Covid-19 as occupational disease
Report from ETUI Zoom seminar on 11 March 2021

Introduction

The Covid-19 pandemic has had a profound impact on public health, politics, and economics. Still, it is not to be forgotten that it is not without consequences on workers exposed to the virus in their working environment. According to the European statistical office, most member states recognise Covid-19 as an occupational disease, except for Ireland and Malta. However, Covid-19 can also be considered as an accident at work.

The purpose of this first online seminar of the new ETUI project was to identify the conditions, scopes, and implications of this recognition, providing legal and practical examples across 12 European countries. It has shown a complex and contrasted situation in terms of definition, recognition procedure and compensation to workers exposed to the virus in their workplace environment.

In Poland

The Social Insurance System Act regulates issues related to occupational accidents and diseases. An occupational disease is defined as one caused by harmful factors occurring in the work environment or by performing a job, which must be included on an official list of occupational diseases. The recognition procedure relies both on a medical decision and an administrative notification issued by the labour inspection. The procedure is complicated and takes time. Indeed, between the notification of the suspicion and to the official recognition of the occupational disease, it may take half to even one year.

So far as the list of occupational diseases is open, Covid-19 might be recognised as such, but it has to be proven that the infection was contracted at work. Also, the proposal to add Covid-19 as a separate disease in the list of occupational diseases was rejected because then other infectious diseases, such as hepatitis or TBC, should be listed too. Poland’s law does not attribute particular occupational diseases to the type of work performed, said Marcin Rybacki (Nofer Institute of Occupational Medicine).

One of the main issues related to Covid-19 is that positive PCR or antigen or antibodies tests are necessary and that the symptoms must be documented. Medical workers can be considered a risk group, as they work with patients. For other professional groups, the risks are assessed individually. The compensation is determined based on the percentage of health impairment, which is based on a decision issued by the social insurance institution.

When Covid-19 is detected within a working environment, the employer has two main obligations: to test other workers and pay higher premiums to the social insurance institution. According to the latest data, Covid-19 caused the death of 141 healthcare workers, while thousand cases were detected.10/05/2021.

In Latvia

The Latvian list of occupational diseases is based on the EU approach. As this list is open to any infectious disease, technically, Covid-19 could be recognised as an occupational disease (like many other infectious diseases) without sectoral restrictions, but this has not been registered yet. However, a clear link must be established between the disease and the work environment.
Another legal approach would be to register Covid-19 as a part of a professional accident, “something that happens during one day”, explained Ivars Vanadziņš (Institute of Occupational Safety and environmental health, Riga Stradins University). According to labour inspection, there have been no registered Covid-19 exposures as a potential occupational accident. Nevertheless, discussions at early stage of pandemic and legal changes concluded that Covid-19 should not be considered a professional accident. This was unfavourable to employees infected at work, despite the government arguing that it is impossible to establish where the contamination occurred. After expert discussion legislation has been amended allowing this route for acceptance of Covid-19 as occupational diseases if there is clear and unplanned exposure to SARS-C-V-2 to provide causal link.

A compensation system exists since 1907 for recognized cases of occupational diseases and occupational accidents. Although this system is not perfect it is working reasonably well. However, the registration procedure is relatively long; it can take between 6 and 9 months. There are no registered and recognised cases of Covid-19 either as occupational disease or as potential occupational accident. This situation could be explained by the length of the registration procedure, and because patients generally apply for recognition after having used the traditional health care system benefits and when long term health effects are starting. Current discussions underline the emergency of the situation about Covid-19, which should lead to several changes in practical implementation.

**In Czechia**

The government’s response to the Covid-19 pandemic was the declaration of a state emergency, that encompassed a lot of restrictive measures. Influenced by the pre-electoral context, these measures were eased and became “inconsistent”, with frequent changes, analysed Milan Tuček (Institute of Hygiene and Epidemiology, Charles University, Prague).

Czech legislation makes the difference between occupational diseases and “endangerments” by an occupational disease. Nevertheless, Covid-19 cannot be considered as an injury from a medical point of view and the term accident is not appropriate in this context. The process of assessment and recognition of an occupational disease always takes place at the locally competent provider recognizing the occupational disease and the principle of free choice of doctor does not apply here. Infected workers exposed to their working environment are eligible for compensations, even in case of the worker’s death.

