because we never exaggerated, we never acted as extremists, we never raised our voice, we always acted in a civil way, trying to oppose to those positions which were not useful to the case and to have a common consensus. The general consensus was necessary in my opinion. I always thought it was sufficient to tell how the things were in reality» (trade union representative, Eternit case).

«We organized our participation in an incredible way. This organization guaranteed to participate in the hearings having at disposal two dedicated big room and having access to the main court hall, where we organized all these people ... » (trade union representative, Eternit case).

Professionals reported the possible distortion related to the presence of victims within the proceeding.

«Judges are not robots and therefore the personal feelings also count. The presence of victims during the trial makes the judge to feel more responsible. What do they do normally? They ask not to have the civil parties, as to work in a more peaceful environment ... » (victims' lawyer).

From the operators' point of view, victims should be informed not only about their rights but also about the defendants' rights. The operators of justice have a role in informing and educating victims.

«A criminal proceeding must be equal, equal for victims but also for the defendants. It's necessary to educate victims, make them aware about their rights, make them understand which are their rights, but also make them understand that the criminal proceeding is a drama not only for them, but also for the defendants... there is a dimension which they must consider, and it's the dimension of the defendants» (professional: prosecutor).

III) Many victims or potential victims reported they did not have the chance to access justice and claim for compensation, as they could not prove to have suffered a direct damage at the time and place where the trial took place. Relevant problems arise *in terms of evidences*. One of the most relevant obstacle is the *causation link* between the corporation's actions or omissions and the individual harm.

«We had difficulties to access to the justice system. When we started to think to suit a judiciary action, we found many difficulties to prove the causation link, because even if it was true that the drug more spread on market was one, we could not prove we had taken that particular one» (victim of infected haemoderivative drugs).

«At the beginning of the asbestos related cases we suited many, many complaints, but nothing never happened. We obtained only the dismissal of all the charges, because, the prosecutor told us that it was not possible to find the perpetrators... when I went to talk with one of the Prosecutors he told me: 'we cannot open a proceeding every time a worker dies' ... » (victims' lawyer).

The proof of causation link in these criminal proceedings often depends on the relevancy of *scientific evidences*. In fact, the role of medical science, and science in general, is clearly pointed out by all type of participants.

«The scientific question is a problem... from a judicial point of view there are thousands of possible debates, especially on the value of epidemiology, when the causes of the pathology are not recognized with an extremely high level of precision... in the criminal law we have the rule to condemn only if evidences are beyond any reasonable doubt. But when is beyond in cases such these? You are obliged to use the logic arguments and this



fact allows different solutions, in all the possible directions... there are so many ways to skirt around the truth» (victims' lawyer).

IV) Participants outpoint the *asymmetry of information* and the *different defensive means* between victims and corporations in each phase of the criminal proceeding.

«How much are you going to pay if you go against a corporation like Monsanto? I mean how much of compensation for damages you risk to pay if you accuse them and you lose the action?» (victims' lawyer).

Corporations have money to appoint the best lawyers and experts, while victims most of times may only count on legal aid offered for free. In these kinds of criminal proceedings, the opportunity to pay the best experts gives a relevant advantage to the corporations, because the evidence of causation link mostly depends on the relevancy of scientific arguments.

«We tried to suit an action against the corporations, but we immediately collided with their power. They could pay good lawyers for ten years and pay for the best experts» (victim of infected haemoderivative drugs).

«In these kinds of criminal proceedings you need high profile experts. Where can you find them? We always had this problem... you never know who to appoint, because maybe you choose a professor and then you discover that he is related or paid by the corporation... our consultants were not paid as those hold by the corporations... I remember that there were corporations' consultants paid 40.000 Euros for each hearing... our expert were paid at the end and really less » (professional: prosecutor)

V) Participants reported that often the criminal proceeding does not provide for compensation to victims, despite the evidence of the perpetration of offences harming victims. The most relevant obstacles in these kinds of criminal proceeding were *time* and, in particular, the *statute of limitation*, that is when the final judgement acquitted the defendants or stated that they should not be prosecuted due to the fact that the crime was time-barred. In case of such outputs, the victims' reaction was alternatively a great disappointment, misunderstanding, resignation (when the negative output was easily predictable), desperation and secondary victimisation.

