COVID

AS AN OCCUPATIONAL DISEASE

EPSU
EUROPEAN PUBLIC SERVICE UNION

A REPORT FOR EPSU BY TRADE UNION JOURNALIST
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PREFACE

In March 2020 Europe and most of the world went into lockdown. We discovered what a dreadful disease COVID-19 is, disrupting our work and our lives. Millions have been infected with many so seriously ill that they end up in hospital and possibly in intensive care. COVID has killed fellow workers and loved ones but affects many more even if in lesser forms. After recovering from the worst effects many face tiredness, loss of taste and smell and other symptoms for months afterwards.

Workers should be able to take time off to recuperate without having to worry about facing financial ruin. However, many are left without sufficient protection in the first months of the pandemic and have no other option but to come to work to care for children, the elderly, the sick or the dying. COVID should be recognised as occupational disease, and that should not depend on the country you are working and living in. EPSU and Europe's unions have demanded the European Commission take action on this but so far it has failed to do so.

With this report we want to give a new impulse to that discussion. The report gives an overview of the situation in various countries and what has already been done by some governments. There is no excuse for other governments not to take similar action. Employers and governments have demanded that workers continue to work

in dangerous circumstances to keep public services and other vital work going. Many workers have died, thousands just in health and social care. Health and safety has been compromised and it is time for governments to step up.

The EPSU Executive Committee of November 2020 stressed that this is key demand. It is part of our post-COVID strategy to contribute to fundamental economic and social change. We want to:

- improve the organisation and funding of public health and social services to deliver on the human right to health and care;
- increase the funding of and investment in public services in general to contribute to a socially just society;
- ensure the funding of the recovery and use of funds are in line with the Green and Social Deal and conditionalities related to collective bargaining and tax compliance;
- stabilise public finances in the longer term based on tax justice and no return to austerity policies;
- strengthen collective bargaining and social dialogue and the rights of public service workers and trade unions;
- address new ways of working; and
- work for proposals for a reset for the Eurozone, European Union and the broader Europe.

These demands are crucial to have a future for all. Public services will be key to deliver that future. It can not be delivered without improved health and safety for public service workers.

JAN WILLEM GOUDRIAAN
EPSU General Secretary

1. INTRODUCTION

Millions of people are suffering ongoing, often disabling, symptoms after being infected with Covid-19[1]. Long Covid can last for many months, affecting workers' health, their ability to work, and their income, and is therefore a key trade union issue, according to the EPSU public service union.

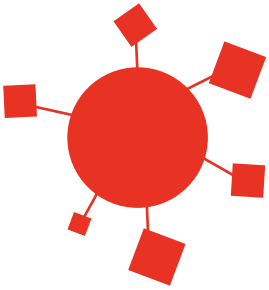
It is demanding governments be required to officially recognise Covid-19 as an occupational disease and provide appropriate care and compensation for workers who become infected as a result of their work.

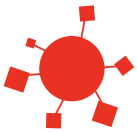
Across Europe, workers have put their lives on the line, exposing themselves and their households to this deadly virus. Data collated and analysed by Amnesty International show that by March 2021 there had been more than 4,100 Covid-related deaths among health and social care workers alone. Even this figure is likely to be a huge underestimate due to under-reporting[2].

Yet the vast majority are putting themselves at risk without the security of knowing that if they contract Covid-19 in carrying out their essential work they will be protected. This is profoundly unfair, says EPSU. It is calling for:

- official recognition of Covid-19 as an occupational disease;
- government reporting and recording of work-related cases; and
- the creation of compensation schemes to cover victims of work-related Covid-19 illness, including long Covid, and their families.