The recognition of Covid-19 as an occupational disease is contingent upon the manifestation of clinical symptoms and hygienic/epidemiological investigations of working conditions. Proof that the disease actually arose in direct concrete personal contact during the performance of work is not necessary. However, the risk of infection must be confirmed, which means a higher probability transmission of the coronavirus during the performance of work than in any other usual contact with other people, even in the event of an epidemic. 153 Covid-19 cases were recognized as occupational disease, mainly in the healthcare and the social care sectors, at the end of January 2021.

**In Italy**

Italy was the first EU country to be seriously infected by the Covid-19, reminded Fabio Strambbi (occupational medicine specialist), and there were not enough protection or safety measures to face the pandemic. The Italian Insurance Institute against Accidents at Work, INAIL, classifies infective and parasitic diseases as an accident at work and not occupational disease. Therefore, if Covid-19 was contracted while working, it is classified as an accident at work. Since the beginning of the pandemic, 131,090 accidents at work and 443 deaths were reported. The insurance coverage starts from the first date of abstention from work. Asymptomatic workers who tested negative but were placed in quarantine benefit from the same rights which are applied during leave of illness.

Workers with a positive test are allowed to suspend isolation 21 days after the appearance of symptoms and after a week without symptoms but frequently the company doesn’t allow them to return to work until the test is not negative. The family doctor can extend their certificate for extra periods of absence from work due to Covid-19.
In Italy, the national health service guarantees all citizens the right to medical care and hospitalisation without being charged.

In case of Covid-19 infection, self-workers and freelancers who are not insured by INAIL, are guaranteed care before, during and after illness; there are also provided support measures with income, compensation for employees, if they had to stop, reduce or suspend their work because of the Covid-19 infection. Current national discussions underline the necessity to guarantee the same protection to the workers who are not insured by INAIL and do not therefore, have access to income or benefits.

**In Hungary**

Occupational diseases are classified under a list that meet both the ILO list (R194) and the EU list (2003/670/EC). This list is open and cover only employees. The Covid-19 is eligible to start a procedure, and there is no restriction regarding sector or job title. The Hungarian scientific concept of occupational diseases is based on individual, case-by-case proving of causal relationship. The recognition procedure is conditioned to three requirements: a medical diagnosis, an established link between the disease and the exposure within the working environment, and a temporal-spatial adequacy. This means that this is complex, expert work that requires time, emphasized Ferenc Kudáš (Scientific society for occupational Health & Medicine).

The recognition of occupational disease leads to sick-leave payment to 100% and free health care related to the disease. In the context of the Covid-19 pandemic, the registration process is here simplified, meaning that it begins with a questionnaire to minimize personal contacts. Additionally, this simplified procedure can be explained by the lack of people required to investigate, resulting from the vast number of cases and decades of cutting down in the public health and inspections administration. The assessment is made on a case-by-case basis or according to clusters, and there must be a consensus in the expert committee about diagnosis and exposure. Since the beginning of the pandemic, 1,800 reports of occupational disease were submitted. Most of them were accepted and registered. They mostly concerned health and social care workers. At a national level, trade unions claim for more preventive measure and full payment of quarantined workers.

**In Romania**

Covid-19 is eligible for an occupational disease-approach in Romania, told Liliana Rapas (Ministry of Health - Directorate of Public Health B.). The occupational character of the diseases is a result of a medical research made by the occupational medicine doctor, according to a regulated procedure that includes documentary, medical, therapeutic and legislative phases. These are compulsory in the process of obtaining funding for patients from the insurer.

Few cases can fulfil the requirements for recognition, but the legislative framework is still under debate with the main authorities. Still, it emphasized the difficulty of linking the disease and its origin significantly especially since the risks were reduced by preventive measures such as lockdowns and quarantines. This is less true for the workers of the health sector, where they are likely to be exposed.