«I didn't see justice and many victims will never have it» (victim, focus group, Eternit case).

«It's evident what happened. We are victims two times» (victim's family member, focus group, Eternit case).

«Outside the Supreme Court my husband told to the judges: 'I wish you to pass through what we are passing through' not physically, but psychologically » (victim, focus group, Eternit case).

«I saw patients who had participated into the criminal proceeding feeling really bad after the final judgement. They were, really, really sad... you could really see a huge desperation» (professional: medical doctor, focus Group, Eternit case).

«Victims are not angry anymore, they are depressed... it's a deep depression... they do not know anymore who is to be blamed, everybody is against them » (victims' lawyer, Eternit case).

«After ten years, they told us that liabilities were proved, but the crime was time-barred and therefore it was not possible to sentence. That was a kind of joke. And we did not even obtain the compensation for damages, which could, in some ways, soften the blow» (victim, Eternit case).

Victims reported also about the *difficulty in understanding the technical issues* related to such outputs.

«[...] On the other side, there were those who tried to go into details... to understand why the Supreme Court said that if the accusation would have been different, victims could have obtained justice... if the count of indictment had not been the disaster, the output would have been different... the normal people wonder why and the answer is not easy, even if implicit...» (victim and victims association representative, Eternit case).

«Too many loopholes, which allow different interpretations, and anachronistic interpretations: if the disaster is still ongoing, why do you sentence that it is time barred? This is the worst way to deny victims' rights» (victim's family member, focus group, Eternit case).

«Often victims think that the criminal proceeding and the conviction are their only option to obtain justice. Due to this expectation, it's very difficult to make them understand the judicial mechanisms, which may not lead to identify a responsible according to the criminal justice rules» (professional, focus group on environmental cases).

VI) Some participants reported a significant *lag between their initial expectation of justice and the effective output of criminal proceeding*. An investigation may create great expectations which then were frustrated by the mechanisms of the criminal proceeding and by the strictness of the criminal law. The consequence is that the confidence of victims in the entire criminal justice system became very low.

«In a first phase I was really enthusiastic, because the starting of the criminal proceeding was a conquest... a great end and starting point... But when the criminal proceeding opened, I immediately lost my enthusiasm... I thought we were alone, even if all our people, our city, the society were with us... the State was missing and that was an important element... my perception was that we were David against Goliath... the perception was a sense of loss during the final hearing before the Supreme Court... That day we felt tremendously alone...» (victim and victims association representative, Eternit case).

«A patient relates to the criminal proceeding thinking that at least justice will be done... being a victim and not even obtain justice is the worst thing that could happen... some patients seem not to be involved, because they are going to die and they felt they can't do nothing... On the contrary, there is a part of patients who hope at least to obtain justice, because this could be a way to make them feel better...» (professional, Eternit case).

The needs which seem to be more frustrated are, on one hand, the lack of someone who embraces the case with a high level of commitment and competence; on the other hand, the lack of continuity of action. This is particularly negative when the perception is that the system guarantees the defendants' rights more than victims' rights.

«I received no satisfaction at all from the justice system... the resources deputed to this aim are weak and not committed. I never saw a judge deciding and embracing our case, committing himself in taking the case until the end, as a personal aim...» (victim of infected haemoderivative drugs).

«The access to justice has been a real disaster... Even when you win, you are not sure to obtain what you had asked for» (victim of haemoderivate infected drugs).

«I still feel the need of a right sentence... if the detention is provided for a murder, and the killer is discovered and his liability demonstrated, a conviction must be ordered. I'm not a justicialist, but the judgement of the Supreme Court sentencing that all the crimes are time-barrred was destructive... the Chief of Prosecutor Office declared 'I'm in the position to recognize a right or to give justice'. As right, I intend the victims' rights... a judge could not give up the justice in the name of a right... I mean, the rights of the defendants, which are more relevant than those of victims; the rights of defendants are more valued in our country, even if they caused the death of thousands of people» (trade union representative, Eternit case).

Despite the underlined problem, the *request of punishment* or at least of the establishing of the truth, represents needs reported by many participants. It seems that more than obtaining compensation, victims request for a public recognition of liabilities.