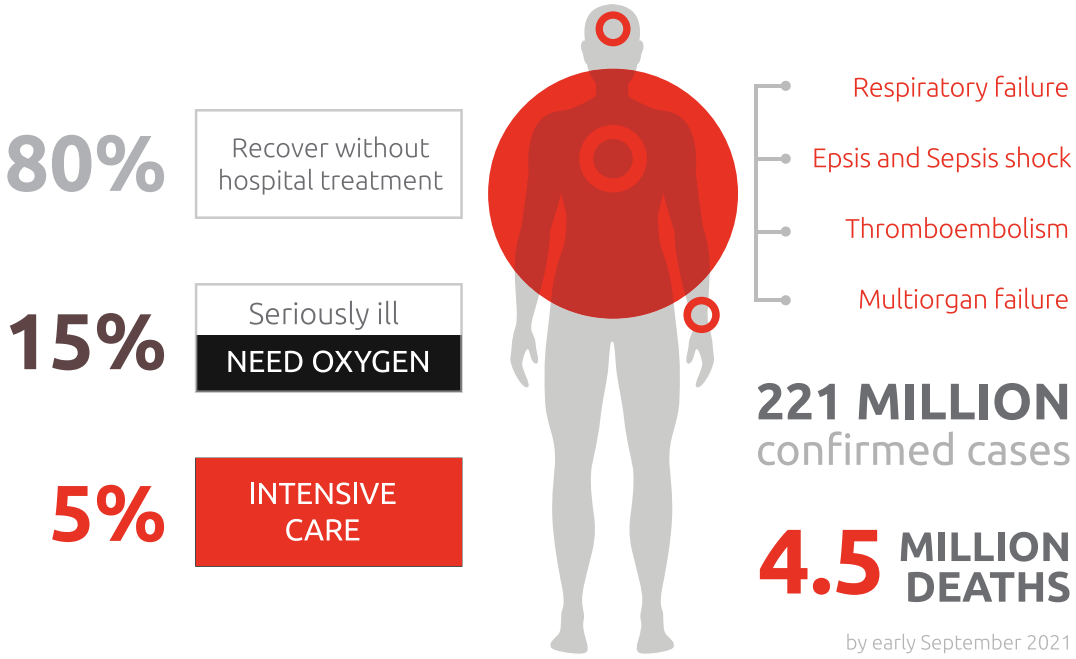
2. BACKGROUND





Covid-19 is the disease caused by the new SARS-CoV-2 coronavirus, first reported to the World Health Organization (WHO) on 31 December 2019 from Wuhan, China. The most common symptoms are fever, dry cough and fatigue.

Although most people (around 80 per cent) who develop symptoms recover without needing hospital treatment, around 15 per cent become seriously ill and require oxygen, and five per cent become critically ill and need intensive care. Complications – including respiratory failure, sepsis and septic shock, thromboembolism, and multiorgan failure – can be fatal[3]. By early September 2021, there had been more than 221 million confirmed cases of Covid-19 across the world and more than 4.5 million deaths[4].



Moreover, the data on cases and deaths provide only a partial picture of the impact of Covid[5]. Many people struggle to recover from the acute infection, suffering often disabling symptoms that can last for weeks or even months. These symptoms are known as long Covid.

A quarter of people who have been infected go on to experience symptoms that continue for at least a month, and one in ten are still unwell after 12-weeks[6]. Studies in Austria and France indicate that two-thirds of those hospitalised with Covid-19 experience persistent breathing problems weeks after being discharged[7].

In April 2021, the FNV Dutch trade union confederation reported that increasing numbers of health and care workers who were infected during the first wave of the pandemic had been ill for more than a year[8]. By March 2021, 140,000 healthcare workers had been infected with Covid-19, 900 had been hospitalised and 30 had died. Of those who were infected with Covid-19 in the first wave, between March and June 2020, 90 per cent said they were experiencing physical and mental health problems. More than a quarter (27 per cent) said they were also suffering, or expected to suffer, financial difficulties, losing as much as 30 per cent of their salary[9].

And in June 2021, the TUC UK trade union body reported the results of an online survey of more than 3,500 people. Around 3,300 reported having long Covid and almost three in 10 (29 per cent) had been experiencing symptoms for 12 months or longer[10]. The majority (79 per cent) were *"key workers"*: people who faced higher levels of exposure to Covid-19 while keeping the country running during the pandemic.

Yet millions of frontline workers who have been infected with coronavirus at work are being left without the right to financial compensation and other protections because their governments do not officially recognise Covid-19 as an occupational disease. This is despite mounting evidence that many groups of workers face a higher risk of Covid infection because of their job.

An Office for National Statistics (ONS) analysis of almost 8,000 deaths involving Covid-19 in England and Wales, for example, found

significantly higher rates among health and social care workers including nurses. There is also evidence that some groups of health and essential workers have been disproportionately affected by the pandemic and have experienced higher levels of infection and death. They include UK health workers who identify as black, Asian or minority ethnic[11].

This lack of support is completely unacceptable, particularly as many workers have contracted Covid-19 because governments and employers failed to keep them safe. There have been widespread reports about the lack of personal protective equipment (PPE) in many countries and as early as March 2020, EPSU highlighted shortages of PPE in Europe and demanded better protection for healthcare workers[12].

3. THE CASE FOR RECOGNISING COVID-19 AS AN OCCUPATIONAL DISEASE

An occupational disease is a health condition or disorder caused by the work environment or work-related activities. In many countries, workers are eligible for enhanced social protections and entitlements including paid medical expenses, long-term care costs, and compensation for lost wages where working conditions lead to illness. However, establishing a causal link between Covid infection and the workplace can be more difficult than other diseases because the virus is also circulating in the community. The burden of proof often falls on the worker, who must show medical evidence linking the infection directly to the workplace.