At a national level, the scope of the current debates is about establishing a new list of occupational diseases and defining particular procedures. In addition, risks might be assessed for each job, taking into account the main economic sectors that were not subject to lockdown, as well as the professional categories at risk.
In Spain

Spain is one of the European countries most affected by the Covid-19 pandemic. Workers from the healthcare sector were the first at the front line, and they were not prepared to face such a severe situation. During the first wave of the pandemic, they had to cope with severe shortages of personal protective equipment, due to a lack of investment from the public sector, underlined Begoña Martínez Jarrett (University of Zaragoza). The virus infected 22% of healthcare workers from March to May 2020, and 4.6% from May to December 2020. Although they were not the only workers affected by the pandemic, they were the main ones who raised much awareness. Consequently, the healthcare sector professionals were the first to be protected. In 2006, a legal framework established flexible rules for recognising occupational disease, which considers all types of workers. While Covid-19 complies with these conditions, the legislation regarding the consequences of the pandemic and other types of workers is constantly evolving. However, its scope is still limited, and trade unions have asked to extend the occupational disease recognition to all workers at risk and without restriction. Another highlighted limitation is that compensations are only monetary and cover the pandemic period. Additionally, the law does not reflect EU guidelines or the recommendations of competent international bodies support.

In Slovakia

Laws and regulations make it possible to confirm all infectious diseases as occupational diseases for all workers employed in an infectious environment. During the crisis situation, the government stopped most activities of the clinics of occupational medicine and toxicology and providers of OHS, except initial and periodic examination of healthcare workers. It had a negative impact on the confirmation and registration of occupational diseases. Consequently, the activities of occupational medicine clinics have been very limited in terms of reporting, registering and proposing compensation for all occupational diseases. While many healthcare professionals had overcome the clinical form of Covid-19 during the spring 2020, surprisingly, they did not apply their right to recognition of occupational disease. The conditions of recognition as occupational disease refer to a restricted regime: the workers must have clinical manifestations of Covid-19 and a positive PCR test, and the professional exposure has to be confirmed. Such a strict framework explains why few Covid-19 occupational disease cases were reported, said Oto Osina (Comenius University Jessenius, Faculty of Medicine in Martin Clinic). Covid-19’s consequences might be particularly harmful to workers, who will face a loss of income due to a long-term incapacity or lose their job in case of permanent disability. This unfavorable context raises many questions: What about the workers that do not fulfil all of the clinical criteria? When should the process of recognizing an occupational disease start? How can the process be speed up in serious cases with a bad prognosis?

In the Netherlands

While the epidemiological situation is quite comparable with other EU countries, the Netherlands is distinct in the context of occupational disease. There is no general compensation system for an occupational disease, but there are many categorial arrangements for specific sectors and particular illnesses such as asbestos, PTSD, or Chromium-6. A clinical examination must prove the disease before allowing compensation. In all other cases, the worker must lodge a liability claim in court, through lengthy and complicated procedure. Covid-19 is not recognized as a compensable occupational disease. As underlined Dick Spreeuwers (Centre of Clinical Occupational Medicine), the disease can be notified as an occupational disease to the Dutch centre for preventive policy claims, which will only collect information to inform the government. From April to December 2020, 1,424 notifications were reported. The majority concerned nursing and care homes (71%) and hospitals (21%), where unprotected contacts occurred with patients. Besides, the Care after Work Foundation in Corona Care allows compensation for the healthcare sector professionals in case of disease or death. While there is no official case of Covid-19 as occupational disease in the Netherlands, 49 applications were made to this foundation. The debate on Covid-19 as occupational disease is still limited, but can grow when the extent of the damage of the pandemic will become apparent.
**In Croatia**

An occupational disease is both a medical term and a legal term, whose recognition should be proven by the occupational history of the worker and diagnosis methods that can objectify the impairment. Croatian laws establish a list of occupational diseases, where infectious or parasitic diseases are included. Therefore, Covid-19 might be considered as such. To be recognised as an occupational disease, a Covid-19 case must fulfil several requirements: a diagnosis with a positive PCR test and a clinical documentation, the evidence that the workplace increased the risk of infection, contact with a specialist responsible for the workplace, and the implementation of a diagnostic procedure. The history of the worker’s contacts with family members and other contacts outside the workplace is also examined. The recognition of the occupational disease starts from the first day of the occurrence of the disease and can be extended to three years. According to Milan Milosevic (University of Zagreb, School of Medicine), 248 applications for recognition of occupational disease due to Covid-19 were introduced. 63.7% were accepted. 84.05% concerned the health and social care sectors. In case of recognition of occupational disease, workers are insured not only if they are employed or self-employed, but also if they are members of a special group of insured persons for whom insurance is provided. Debates now focus on how to live with the virus (testing, vaccination, or protection measures strategies).