«I've lost any expectation and hope for what concerns the conviction of the corporations involved. But I think it should be a sentence, because it's a necessity to establish a public recognition. Without this, a State is dead» (victim of infected haemoderivative drugs).

«If we had been able to get a conviction, this would have changed a lot. Everything would have changed. I have not a punitive way of thinking... but I think that a society works only if it can guarantee the recognition of liabilities and the effectiveness of sentences, not for revenge, and not only to ascertain the facts, but to empower...» (victim's family member of infected haemoderivative drugs).

«There is a common need to know the truth, it would be very important to know what really happened... and it would be more satisfactory if also who caused the damages admitted the truth... I mean to find the perpetrators and prove their liability» (victim of Thalidomide).

VII) Even when the output was negative for the victims' requests, some participants reported that the *criminal justice system was necessary and useful*. In fact, the criminal proceeding is reported as: an opportunity to raise the interest and attention to the case; an useful instrument to collect evidences when victims have not enough means to proceed alone; the only

way to obtain a compensation when all the other system failed; the only system which leads to a public recognition of victims requests.

«Criminal justice is at the top of the list in terms of needs. In my experience, the criminal justice was the instrument to affirm some important issues... it makes some difference if the fact that in a plant workers died is affirmed in the name of the Italian people» (victim and victims association representative, Eternit case).

«Despite the negative output of the criminal proceeding, due to the statute of limitation, the experience of the proceeding has not been negative. That is because the criminal proceeding allowed to bring out a tremendous case and put a light on it, so that all the world was obliged to know» (union of workers representative, Eternit case).

VIII) Many victims reported about their personal exposure due to the criminal investigation, as well as during the trial. Some victims clearly reported having suffered a *secondary victimisation* from this kind of exposure.

«Victims become an instrument, persons who show their pain. I'm not saying that it's humiliating, but I wonder... is it right to get to this point to obtain what you deserve?» (victim, focus group, Eternit case).

Some victims referred about the consequences on their *privacy* and *reputation* which are implied by the criminal proceeding mechanisms. The involvement of the personal data and the disclosure of the personal history often became a negative consequence of the publicity of the criminal proceeding.

«Our lawyer was very worried about the consequences to suit an action. He always said that accessing to the justice system would have reveal the names of victims and would have lead the investigators to come to knock at each single victim's door. He was afraid of the reputational damages» (victim of infected haemoderivative drugs).

«One of the main issue of the criminal proceeding was to be called to testify... In the presence of the press... the proceeding was placed in a small city... outside the court there were many journalists... I attended at the first hearing and I felt I was a victim for the third time» (victim and chief of the association of victims of infected haemoderivative drugs).

«Investigators knocked at patients' doors to seize their drugs... without telling you why they were performing such an invasive action... it's a violence... they notified the proceeding by publishing a list of all patients on internet... how can you trust in this justice?... why did they act in this way? Because it was too expensive... because there were too many victims... the problem is that the list remained published for many days... only later they realized it needed to be removed. You can't do such a thing. They published the list of names and the list of diseases... were they crazy? They did it... In a small town it's a problem... you should pay attention, otherwise you destroy a person» (victim and representative of an association of victims of infected haemoderivative drugs).

#### 3.6.4.2. Civil proceedings

Some victims reported that the civil proceedings cost a lot in Italy and it took too long to obtain a judgment (three degrees of judgment).

«We spent a lot of money for the civil proceeding, because the action started in 1993 and in 2000 it was still ongoing. After ten years we did not know what it would happen» (victim of infected haemoderivative drugs).

The lack of a class action is another obstacle reported by victims.

«How can you defend yourself if you don't have a class action, if the victims do not stay together in an association able to pay all the lawyers? I can pay only a mediocre lawyer on my own, who would not be even capable to read the files. A team of lawyers is necessary, because here we have a multinational corporation as counterparty» (victim, focus group, Eternit case).

#### 3.6.4.3. *Administrative proceedings*

Not applicable

#### 3.6.4.4. *Compensation funds*

Not applicable

#### 3.6.4.5. *Victim support services*

No institutionalised victim support service is currently available in Italy.

#### 3.6.4.6. *Mediation*

No restorative justice or mediation process has taken place in Italy in case of corporate crimes as of today.

#### 3.6.4.7. *Legal aid*

The Italian civil justice system is felt as inefficient, especially because the legal support is not offered by the State.