EPSU argues that where someone's work activities place them at risk of exposure to coronavirus, which is higher than that for the general population, Covid-19 should be recognised and compensated as an occupational disease. The inclusion of a *"rebuttal presumption"* in the case of Covid-19 infections will mean that exposure will be presumed to have arisen out of a person's work[13].

Defining cases of Covid-19 as being of occupational origin is important not only for ensuring that workers are properly compensated, but also for monitoring trends, comparing burdens and risks, and learning lessons for prevention[14].

A June 2021 European Trade Union Institute (ETUI) webinar on Covid-19 as an occupational disease, heard that Covid has been

seen as a public health, rather than occupational health, concern in a number of countries. As a result, there has been a missed opportunity in terms of using the hierarchy of prevention and controls set out in health and safety laws to protect workers from Covid infection[15].

EPSU has been calling for Covid-19 to be recognised as an occupational disease from the early days of the pandemic[16]. In April 2021, to mark International Workers' Memorial Day, EPSU, its sister European trade union federations, and the ETUC European trade union confederation sent a joint letter to European commissioner for jobs and social rights, Nicholas Schmit, pointing out that *"millions of workers continue to work hard to keep society functioning"*.

"They are going to work and exposing themselves and their households to this deadly virus," they added. *"Yet the vast majority are doing so without the (limited) security of knowing that if they contract Covid-19 in carrying out their essential work they will be protected. This is profoundly unfair. Workers need official recognition of Covid-19 as an occupational disease. Governments must be required to report and record work-related cases. Compensation schemes need to be set up to cover victims of work-related Covid-19 sickness and their families."*

Official recognition of Covid-19 as an occupational disease is particularly vital for workers suffering long Covid symptoms.

4. THE INTERNATIONAL LEGISLATIVE FRAMEWORK

The International Labour Organisation (ILO) says that infection by Covid-19, if contracted as a result of work, could be considered as a work or employment injury. These injuries fall under the scope of two ILO conventions – the Employment Injury Benefits Convention, 1964 (No. 121) and the Social Security (Minimum Standard) Convention, 1952 (No. 102) – and include industrial accidents and occupational diseases.

The ILO makes clear that workers who are infected by Covid-19 as a result of their work should be entitled to health care and, to the extent that they are incapacitated for work, to cash benefits or compensation, as set out in Conventions 102 and 121. Dependent family members, including spouses and children, of those who die from Covid-19 contracted in the course of work-related activities should be entitled to cash benefits or compensation, as well as a funeral grant or benefit[17].

The ILO Employment Injury Benefits Recommendation, 1964 defines an occupational disease as a *"disease known to arise out of the exposure to substances or dangerous conditions in processes, trades or occupations"*. It further states that *"there should be a presumption of the occupational origin of such diseases where the employee (a) was exposed for at least a specified period; and (b) has developed symptoms of the disease within a specified period following termination of the last employment involving exposure"*.

5. THE EUROPEAN UNION (EU) LEGISLATIVE FRAMEWORK

5.1 Recommendation on occupational diseases

European recommendations allow the EU institutions to make their views known and to suggest a line of action, but do not impose any legal obligation on member states and have no biding force[18].

Article 1 of the Commission Recommendation 2003/670/EC concerning the European schedule of occupational diseases[19] says that, without prejudice to more favourable national laws or regulations, member states should:

- introduce the European schedule in Annex I (see below) as soon as possible into their national laws, regulations or administrative provisions concerning scientifically-recognised occupational diseases liable for compensation and subject to preventive measures;
- take steps to introduce the right to compensation in respect of occupational diseases if a worker is suffering from an ailment which is not listed in Annex I, but which can be proved to be occupational in origin and nature, particularly if the ailment is listed in Annex II (see below) into their national laws, regulations or administrative provisions;
- develop and improve effective preventive measures for the occupational diseases mentioned in the European schedule in Annex I;
- ensure that all cases of occupational diseases are reported and progressively make their statistics on occupational diseases

compatible with the European schedule in Annex I, so that information on the causative agent or factor, the medical diagnosis, and the sex of the patient is available for each case of occupational disease;

- introduce a system for the collection of information or data concerning the epidemiology of the diseases listed in Annex II and any other disease of an occupational nature;

- promote research in the field of ailments linked to an occupational activity, in particular the ailments listed in Annex II and the disorders of a psychosocial nature related to work; and

- promote an active role for national healthcare systems in preventing occupational diseases, particularly by raising awareness among medical staff with a view to improving knowledge and diagnosis of these illnesses.

