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CIVIL LIABILITY FOR LEGIONELLOSIS OUTBREAKS

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CIVIL LIABILITY FOR LEGIONELLOSIS OUTBREAKS

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This research addresses civil liability for Legionellosis outbreaks, a severe lung disease caused by the Legionella bacterium.

The incidence of Legionellosis in Europe has surged, reaching the point of over 10.000 cases a year. For this reason, over the last decades many countries have implemented surveillance and prevention guidelines, especially concerning workplaces. The Italian legislation, in particular, mandates an assessment of that specific risk in occupational settings.

A 2020 case - handled by the Italian law firm MB.O. - involving the Italian Financial Police, where inadequate risk assessment led to a fatal outbreak, highlights the need for stringent safety measures.

SUMMARY. – 1. OVERVIEW OF LEGIONELLA AND LEGIONELLOSIS. – 2. THE OUTBREAKS OF LEGIONELLOSIS IN NUMBERS. – 3. GUIDELINES FOR PREVENTION AND CONTROL OF THE LEGIONELLOSIS. – 4. LEGIONELLOSIS IN LEGISLATION ON HEALTH AND SAFETY AT WORK. – 5. A PRACTICAL CASE FROM ITALY.

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1. Overview of *Legionella* and Legionellosis.

The term “*Legionellosis*” identifies at least two types of respiratory infection (*Pontiac Fever* and *Legionnaires’ disease*) caused by aerobic Gram-negative bacteria belonging to the *Legionella* genus, that was discovered in 1986 following an outbreak of unknown etiology occurred in Philadelphia, USA, during a gathering of *Legionnaires* organized by the *American Legion*. Thus far at least 61 species of *Legionella* have been identified and, among them, *legionella pneumophila* is the most widespread and dangerous.

The natural habitat of *Legionella* is water and wet environments in general. The bacterium spreads in the temperature range between 25°C and 42°C in both natural and man-made environments. The main reservoirs for the formation and transportation of the bacterium are plumbing systems (showers, faucets, etc.), air conditioning systems, spa facilities. Risk factors are represented by temperature of water, materials, and design methods of the hydraulic systems and the frequency of their cleaning.

There's no evidence of human-to-human transmission of the disease. The bacterium enters the human body and reaches the lungs by inhaling contaminated aerosol.

2. The outbreaks of Legionellosis in numbers.

In Europe, the phenomenon of *Legionellosis* has been thoroughly studied at least since 1986, when the *European Working Group for Legionella Infections* (EWGLI) was formed. One of the earliest and most complete studies by this work group, published in 2008, revealed that between 1993 and 2008 there were at least 53,494 cases of contagion in Europe; this number was however greatly underestimated due to underdiagnosis and underreporting.

According to reports made by the *European Centre for Disease Prevention and Control* (ECDC), the numbers of cases reported to health Authorities over the past decade have soared: the 4,897 cases reported in 2011 rapidly became 10,723 cases in 2021, with the highest ever peak in 2018 (11,343 cases).

3. Guidelines for prevention and control of the Legionellosis.

Today, most of the countries in the world have national surveillance programs for the Legionellosis and national registries to report confirmed cases of infection. Moreover, since the beginning of the 21st century, the European Union itself and many European countries have intervened by issuing guidelines that dictate measures to prevent the risk of *Legionella* contamination in all civil and industrial sites.

For example, in Italy, a first version of the guidelines for the prevention and control of Legionellosis was approved in 2000. The most recent and consolidated version of this guidelines, which is still in force, dates back to the 7th of May, 2015, and it is part of a specific State-Regions Conference agreement.

4. Legionellosis in legislation on health and safety at work.

Legionellosis represents an undoubted risk for workers.

In Italy, as well as in many other European countries, since 1994, and especially after 2008 (cf. Legislative Decree of the 9th of April, 2008, no. 81), the legislation about health and safety in the workplace has classified *Legionella* as a harmful pathogen for workers and has imposed a series of obligations on employers to prevent the risk of contamination. Key words are *risk assessment* and *risk management*. In a first phase employers, with the help of doctors, microbiologists, engineers and other experts, have to identify whether there is a risk of *Legionella* contamination in the work environment and how high that risk is, regarding to the different types of workers employed and their tasks. A second phase involves the development of measures in light of the results recorded in the first phase, such as adequate design and construction of the water supply systems, regular cleaning and disinfection, and periodic sampling.

The risk of infection is particularly high for seafarers and ship crews. Ships indeed: -) are closed and small environments that make easier for the bacteria to spread in the air; -) have water storage and distribution systems that amplify the risk of stagnation and bacterial growth; -) have complex piping that can result in deadlegs/blind lines; -) make it difficult to maintain hot water hot and cold water cold, especially because of the higher temperatures near the engine room.

5. A practical case from Italy.

The MB.O law firm is currently handling a case of *Legionella* contamination occurred in Italy in 2020 on a patrol vessel belonging to the Financial Police Force that resulted in the lethal contagion of a 53 years old marshal.

An epidemiological investigation carried out after the death of the marshal revealed that a large group of vessels (including the one he was regularly boarded) and several other workplaces managed by the Financial Police Force were highly contaminated by the bacterium. The contamination was due to the absolute lack of any *risk assessment* carried out by the Financial Police Force, who never truly investigated the risk posed by *Legionella* in its workplace.

The case has been recently brought to Court in order to claim compensation from the Italian Ministry of Economy and Finance, that is in charge of the Financial Police Force.



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