«We need assistance, also legal aid... State should provide victims with a legal assistance. Inside the office of the State lawyers there should be a section dedicated to this... because it's of public interest to assist victims of such a crime in order to ascertain the criminal liabilities and to establish the compensation of damages» (victim of Thalidomide).

#### 3.6.5. *Medical sector*

Victims' comments on support received by the medical sector were mixed, but generally positive with respect to NHS, albeit in some cases highlighting a limitation of resources that affects its functioning. Anyway, each case presented peculiarities, in this respect.

In the haemoderivatives case, all victims were already constantly monitored by specialists because of their haemophilia; these same specialists were not only the people who injected them with the contaminated drugs, but also the professionals who firstly discovered the contagion and worked hard to cure and support the infected. The victims' attitude towards these doctors was generally positive: except in one case (and even in that case, with some distinctions), they do not blame the

doctors for their condition, as they acknowledge that doctors were acting in good faith while treating a really severe, life-threatening condition with drugs which were the most advanced and effective at the time, and whose potential dangerousness (due to blood contamination) could not be fully appreciated, because of a general lack of information. Instead, these victims generally praise doctors' commitment in following the patients also through the new diseases added to their haemophilia, their closeness and humanity, their support and the quality of the professional care. Some cases of retreat or coldness on medical staff's part were also reported, but a victim with experience both as a patient and as a leading member of a victims' association basically links them to an understandable 'burn out' of medical professionals who suddenly found themselves in the midst of an epidemic with lethal consequences (also for very young patients and children), and could not bear the psychological stress.

In the Thalidomide case, while one victim acknowledged that some doctors had been attentive and supportive, the general impression expressed is that the medical class had appeared too reticent in identifying the causes of the malformations, possibly because of the fear to incur in some form of professional responsibility; in the aftermath of the harm, when the victims' association started its struggle for recognition and support, the medical class was generally perceived as reluctant to provide help.

In the asbestos cases, there is a strong difference between judgements expressed on factory doctors and on NHS doctors. While the former are generally considered 'accomplices' of the corporations, completely ineffective in providing information and support, either because of a low professional qualification or because they were paid by the firms (or as the result of a combination of both factors), the latter receive a generally positive evaluation, albeit with some distinctions. More specifically, both victims and medical professionals who were interviewed stated that, while doctors not accustomed to deal with the mesotheliomas 'epidemic' typical of locations where asbestos productions were set (and, thus, also the doctors of these same locations, at the beginning of this epidemic) often lack the required knowledge and, even more, the necessary, specific sensitivity to deal with this kind of patients, local NHS quite rapidly and efficiently adapted to the new emergency, and has developed, through years of struggle with this crisis, a more comprehensive assistance for the victims and their families, with respect both to diagnostic and therapeutic activities, and to psychological and social support. Doctors are generally quite attentive, sensitive and experienced, and this is a great help for victims.

Medical professionals, on their part, stressed the huge psychological burden placed on them, both because of the invariably lethal nature of asbestos-related diseases, and because doctors often end up being the only (or at least the first) professionals in personal and direct charge of the victims, who frequently happen to vent on them their frustration and rage for the crime suffered, as they have no other individual to focus their

feelings on. They also lamented that resources are generally inferior to what would be required and, also because of this, as well as because of the invariably deadly nature of mesotheliomas, desperate victims were, on occasions, driven to pursue 'alternative' cures offered by unscrupulous charlatans.

#### *3.6.6. Private sector: the business concerned*

Comments on the corporations involved in the analysed cases were generally very negative, both on the victims' and on the professionals' part. More specifically, the indifferent, and in some cases manipulative, attitude of the businesses involved, and the lack of any availability to assume at least a measure of responsibility for the harm suffered by victims appears to have added significantly to these latter's distress, which was also fostered by the perception of having to deal with completely impersonal entities with incommensurably greater power and resources than the victims themselves.