Annex I contains the European schedule of occupational diseases. The diseases mentioned in this schedule must be linked directly to the occupation and include:

- Infectious or parasitic diseases transmitted to man by animals or remains of animals; and

- Other infectious diseases caused by work in disease prevention, health care, domiciliary assistance, and other comparable activities for which a risk of infection has been proven.

Annex II contains an additional list of diseases suspected of being occupational in origin, which should be subject to notification, and which may be considered at a later stage for inclusion in Annex I to the European schedule. These include infectious and parasitic diseases not described in Annex I.

5.2 The Biological Agents Directive

The Biological Agents Directive (2000/54/EC)[20] concerns the protection of workers from risks related to exposure to biological agents at work.

Directives require EU countries to achieve a certain result but leave them free to choose how to do so. EU countries must adopt measures to incorporate – or transpose – them into national law to achieve the objectives set by the directive and communicate these measures to the European Commission. Transposition must take place by the deadline set when the directive is adopted, generally within two years. When a country does not transpose a directive, the Commission may initiate infringement proceedings[21].

As a result of a 2020 revision, the Biological Agents Directive now includes the SARS-CoV-2 virus which causes Covid-19. Biological agents are listed and ranked in four groups from the lowest danger (group 1) to the highest (group 4).

Trade unions argued that SARS-CoV-2 should be included in the highest risk group 4. A group 4 biological agent is one that causes severe human disease and is a serious hazard to workers; it may present a high risk of spreading to the community; and there is usually no effective prophylaxis or treatment available.

Instead, the Commission included SARS-CoV-2 in group 3. A group 3 biological agent is one that can cause severe human disease and present a serious hazard to workers; it may present a risk of spreading to the community; but there is usually effective prophylaxis or treatment available.

6. OFFICIAL RECOGNITION OF COVID-19 AS AN OCCUPATIONAL DISEASE – THE PICTURE ACROSS EUROPE

The Organisation for Economic Cooperatiion and Development (OECD) has ranked Sweden, Spain, Austria, Germany and France as the "top five" countries in terms of government-level support and recognition for Covid-19:

SWEDEN

Acted quickly to make changes to its laws in April 2020, providing wage replacement and medical treatment for workers forced to self-isolate.

GERMANY & NORDIC COUNTRIES

Existing legislation on infectious diseases means that workers who contract Covid-19 have automatic access to sick leave, wage replacement and medical care. No formal change was needed to the legislation to support workers.

SPAIN

Adopted an urgent measure to allow Covid-19 to qualify as an occupational disease, including for self-employed people. It provided workers with wage replacement for periods of infection and recovery.

FRANCE

Covid-19 is automatically treated as an occupational disease for care workers who are exposed to the virus at work. The link to work is still required, but France also extended the definition of care work to cover all care workers, including those providing transport for the sick; administrative staff in the care sector; and staff in social and medico-social establishments[23].

AUSTRIA

Legislators made changes to the country's Epidemic Act of 1950 to include Covid-19 on 15 March 2020, so workers would continue to receive pay when recovering from the virus at home.

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- Spain adopted an urgent measure to allow Covid-19 to qualify as an occupational disease, including for self-employed people. It provided workers with wage replacement for periods of infection and recovery;

- Austrian legislators made changes to the country's Epidemic Act of 1950 to include Covid-19 on 15 March 2020, so workers would continue to receive pay when recovering from the virus at home;

- In Germany and the Nordic countries, existing legislation on infectious diseases means that workers who contract Covid-19 have automatic access to sick leave, wage replacement and medical care. No formal change was needed to the legislation to support workers; and

- In France, Covid-19 is automatically treated as an occupational disease for care workers who are exposed to the virus at work. The link to work is still required, but France also extended the definition of care work to cover all care workers, including those providing transport for the sick; administrative staff in the care sector; and staff in social and medico-social establishments[22].

The Eurostat European statistical office says most European member states recognise Covid-19 as an occupational disease, but the ETUI, based on exchanges between national experts, says the situation is *"complex and contrasted"* [23]. For example, it reports that if *"Covid-19 meets the conditions to be considered an occupational disease in Spain, it is treated as an accident at work in Italy"*. In France, "as a wide range of sectors is excluded, justice procedures became the only path for workers claiming their rights". In Romania, a restricted legislative framework means few cases meet the condition for recognition. In contrast in the Czech Republic, is it not necessary for workers to provide proof that the disease actually arose in direct connection with the performance of work[24].

In the UK, because Covid-19 is not included in the *"closed"* list of rec-

ognised occupational diseases, workers cannot claim compensation through the country's *"no fault"*, non-contributory industrial injuries disablement benefit (IIDB) scheme. The TUC says a recommendation by the Industrial Injuries Advisory Council on Covid-19 prescription is expected[25]. Ireland does not recognise Covid-19 as an occupational disease, although again this is under review.

