

Prof. Levis's Statement

The recent recognitions by the Italian Labour Courts of the illnesses due to the occupational exposures to non-ionizing radiations emitted by cell and cordless phones (RF: radiofrequencies).



- Recently (04.21.2017) the first-degree sentences of two Italian Labour Courts (Ivrea – near Milan and Florence) confirmed and strengthened the first-even Brescia Labour Appeal Court sentence (2009) which recognized the causal association between the long-term professional use of cell and cordless phones and the increased risk of head tumours (in that case an ipsilateral neurinoma of the trigeminal cranial nerve). That sentence was definitively confirmed by the Italian Supreme Court (Cassazione) sentence in 2012 (1-4).
- Both the new sentences of the Labour Courts concerned the kind of head tumours most frequently associated with the habitual professional long-term use of MPs, named the ipsilateral neurinomas of the acoustic cranial nerve.
- All these sentences, therefore, concerned a personal situation where the case experts – including myself- evaluated the pathologies as a probable consequence of a causal link with the subject exposure to the non-ionizing RF radiations.
- Thus the above sentences officially established that there is a link of causality or at least of a contributing cause in that exposure in the workplace to non-ionizing RF radiations and this can contribute to benignant and malignant pathologies, and this leads in turn to the recognition of and the compensation for the suffering of a physical handicap.

As regards human health and the precautionary limits on EMF exposure, the Italian judiciary at all levels and grades assumed an innovative position (4):

- sentence 43678/2003 of the Milan Civil Court, initially referred to sentence 9893/2000 of the Italian Supreme Court, established that the limits put forward by the international agencies and even those set by law should not be the only points of reference in controversies on possible harm to human health deriving from exposure to electromagnetic fields (EMF), and that any judge presiding over a particular case has full powers, including as regards determining risk to health on the basis of scientific knowledge acquired at the time of the ruling;
- as a consequence, the Milan judge upheld the conclusions of the Court consultant, which make frequent reference to those of the plaintiff consultant myself, and established that values above 0.6 V/m, although below the most precautionary limits set by current Italian law (6 V/m), should be considered a danger to human health;
- this principle has frequently been cited in court (up to Supreme Court) sentences for exposure also to powerline EMF: here 0.2-0.3 μ Tesla must be the reference precautionary limit for new powerlines, and not the 3 μ Tesla for new lines or the 10 μ Tesla for those already in place set by Italian law for residential exposures;
- the constitutional right to health is understood in the broadest sense, including the right to live in an environment that is healthy and that should also be protected preventively, i.e., where there is the presence of merely a danger of falling ill or contracting a disease. To be effective, this protection cannot be subordinate to a state of illness or disease arising;
- the harm (risk) should be prevented and compensated for, even if it is not known who will be affected nor when, because when it does strike it will be too late;
- observation of the limits set by law does not make EMF exposure legal and compatible with protection of right to health. Instead, account should be taken of the constitutional relevance of the right to health (Italian Constitution, Art. 32) and of the consequent level of protection, necessarily prevailing over freedom of enterprise, provided for by Constitution Article 41: "Private economic endeavor is free but may not be carried out in conflict with social utility or in any way that compromises safety, freedom or human dignity" and: "The law determines the programs and appropriate controls in such a way that public and private activity can be directed towards and coordinated for social goals";

- the scale of values set out by the Constitution should also include the Precautionary Principle, as provided for by EU Treaty Article 174, which should be considered part of national regulations;
- where there is doubt as to level of risk, the Precautionary Principle requires the adoption of the most conservative arrangement consistent with minimizing risk, where necessary opting for 'zero risk';
- where a number of epidemiological studies have shown a significant increase in risk, the emissions should be considered dangerous, even though the mechanisms of action are still unknown. Here, in fact, the causality link can only be determined in terms of probability.

Meanwhile I will be grateful if you could broadcast and circulate this information.

1. Levis AG, Minicuci N, Ricci P, Gennaro V, Garbisa S. Mobile phones and head tumours. The discrepancies in cause-effect relationships in the epidemiological studies - how do they arise? *Environmental Health* 2011; 10: 59-73.
2. Levis AG, Minicuci N, Ricci P, Gennaro V, Garbisa S. Mobile phones and head tumours: a growing alarm. *Open Environmental Science* 2012; 6: 1-12
3. Levis AG, Gennaro V, Garbisa S. Business bias as usual: the case of electromagnetic pollution. In Elsner W, Frigato P, Ramazzotti P eds: "Social Costs Today. Institutional Analyses of the Present Crises". Routledge (Taylor&Francis Group), London and New York 2012: 225-68 .
4. Levis A, Masiero L, Orio P, Biggin S e Garbisa S.: "Health Effects of Mobile Phone Usage". In "Encyclopedia of Mobile Phone Behavior", Zheng Yan (ed.), Hershey, PA, U.S.A., IGI Global 2015; vol. II: 607-629.