In the asbestos case, in particular, workers involved in victims' advocacy are reported to have suffered threats and reprisals from the involved corporation, which also enacted deceitful 'information' campaigns to shift responsibility for lung diseases on any other factor but asbestos (also placing the full blame on victims who were also smokers). The asbestos industry never invested in medical research on mesothelioma, instead exerting pressure on factory doctors to conceal the problem (see also above, § 3.6.5), and both victims and professionals perceived the belated offer, on the corporation's part, of a monetary compensation for victims and local institutions as a purely opportunistic move, designed to get rid of them during the criminal proceedings, with no explicit or implicit recognition of their status of victims and no assumption of responsibility. The costs of clearing were largely shouldered by the public, also because the corporation filed for bankruptcy as soon as it became evident that the number of victims claiming compensation was going to grow exponentially in oncoming years.

In both the haemoderivatives case and the Thalidomide case, victims lamented the same indifference and bureaucratic attitude of corporations, and their unavailability to acknowledge any measure of responsibility at least for the collective harm caused, often shielding themselves after the impossibility to prove causal correlation in individual cases. In the haemoderivative case, in particular, one victim reported how even the only firm amongst the several involved in the production and commercialization of infected drugs, which got to finalize an agreement to contribute to a support fund for victims, tried almost till the end to present such a contribution as 'humanitarian aid', which was considered humiliating and unacceptable by the victims' association. In the Thalidomide case, one victim expressed suspicion of bribery and corruption enacted by the involved corporations to suppress evidence and manipulate public

institutions. More generally, in both cases, victims and professional interviewed highlighted the ambiguous relationship between victims associations and pharmaceutical corporations, with the latter constantly trying to manipulate the former to get positive reputational outcomes and visibility in the eyes of the public, and the former forced to struggle to keep their independence.

Several victims of defective pharmaceutical products also manifested anguish and frustration at having been harmed by products and businesses theoretically aimed at improving their health, while economic interdependency between affected communities and the asbestos business was reported as a problematic feature in the asbestos case (see also above, § 3.4).

#### *3.6.7. Private sector: insurances*

No data emerged on this issue from interviews with Italian victims, victim support operators, and professionals.

#### *3.6.8. Other relevant issues*

One question highlighted by some participants (respectively a haemoderivative victim and a medical professional involved in the asbestos case) refers to the importance of developing scientific research about the issues – scientific, legal, organizational – raised by episodes of corporate violence like the ones they had to deal with: currently, this kind of research appears to be almost nonexistent, while the interviewed considered very beneficial the interaction with the few interested researchers they met or got to know about.

Medical professionals involved in the asbestos case particularly stressed the need for resources to be invested in epidemiologic studies, sharing of tailored protocols and best practices in dealing with rare pathologies related to corporate violence, and psychological counselling for doctors having to deal with this kind of extremely stressful ‘epidemics’.

Legal professionals and victim support operators who were interviewed also stressed the importance of a change of mentality amongst law professionals, which should develop a more victim-sensitive approach. Both lawyers and public enforcement agents (police, prosecutors, and administrative control agencies in particular) should be trained to this effect and, within this frame, to giving victims precise, clear and understandable information about the principles and functioning of the law and the judicial system in general, and of criminal proceedings in particular, so as not to ingenerate unrealistic expectations, and so as to give them the possibility to chose the kind of legal action better suited to their needs and with the greatest success perspective.



### **3.7. Victims' resilience: individual and collective initiatives**

#### *3.7.1. Individual initiatives*

Individual initiatives and strategies to cope with victimisation vary from person to person, from case to case. Victims' resilience is highly subjective and dependent from many various individual and social characteristics: this was confirmed by the empirical research. Yet, the people who got involved in the empirical research are generally committed and engaged ones: they all found ways to 'react' to victimisation.

Reactions frequently reported by victims were: a) a sort of stubbornness in forcing themselves and their families to lead the most normal way of life, despite the severe consequences of victimisation; b) the constant participation to criminal trial hearings; c) the full-time engagement in the victims' association and/or in campaigns. And many others.

Some victims of various cases reported their refusal of lump sum compensations as a form of individual 'protest' against what they perceived as the corporation's attempt to 'get away with it', to take them out of the way, or to 'corrupt' them.