In Greece, the recognition criteria of occupational diseases is also based on *"closed"* list of specific diseases. Legislation was enacted in 2012 in compliance with European Recommendation 2003/670/EC (see 5.1). This includes biological agent SARS virus (Coronavirus) and reported disease Severe Acute Respiratory Syndrome. According to occupational and environmental medicine specialist Dr Vrontakis Konstantinos, this suggests Covid-19 is eligible for recognition as an occupational disease, particularly in health care workers[26]. In December 2020, a presidential decree classified the SARS-CoV-2 virus in *"risk group 3"* of biological agents (see 5.2). However, there are no official records for cases of Covid-19 in relation to their occupational origin in Greece, no Covid-19 cases have been recognised as an occupational disease to date, and no medical report or worker's complaint has been registered for SARS-CoV-2 infection due to occupational exposure, Konstantinos reported.

Similarly, while Covid-19 could be recognised as an occupational disease under the systems in Bulgaria and Malta, no cases had been recognised to date. In Finland and Sweden, the picture is more positive and outlined in more detail in the Appendix. This describes the official recognition of Covid-19 as an occupational disease in more detail in several European countries.

7. EPSU'S DEMANDS

EPSU says workers must be able to focus on recovering, not worrying about whether they will face financial ruin for getting sick at work.

The European Commission must revise Commission Recommendation 2003/670/EC to specifically include Covid-19 as applying to all workers who have been disproportionately exposed to infection. In its current form, the Recommendation does not adequately cover the different groups of workers exposed to Covid-19 as an occupational risk.

The Commission should introduce a new code specific to Covid-19, or enlarged to include pandemic diseases, to Annex 1 of the Recommendation.

As indicative – but not exhaustive – guidance, it should include a preliminary list of occupations including workers in health and social care, education, the emergency services, the justice system, transport and utilities.

Recognition should include all groups of workers including those on agency and zero-hour contracts. It should also cover Covid-19 infections on journeys to and from work and in employer-provided accommodation.

At national level, governments must amend their occupational disease systems to include a rebuttal presumption. This would mean that where a work assignment places a worker at risk of exposure to coronavirus, which is higher than that for the general population, Covid-19 is recognised and compensated as an occupational disease. The inclusion of a rebuttal presumption means the exposure will be presumed to have arisen out of a person's work.

Recognition of Covid-19 as an occupational disease must include providing compensation and other support for workers suffering long Covid symptoms, regardless of whether they have tested positive for Covid-19. Many of those infected in the early stages of the pandemic, and still suffering with long Covid symptoms, did not have access to tests.

APPENDIX:
COUNTRY SUMMARIES

Austria

Infection of SARS-CoV-2 has been considered as a disease under the Epidemic Act 1950 (Epidemiegesetz) since March 2020. A worker suffering from the condition continues to be paid by the employer. The employer receives a subsidy from the AUVA social insurance for occupational risks[27].

Belgium

Fedris, the Belgian federal agency for occupational risks announced in May 2020 that Covid-19 would be recognised as an occupational disease. This was already the case for workers in the health sector who were at risk of contracting the virus at work. The recognition extended to all workers in essential sectors. The risk of being infected while carrying out their work will be compensated by Fedris[28].

Czech Republic

By 4 January 2021, there were more than 50,000 confirmed Covid 19 cases in healthcare. Of 6,500 patients, 1,350 were doctors and 2,900 nurses. Thirty one people had died, including 14 doctors and eight nurses. By 7 January 2021, 598 doctors, 1,651 nurses and 1,217 other healthcare workers had tested positive for Covid (through PCR tests).

For Covid 19 to be recognised as an occupational disease under current legislation, the following conditions must be met:

- Clinical manifestation of the disease – symptomatic illness – must be confirmed by laboratory examination and investigation of the work conditions described in the list of occupational diseases in government regulation No. 290/90; and

- Verification of work conditions associated with risk of infection – there must be a higher probability of Covid transmission during the actual performance of work activities than during the usual performance of work.

Proof that the disease actually arose in direct connection with the performance of work, for example through contact with a specific person, is not necessary. This is presumed for groups including healthcare professionals; social services workers; teachers; and members of the police, army and fire brigade, where the transmission of infection through risky contact with a person during the performance of their work cannot be completely ruled out.

This does not apply to other occupations including administrative work, sales, and manufacturing, where compliance with anti-epidemic measures is not expected to be more likely to spread Covid than in the general population.

