

**STF bans Asbestos in the state of São Paulo and declares that the federal law of so called "controlled use of asbestos" contradicts the Constitution... it is unconstitutional!**

<http://fernandagiannasi.blogspot.fr/2017/08/stf-proclama-inconstitucionalidade-de.html?m=1>

The Federal Supreme Court's (STF) plenary decided last Thursday, the 24th, with 8 votes against 2 that the state of São Paulo may forbid the production and selling of chrysotile.

Also known as "white asbestos", the chrysotile is specially used to fabricate roof tiles for roofing. However, many states (10) prohibits its uses because of the risks associated to the workers' health.

After the trial, Federal Supreme Court's president, Cármen Lúcia, clarified through the Court's press office that the verdict for São Paulo state withdrew the controlled use of asbestos law in the whole country. Therefore the 2nd article of the federal law that had rules about the exploration of the chrysotile asbestos has no value anymore, according to STF.

However, when they eliminated the existent rules, the Supreme Court did not automatically forbid the production and the selling of asbestos for all states. It is only forbid in the states that have a descriptive law about it. In the other ones that don't forbid nor allow it, there is a "legal vacuum".

But the Supreme Court already said that the production and the selling are unconstitutional, so in case any state makes up a rule allowing the asbestos, this rule must be taken down and will considered unconstitutional.

During the trial, the president of the Supreme Court reminded that the asbestos implicates in the future of the next generations and defended its banishment. "In concern of the environment, if any doubts, it must be prohibited. So that the rights for us today and tomorrow won't be lost for the ones that come after us."

The Justices Dias Toffoli and Celso de Mello stated that asbestos is forbidden in the entire national territory.

"From this decision, the practical consequences is that asbestos is banned in any way. This law used to only allows chrysotile. With this decision, obviously there is no longer a legal support " stated Dias Toffoli.

To the Court's dean, Justice Celso de Mello, the use of chrysotile is prohibited in the country. He classified the decision took in São Paulo as an "important precedent"

"When the Supreme Court declares the unconstitutionality of the rule that allowed the use of chrysotile, and now it was done with an absolute majority, it was excluded from the

national judicial universe a law that used to allow, even with control, the use of asbestos. The use of chrysotile is indeed forbidden." He said.

The lawyer Mauro Menezes, from the Brazilian Association of the Exposed People to Asbestos (Abrea), said he has the same interpretation. "The situation reveals that the federal law is moribund, it is in a terminal stage. When the Supreme declares its unconstitutionality, this law is no longer efficient in the national judicial order" said Menezes.

### **Supreme Court maintain the ban asbestos law São Paulo state which prohibits the uses of asbestos**

In São Paulo, the author of the action (ADI) to declare the state law unconstitutional was the National Confederation of the Industrial Workers (CNTI). The aim of the action was to revoke the prohibition of asbestos in the state of São Paulo. But the Court did not heed the request and kept the prohibition.

The Justices decided that the prohibition is possible because the production and selling of asbestos, as regulated by a federal law, contradicts the Constitution for the reason that the product is not safe for people's health and to the environment.

P.S. To avoid any wrong interpretations, or distortions of what was decided by the Court, the deputies of the Workers Party (PT) were urged to bring forward, to the states and to the federal district, bills for the banishment of asbestos in the states which have no laws prohibiting the carcinogen asbestos yet.