**In Portugal**

Pedro Reis (Medical Association-College of Occupational Medicine) emphasised that despite the substantial stress on public health, the consequences of Covid-19 made victims among workers exposed to the virus within working environment at higher risks (care workers, fireman, security officers...). These risks were mainly related to the lack of control measures, despite the expert conceding that they were not well established yet. For now, only 542 cases were recognized as occupational disease, while there were 6,660 notified cases. The system of recognition is based upon establishing the causal link between the exposition to the risk factor. Healthcare workers and security officers can be recognized while it is not the case for other sectors, as a rule. In exceptional situation, Covid-19 could also be considered as an accident at work. Considering that trade unions will not be able to change the situation, the problem would be first and foremost political. A system of recognition of Covid-19 as an occupational disease should be set up by defining the exposure and the fair degree relationship between the source transmission and the manifestation of the disease and under the supervision of a national agency that would perform the necessary evaluations. To avoid discrimination, the EU should propose a uniform manner to tackle this issue, considering that we are facing an unknown disease whose effects in the long term and consequences are unknown. Thousands of health care workers, nurses, and doctors are concerned about this in Portugal.

**In France**

The law recognizes occupational disease for more than one century in France, but only for the employees of the private sector. Since April 2020, the recognition of occupational disease for healthcare workers has been systematic and automatic. In February 2020, 16,919 demands were introduced, 3,500 were considered as completed, and only 408 workers were taken in charge, according to an article published by Le Monde, which was quoted by Jean-Louis Zylberberg (Association Santé Médecine du Travail). The requirement for developing a severe form of the disease (at least 25% of work incapacity) and the necessity of anoxogenic therapy strongly limits the recognition. Additionally, although a wide range of sectors has been excluded from this plan, they benefit from a complementary measure that consists of examining their case by independent experts. Another path for workers claiming their rights is to appeal to courts to force employers to respect prevention rules. Trade unions do not recommend declaring Covid-19 as an accident at work, as the French regulation frames it with conditions of body injuries, a tangible link to work, and a sudden event.
Mary Catharine Breadner, the coordinator for UNICARE at the UNI Global Union, which supports workers private care sector and social insurance industry worldwide, introduced a research project about healthcare workers. This project aimed to answer the most pressing questions: How many countries have recognized occupational disease? Why the problematic is much more complex than a recognition? Where do workers receive protection? Which countries support workers impacted by the Covid-19? Which support do they get? The methodology included desk research on social security schemes, compensation schemes, and collective agreements.

Results show that 27% of the surveyed countries had laws that should include or could already support workers who suffer from Covid-19. If Europe is performing better, with more inclusive policy and better social support, some countries haven’t recognised it. It was also found that Germany performed better than other countries. Other problems are that there is a lot of definitions of healthcare workers and that all workers do not have an access to personal protective equipment. The collecting of robust data is one of the best practices pinpointed by the study, because it is not possible to establish with accuracy how many workers are being infected in which occupational groups are at higher risk. There is also an increased need for broadening the list of occupational diseases. Health and safety committees should take this as an opportunity to advocate for things such as paid time-off while waiting to be tested.

Debates and conclusion

At the EU level, systems are varied but similar. The problem that remains is establishing a causality link between the disease and the workplace. Are definitions and models of recognition of occupational diseases sufficient? Should Covid-19 be placed in the list of occupational disease as a separate disease? Dialogues with the EU are also needed to make the recognition of Covid-19 as an occupational disease or improvements in prevention measures more homogeneous. Preventive measures, including testing and easy access to vaccination, should be set up at all levels. Sector-based approaches are needed, as some professionals are more exposed to Covid-19 in their workplace. Moreover, even though workers are protected, Covid-19 should be recognised as an occupational disease. The definition of the clinical symptoms of Covid-19 might be broadened to include long-term effects and consequences, which are not well known. Participants have also underlined the excessive time that recognition procedures take, which should be shortened and framed at the pan-European or national level with pressure from trade unions, and the countries’ different approaches for considering Covid-19 as an occupational disease. Trade unions might also play a lever role to improve compensation regimes; so far, all employers cannot make their employees’ conditions secure. The need for data and quantification based on social science methods was also brought up. Finally, a consensus was reached on raising awareness about recognising Covid-19 as an occupational disease for opening public debates.