So, for example:

- if a health care provider or non-medical person, such as a social worker, police officer or firefighter, with suspected Covid-19, became ill and had a laboratory-confirmed diagnosis of Covid 19; and

- during the incubation period of this disease, they had close professional contact with a patient or other person with proven Covid 19 positivity during the incubation period of that patient or other person or at the time of the manifestation of the disease,

the criteria for an occupational disease would be met.

Working with infectious material, in the case of a laboratory worker or hospital cleaner for example, is also considered a risk of infection.

By 21 January 2021 Covid 19 as an occupational disease had been confirmed in 153 people (129 healthcare professionals, 22 social care professionals and two people in other occupations). The number of applications for recognition of Covid 19 as an occupational disease was rising sharply[29].

At the June 2021 ETUI webinar, Charles University professor Milan Tuček reported that the Czech Republic had recognised 370 Covid-19 cases as an occupational disease – particularly in health and social care.

Employee benefits offered through the social insurance and employer-liability system include salary compensation, compensation for pain and social disability, reimbursement of medical expenses, compensation for property damage, and if the employee dies as a result of occupational disease, their dependents are compensated[30].

Denmark

In April 2020, the Danish FOA union welcomed recognition of Covid-19 as an occupational disease and the relaxation of the process for proving infection as a "huge victory". It was already clear that workers in hospitals and care homes were covered, but the relaxation meant more groups of workers could be included, including day care workers, parking attendants, and others who come into regular close contact with the public. Proof of risk of infection is based simply on a description of the work and the extent of contact with the public[31].

Ministry of Employment guidance makes it clear that employees infected by Covid-19 can have their illness recognised as an occupational injury – either as an occupational disease or a work accident. It must be probable that the affected person was exposed to a specific infection during work or was exposed to infection for a period in connection with his or her work.

The benefits provided for by the Workers' Compensation Act include:

- Reimbursement of costs for medical treatment, retraining and aids;
- Compensation for permanent injuries;
- Compensation for loss of earning capacity;
- Transitional surviving spouse's allowance on death;
- Compensation for the loss of a breadwinner; and
- A special allowance for survivors in the event of death caused by wilful misconduct or gross negligence[32].

Finland

Covid-19 is not included in the list of chemical, physical and biological agents in the Decree on Occupational Diseases in Finland. However, at the June 2021 ETUI seminar, SAK central organisation of Finnish trade unions medical advisor Riitta Työläjärvi explained that this list is indicative rather than exhaustive and Finland had accepted 304 out of 355 cases as occupational diseases. In total, there were around 92,000 verified cases of Covid-19 (to 25 May 2021).

Finland has a system of compulsory insurance for all employers, covering all workers and adminstered by private insurance companies.

Ninety per cent of accepted occupational diseases cases have come from the health and social care sector, most of them nurses. There had been only one verified occupational disease case involving a death.

There is no limit on the amount of compensation nor, in most cases, time limits on compensation. The benefits generally include payment of full loss of income, full compensation for medical and other costs and expenses, and medical and vocational rehabilitation. In the case of death, compensation includes a pension for surviving family members.

Self-employed people are covered by the scheme as long as they have opted to take out personal insurance against occupational accidents and diseases. This is identical to the compulsory workers' compensation insurance for employees. However, not all self-employed people choose to take out this insurance.

In order to qualify for compensation, the worker must have a positive diagnosis through a polymerase chain reaction (PCR) test. There must have been close prior contact with a Covid-positive person at work – both the worker affected and the employer must fill in a notice for the insurance company, confirming a verified exposure at work within 14 days prior to the positive Covid-test. The claim process is straightforward and a decision, with payment, is usually made within 30 days.

During the first weeks of pandemic in spring 2020, there was a shortage of testing kits and some people who were infected with Covid-19 at work may have not been able to get a verified diagnosis, although there are other routes for seeking compensation and treatment in Finland. In addition, the psychological or mental health impacts of Covid-19 are not included in the occupational disease compensation system.

Työläjärvi says that migrant workers in precarious construction and agricultural jobs, for example, face barriers in accessing compensation for Covid-19 as an occupational disease. This is due to lack of coverage of occupational health services and lack of information about preventative and treatment services, testing, and the right to insurance compensation. Language problems and job insecurity may mean they are unwilling to submit the required notice for a suspected occupational disease. If the Covid infection is judged to have taken place in shared housing facilities provided by the employer, rather than directly at work, it is not classified as an occupational disease.

She also reported that few long Covid cases have been accepted as an occupational disease, with no pensions paid out for long Covid to date.

With increasing evidence about the importance of airborne transmission through aerosols, rather than droplet transmission, and the emergence of more virulent variants, Työläjärvi believes Finland may need to re-evaluate its "close-contact" criteria for recognising and compensating Covid cases as occupational diseases in the future.