As of the professionals' individual initiatives, two in particular are worth mentioning. Medical doctors involved in assistance to victims of mesothelioma in the Eternit case reported that they soon realised that patients needed much more than just medical treatments. Communicating the diagnosis was inextricably interwoven with the information of the victimisation and with the recognition of the victim. Therefore, medical professionals soon activated an informal network comprising the victims' association, social insurance services, occupational safety agencies, in order to immediately inform victims of the many bureaucratic tasks following their new condition, and in order to timely enable them to access these services. A former public prosecutor of many of the most relevant cases of corporate violence initiated a local 'observatory of tumours' in the Nineties, asking physicians to report all the new cases of cancer diagnosis in the area, in order to track warning data and, where appropriate, to initiate criminal investigations.

Some particularly committed victims also tended to transform their personal coping into an improvement of the conditions of other victims too, nationally and even internationally. Due to the collective dimension of corporate violence, individual initiatives, in fact, often became collective ones.

#### *3.7.2. Collective initiatives*

As described in the previous paragraphs, victims and victims' associations of the cases analysed in this research played a fundamental advocacy role. For instance, the law banning asbestos and the specific laws providing forms of public compensation or indenisation to victims of asbestos, of

Thalidomide and of infected blood were passed mainly due to the initiatives and actions undertaken by victims themselves. In the Eternit case, an important role was played, from the Seventies onwards, by local trade unions activists with the support of environmentalists and a few physicians working inside the implant: they progressively set out what they called the ‘asbestos grievance’ (*vertenza amianto*), trying to involve all the relevant institutions (safety on the workplace agencies, social insurance services, the municipality, etc).

Among the collective initiatives that Eternit victims and victims’ association representatives spoke about during interviews and focus groups, the ones concerning Casale Monferrato are especially worth mentioning:

- the 1987 municipal order banning all products containing asbestos from the territory of Casale Monferrato;
- the creation, in 2012, of the ‘Unità Funzionale Interaziendale Mesotelioma’, a special multidisciplinary health care unit to promote a tailored assistance of mesothelioma patients and constant research. It spins off local hospitals and the University of Turin;
- the creation, in 2016, of the ‘EterNOT’ recreational area established in the same area – now cleared – where the Eternit implant was. The area is also meant as a memorial site.

#### 3.7.2.1. *Victims associations*

The cases analysed in this empirical research show the need of victims to come together in coping with the consequences of the multifaceted harm and economic loss caused by corporate violence (as mentioned in Article 2 of the Victims Directive, harm is physical, mental, emotional) and in facing the complex (and often unsuccessful) path of claiming compensation, accessing justice, obtaining protection and prevention of future, increased and repeated harm/victimisation.

All the cases the researchers directly or indirectly came in contact with have resulted in the birth of victims associations, who played a fundamental, and often solitary, role: associations acted in the interests of the victims, and provided practical and day-to-day advice, legal aid, medical assistance and psychological/emotional support. Associations have supported, and often organised, victims’ participation in criminal proceedings (Eternit case; cfr. Also the Ilva case or the Viareggio train accident case), and paid the costs of legal counsels and legal aid. They also played a major part in supporting access to compensation and in making political pressure in order to obtain public forms of compensation.

In a Country like Italy, where institutionalised and general victims’ support services do not exist, victims’ associations filled the gaps. Victims themselves helped each other.

Associations are reported to be mainly self-funded, but they occasionally receive(d) public or private economic support. In the infected

haemoderivatives case, a foundation has been created thanks to a lump sum out of court agreement with a liable corporation.

### **3.8. Critical issues and victims' struggles**

The paths to attain recognition, proper information, protection and compensation seem to have been (and still are) thorny for the victims of corporate violence that the research team came in contact with.

The main struggles of the victims who engaged in this empirical research concerned basically survival, medical care, social assistance, protection, prevention of future harm, which are crucial topics in the Directive 2012/29/UE too. The quest for justice was sometimes in the backstage, as a sort of illusory element or a delusory result. Among the priorities of the interviewees, the quest for justice somehow came after the achievement of the abovementioned needs deemed more essential, vital, and 'practical'.

The lack of recognition and the lack of the responsibility-taking by the corporation, though, was reported as a very painful experience, and as a sort of secondary victimisation, especially when it came in the forms of a waiver of responsibility set as a condition for a monetary settlement. Monetary settlements and monetary compensation have been often referred to as 'vile aspects' victims had to deal with. The acceptance of monetary compensation, or instead the promotion of more collective forms of reparation and remediation (environmental clearance of polluted sites, activation of social services or medical support, etc.) have provoked ethical dilemmas in victims, and tensions between victims and victims' associations.

