**Rapport from Finland to IAJ, the 4th Study committee 2013**

**Disabilities and occupational diseases**

1. *What are the causes which give the right to the income replacement indemnities that are paid as a result of an inability to work?*

   The causes are illness and accident. Also handicap may be the reason for payment income replacement indemnities.

   Maternity leave for having a baby and also paternity leave give right to get indemnities. When under 10 years old child is sick, one of the parents has the right to stay four days at home with the child in order to take care of the child.

2. *Does it make a difference whether the inability is caused by a handicap, illness or accident (as a result of a professional activity or not)?*

   Inability may be caused by handicap, illness or accident and still there are possibilities for indemnities. There are differences in the amount of indemnities and also which authority pays the indemnities.

3. *Does the employer need to take care of all or part of the compensation for incapacity resulting from an occupational disease of one of his workers?*

   In Finland all employees must belong to an obligatory social insurance system. The employer must take insurances for their employees for occupational accidents and occupational diseases. The employers pay the costs of the insurances. The employees of the the state do not have an insurance but they have similar rights in the system of State Treasury.

   *In case of an occupational disease, how is the disease found, recognized and controlled?*

   The situation is examined by the occupational health care doctors and insurance companies. In the case on public sector occupational health care doctors and State Treasury investigate the matter. Also other doctors, Finnish Institute of Occupational Health and other special state officials may investigate the case.

   *How does the worker get the compensation for his occupational disease?*

   The employer applies or helps the employee to apply for the compensation from the insurance company or State Treasury. The compensation is paid by insurance companies or State Treasury. The insurance also covers the medical examination, medical care, advice, rehabilitation and training.

   *Specify the conditions and duration of the compensation.*

   The purpose of the compensation is to give the worker same kind of income as if the person worked. The compensation is four weeks the same as salary. After that the compensation is about 85% of the regular income. The compensation may be also partial if the person can still work. When the person gets 65 years old the compensation is about 70% of the income.
4. Similarly, does the employer have to take care of all or part of the compensation for incapacity resulting from an accident at work of his employee?

The obligatory social insurance system and State Treasury take care of the compensation for employees. The system is similar as in case of occupational diseases.

In case of incapacity resulting from an accident at work, specify the conditions and duration of the compensation.

The compensation is similar as in case of occupational diseases.

If the employer does not take care of the compensation, how is the incapacity to work resulting from an accident at work compensated?

All employers must have the obligatory social insurance for their employees. The employer must take the insurance. If the employer has not taken the obligatory social insurance and an accident at work happens, then the Organization of Accident Insurances pays the compensation.

5. If the illness is not caused by a professional activity, is the worker still entitled to an income during the incapacity to work?

Yes, the obligatory social insurance system takes also care of this compensation.

If yes, to what income replacement indemnity is the worker entitled and who pays for this?

Usually during first 9 days employees get salary and during 9 days the Social Insurance Institution of Finland pays daily expense allowance to the employer. It can be agreed in collective labor agreements that the employer pays salary to the employee for a longer time usually 1-3 months and the Social Insurance Institution pays daily expense allowance during that time to the employer. During about one year the employee may be paid the daily allowance from the Social Insurance Institution. The allowance is about 70% of the income (income level is as it was in the last taxation).

6. What are the conditions to be met by the worker to qualify for an income replacement indemnity? (eligibility: training and payment of contributions for example; conditions for grant: being unable to work and have ceased all activity, for example)?

The worker must inform the employer that he can't work. Then the worker must present medical certificate of his health. If the sick leave is short, the employer may pay the salary to the worker. After that period the employee or the employer must apply for allowance from the Social Insurance Institution of Finland.

If the worker can still work, it may be possible to work part time or do some other kind of work, he may be sent to rehabilitation or training.

7. What formalities must be met by the worker to prove his incapacity to work and have it recognized?

The worker must very soon inform the employer of his incapacity to work and in a proper way to prove it. Sometimes a telephone call to the employer is enough if the sick leave is not more than
1-3 days. The best way is to present a medical certificate that shows the inability to work.

8. How is the amount of income replacement indemnity to which the worker is entitled determined? (for example: a percentage of the lost remuneration)? Does the worker's family situation affect the amount of compensation (whether or not the worker has family members who depend on him for their income for example)?

The income replacement is a percentage of the lost remuneration. It is about 70% of the salary. The family situation does not usually affect the amount of compensation. Widows and minor children may get family pension.

9. Is it possible to cumulate the income replacement indemnity with another income or social benefits?

Sometimes it is possible to cumulate but not always. The replacement indemnity is still the main income.

10. How is the medical control of the incapacity to work done and by whom?

The medical control is usually made by occupational health care doctors. Also the medical control may be made either by doctors working in public sector or private sector. Also Finnish Institute of Occupational Health may control.

11. How is the income replacement indemnity granted and terminated (for example: is it by a decision taken by the control authority and communicated to the worker)?

The replacement indemnity is granted by insurance companies or by State Treasury and the same organizations terminate the replacement. The organizations make decisions.

Is there any appeal against such decisions? Before which court?

The appeal against such decisions is possible. The appeals go to Insurance Court.

12. Does the sick worker have protection against dismissal or is the employer permitted to terminate the employment agreement of sick workers at any time?

The sick worker has protection against dismissal.

13. If the worker has protection against dismissal, please specify this dismissal protection.

Protection against dismissal is stated in legislation: in Employment Contracts Act, Non-Discrimination Act and Occupational Safety and Health Act.

Employees may not be dismissed on the basis of sickness. But if the worker is so sick that he can not do his usual work, he may get some other kind of work. If he can't work at all he may go to sick pension.

If the employee is dismissed, the case can be brought to the court. The trade unions have lawyers who help the employees and also the public legal aid counsels help the employees in a court.
14. Does it make a difference to the dismissal protection whether the worker is unable to work as a result of handicap or chronic illness instead of a «normal illness»?

There are no differences but on the other hand there are special ways to give advice, rehabilitation and training to those who are handicap or chronic ill.

According to the Non-Discrimination Act (21/2004)

Section 5. Improving the access to employment and training of persons with disabilities

In order to foster equality in the contexts referred to in section 2 (1), a person commissioning work or arranging training shall where necessary take any reasonable steps to help a person with disabilities to gain access to work or training, to cope at work and to advance in their career. In assessing what constitutes reasonable, particular attention shall be devoted to the costs of the steps, the financial position of the person commissioning work or arranging training, and the possibility of support from public funds or elsewhere towards the costs involved.

Section 6. Prohibition of discrimination

Nobody may be discriminated against on the basis of age, ethnic or national origin, nationality, language, religion, belief, opinion, health, disability, sexual orientation or other personal characteristics. The prohibition of discrimination based on gender is covered by the provisions of the Act on Equality between Women and Men (609/1986).

Discrimination means:
1) the treatment of a person less favourably than the way another person is treated, has been treated or would be treated in a comparable situation (direct discrimination);
2) that an apparently neutral provision, criterion or practice puts a person at a particular disadvantage compared with other persons, unless said provision, criterion or practice has an acceptable aim and the means used are appropriate and necessary for achieving this aim (indirect discrimination);
3) the deliberate or de facto infringement of the dignity and integrity of a person or group of people by the creation of a intimidating, hostile, degrading, humiliating or offensive environment ( harassment); and
4) an instruction or order to discriminate.

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