France

Between 1 March 2020 and 8 February 2021, 67,871 healthcare workers were infected by Sars-CoV-2 in France. Nineteen deaths were registered: five doctors, five assistant nurses, one nurse, two classified as "other healthcare workers" and six non-health workers, including a service technician. In April 2020, health minister Olivier Véran announced that Covid-19 would be "systematically and automatically recognised as occupational disease for the health care workers" and other workers would be subject to "classic recognition"[33].

As a result of a September 2020 decree, Covid-19 is automatically treated as an occupational disease for health care workers who contract the disease while caring for patients with the virus or have otherwise been in contact with the virus in the course of their work. The disease must become apparent within 14 days of the contact, and it must be medically diagnosed in order to be compensated as an occupational disease. For non-care workers, cases go to a Covid-19 recognition committee for a decision. To be recognised as an occupational disease, the worker must have been affected by a severe form of the virus[34].

This means that employees in sectors such as retail, transport and cleaning must run "the medico-administrative marathon" of the complementary system of recognition of their disease. This system requires their disease is severe – at least 25% incapacity – and they must demonstrate a "direct and essential" link between their disease and their occupational exposure. A national committee, composed of a hospital occupational diseases consultant and a social security practitioner, will decide[35].

The decree defines specific criteria for the recognition of Covid-19 as an occupational disease, including Covid-19 cases requiring oxygen therapy, ventilatory assistance, or cases resulting in death[36].

At the end of December 2020, 15,000 applications for recognition of occupational disease had been registered by the social security system. The complementary occupational disease recognition system had received just 33 files[37].

Generally, the system does not recognise Covid-19 infections as an accident at work. However, these have been recognised as such among nurses and anaesthetists who were infected following the intubation of patients in the public healthcare system[38].

Recognition as an occupational disease includes health care costs being covered for up to 100% of health insurance rates and an indemnity (pension or capital) paid in the case of permanent disability. A pension is paid in the event of death. Compensation for self-employed health professionals who do not benefit from coverage for occupational diseases is paid by the state[39].

Germany

The recognition of a COVID-19 disease as an occupational disease requires the person to have worked in the health service, welfare service or in a laboratory, or been exposed to a similar risk of infection through another activity.

If infection occurs outside of these areas of activity, the illness can constitute an occupational accident based on current knowledge of the spread of Covid. In terms of whether the prerequisites for the recognition of a Covid-19 as an occupational accident are met, each individual case must be examined and evaluated by the competent statutory accident insurance institution[40].

Three basic conditions must be met:

- the employee must have had contact with a person infected with SARS-CoV-2 in the course of an occupational activity (the

"index person"),

- they must have relevant symptoms such as coughing or fever; and
- they must be able to show a positive PCR test[41].

Where an illness is recognised as an occupational disease, statutory accident insurance covers the costs of treatment as well as medical, occupational and social rehabilitation. It can pay a pension in the case of reduced earning capacity, and in the case of death, a survivor's pension is paid. The allowance can be paid for 78 weeks by the professional or insurance organisation[42].

Ver.di German united services union negotiator Armin Duttine told the June 2021 ETUI webinar that recognition of Covid-19 as an occupational disease in Germany is limited. It does not cover education workers, for example, even though the AOK insurer has published figures showing nursery workers have high levels of Covid-19 infection. Although workers can self-report, it is difficult to prove their infection was work-related outside health and welfare. They must identify an "index person" for example.

There had been around 150,000 claims for Covid-19 infection as an occupational disease and around half these cases were recognised as occupational diseases or work accidents. Covid was recognised as an occupational disease in the Tonnes meat processing plant outbreak, for example[43].

Italy

Italy was also hit hard in the early stages of the pandemic, with more than 2.7 million confirmed cases by February 2020 and 93,577 deaths. At this point, it had the seventh highest number of Covid victims.

The Italian INAIL insurance institute against accidents at work classifies infectious diseases as accidents at work. If Covid 19 was contracted while at work, it is classified as an accident at work and not as an occupational disease.

INAIL insurance protects those including employees who have an employment contract, their dependants, professional sportsmen and women, managers and students. In the current pandemic situation, protection is focused mainly on health workers exposed to a high risk of contagion and other workers in frequent contact with the public. These include people who work in reception areas, cashiers, sales staff, market stall holders, and those who work in hospitals as technicians, support staff, cleaners and ambulance drivers.

More than 131,000 accidents were reported to INAIL including 433 deaths, mostly during the first wave of the pandemic. Most deaths were among technicians, nurses and doctors, as well as social workers and auxiliary health workers including porters, carers, toxicologists and pharmacists.