Having to deal with legal entities, instead of physical persons, was reported as a further difficulty, because of the lack of a real interlocutor:

«I lacked an interlocutor with whom I could get angry with. I could not identify one. A corporation is an abstract entity» (victim of infected haemoderivative drugs).

Victims almost always reported to have little trust in corporations, seen as driven by business and gains only.

«While people were getting sick and dying, you [corporations] were making profits» (victim of infected haemoderivative drugs).

A peculiar struggle concerns the recurrent tension between occupational safety and environment protection, on one hand, and the employment of workers, who fear to lose their jobs, on the other. In the Eternit case, this tension affected the ways the problem was approached during the decades. Professionals in individual interviews reported that this is still a major issue, such as in the ongoing ILVA case.

A common concern is shared by both victims and professionals who took part in the research: it is the need for protection, and the consequent need for prevention. Victims especially perceive this as a duty of the State

and of public regulatory agencies. Professionals reported the need to better put regulatory bodies in network with each others in order to better assess risks, capture warning signals, adopt the necessary precautions and adequate protection measures.

«If you think of the many victims... When does rage outburst? When one thinks that something could have been done...» (victim of infected haemoderivative drugs).

A sort of relief was reported by all the interviewees and participants in recalling how their tragic experiences served as a lesson, and therefore contributed to give way to institutional initiatives aimed at preventing other such experiences and at improving the system: it is the case of the banning of asbestos law, of new control protocols for blood donors, of the changes in the haemoderivatives production, of the birth of a regulatory agency to control pharmaceutical corporations.

Professionals, especially from the justice sector (prosecutors, judge), stressed the difficulty in the timely and correct identification and recognition of corporate victims, due to scientific uncertainty, latency periods, lack of a prompt intervention by regulatory administrative agencies, lack of evidence of causation. Professionals also underlined the need of care in informing victims about their rights in criminal proceedings, in dealing with their presence at the hearings, in preparing them to attend the trial. Information to victims should be such as not to create improper expectations from criminal proceedings, whose principal and direct aim is not the protection of victims *per se* and whose fundamental safeguards in favour of the accused persons must be ensured. Adequate victim support services and ongoing medical, psychological and social assistance may properly divert victims expectations from the siege of the justice system, towards a more proper social care system.

Finally, the empirical research gave voice to some interesting proposals, coming especially from professionals, such as:

- a better networking and closer coordination among national and local occupational health and safety administrative bodies, social insurance agencies, national and local healthcare systems, enforcement agencies and the judiciary;
- a better, more efficient, organisation of the judiciary, and particularly of the public prosecutors' offices in order to promote a sounder attention to corporate violence victimisation;
- improvements in the application of corporate liability law;
- the enhancement of collective and social forms of redress for victims and for victimised communities, rather than (only) individual compensations;
- the creation of an independent public control agency devoted to corporate violence (similar to the existing national agency against bribery and corruption);
- the creation of an *ad hoc* national public prosecutor office devoted to corporate crime.

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### **"Federico Stella" Centre for Research on Criminal Justice and Policy (CSGP) – Università Cattolica del Sacro Cuore, Milan, Italy.**

CSGP is the coordinator of the project. CSGP is a research centre on criminal law and criminal policy, committed to promote theoretical and applied interdisciplinary research, aiming at improving the criminal justice system. Its activities, projects and expertise cover a wide range of themes, including business criminal law, corporate liability, criminal law reform, restorative justice and victim support, environmental law, law and the humanities, law and the sciences. An Advisory Committee of prominent scholars, judges and leading experts in juridical, economic, philosophical and psychological disciplines coordinates its scientific activities.



### **Leuven Institute of Criminology – University of Leuven, Leuven, Belgium.**

The University of Leuven (KU Leuven) is charter member of the League of European Research Universities; European surveys rank it among the top ten European universities in terms of its scholarly output. The Leuven Institute of Criminology (LINC) is composed of about seventy professors and researchers involved in criminological research and teaching. LINC continues the Leuven tradition of combining solid research with a deep commitment to society, a goal achieved through fundamental as well as policy-oriented research. LINC consists of eight 'research lines', one of which is on 'Restorative justice and victimology'.



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