When there is a confirmed case of SARS-CoV-2 in the workplace, the doctor writes an accident certificate and sends it to INAIL. The information is also sent to the public hygiene and safety prevention at work service, which is responsible for making sure prevention is carried out in the workplace. The labour inspectorate also has duties to ensure safe working conditions in specific production sectors. Inspectors carry out an investigation. They may order safety improvements and a prosecution could result from their investigation.

Accident cover starts from the first day of absence from work because of infection as indicated in the medical certificate, or from the first day of absence from work coinciding with the start of the period of quarantine if the infection is confirmed after the start of quarantine.

Insurance cover is also guaranteed in cases where the precise identification of cause and condition of Covid 19 infection is problematic. The origin is assumed to be work-related, taking into consideration evidence including the type of work. As well as people working in the health service, the assumption that people infected with Covid 19 in their place of work is also valid for those in frequent contact with members of the public. In other cases, the burden of proof lies with the worker without the benefit of these presumptions.

Cases of infection during journeys to or from work are also covered. These are considered commuting accidents.

INAIL pays workers whose health is compromised as a result of Covid 19 an income or compensation on the resulting disability. In the case of death, the worker's family receives a one-off payment from a fund for victims of serious work-related accidents. This assistance is also given to workers who are not insured by INAIL.

In Italy, discussion is not so much about recognising Covid-19 as an insurable occupational disease rather than an accident at work, but about ensuring the same protection is extended to millions of workers who are not currently covered by INAIL insurance[44].

Norway

Covid-19 with severe complications was added to the compensated occupational disease list in March 2020[45].

Spain

The pandemic hit Spain hard. By 12 January 2021, there had been more than two million confirmed cases of Covid-19 in Spain and more than 50,000 deaths[46]. Healthcare workers were particularly badly affected, making up 22% of cases notified to the Spanish epidemiology surveillance system in the first wave of the pandemic between March and May 2020, when there were severe shortages of PPE.

The recognition of Covid-19 as an occupational disease has been evolving since March 2020, when sick leave caused by Covid-19 was considered to be a common disease as defined in Royal Decree-Law 6/2020[47]. In early 2021 the Spanish government approved a decree recognising Covid-19 as an occupational disease for health and social health professionals infected on duty. The new standard allows doctors, nurses and other employees in the sector affected by Covid-19 and its consequences to access an economic benefit that extends to their entire working life[48].

Sick pay is higher for workers where it is work-related – whether recognised as an occupational disease or a work accident – with "major benefits" regarding both temporary and permanent incapacity[49].

Where their illness is classified as an occupational disease, rather than a work accident, a worker has the right to be transferred to another job in the same company on the same salary. In addition, benefits for the after-effects of the disease, permanent incapacity or death are payable even after death. They do not expire, whereas for work accidents they are statute-barred after five years[50].

Sweden

Umeå University senior professor in occupational and environmental medicine, Bengt Järvholm, told the June 2021 ETUI seminar that Covid-19 was added to the list of officially-recognised occupational diseases in Sweden on 25 April 2020.

There are two systems of insurance in Sweden. The first is a legal, or social welfare, insurance system that covers everyone and provides compensation for loss of income for workers who are injured or become ill as a result of their work. It also pays compensation to relatives of deceased workers.

There is also a collectively agreed insurance system – agreed between unions and employers. This covers around 90% of workers and pays compensation for loss of income, as well as inconvenience. In the case of an occupational disease, it only kicks in after 180 days. It also pays a pension to relatives.

In order to receive compensation for a recognised occupational disease through either of these systems, workers must have been infected in a laboratory or in health or social care, and their work must be the predominant reason for their infection.

Between February 2020 and April 2021, around 20,000 cases of Covid-19 as an occupational disease were notified to the legal system and around 10,000 to the collectively-agreed system.

However, the evaluation process only begins a year after notification so there had been few evaluations to date. Of the 59 cases involving living workers evaluated so far, 58 were rejected because they were not suffering a loss of income after a year. One was rejected on the basis that the worker had not been infected at work in a laboratory, health care or social care – he was a postman.

Eighteen deaths had been evaluated. Only five were accepted as occupational disease cases and these were all health care or hospital workers. Thirteen other cases involving bus drivers, a cleaner, project manager, engineer, parcel/postal delivery worker and a warehouse worker were all rejected.

No Covid-19 cases had been classified as an occupational accident, but an insurance company employee has suggested that, for example, a police officer who is bitten while making an arrest and develops Covid as a result would be compensated.

Professor Järvholm believes that few notified living Covid cases will be compensated through the legal system as they will not be suffering from a loss of income due to incapacity after a year. However, he thinks some of those affected by long Covid may be recognised as having an occupational disease and be compensated through the collectively-agreed insurance system in the future.

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