

FOCUS on

Recognition of Covid-19 as an occupational injury in nine European countries

This Focus updates the information published by EUROGIP¹ at the start of the pandemic (May 2020) concerning the possibility of recognizing Covid-19 as an accident at work / occupational disease (AW/OD).

Since the first positions taken by occupational injury insurers in the midst of the lockdown, some measures have been refined and others have changed, notably due to the large number of claims for recognition, both by healthcare personnel and by other categories of workers.

Now that the measures have stabilized, it is possible to draw certain conclusions. This Focus also describes the conditions of recognition in nine European countries: **Germany, Belgium, Denmark, Spain, Finland, France, Italy, Luxembourg and Sweden.**

Note that on 18 May 2022, the Advisory Committee on Safety and Health at Work (ACSHW) adopted an opinion² on the need for recognition of Covid-19 as an occupational disease for workers in the healthcare and social service sectors, and in the context of the pandemic in sectors in which the work entails a definite risk of infection. It also supported the planned update of the indicative European schedule of ODs, as announced in the EU Strategic Framework on Health and Safety at Work for the period 2021-2027, so as to include Covid-19 in the list.

1 <https://eurogip.fr/Covid-19-et-assurance-at-mp-dans-8-pays-europeens/> (in French only)

2 <https://eurogip.fr/en/positive-opinion-of-the-acsh-on-the-need-to-recognize-covid-19-as-an-occupational-disease/>

Abbreviations and acronyms used

AAA	Association d'assurance accident (Luxembourg)
AES	Arbejdsmarkedets Erhvervssikring (Denmark)
BGW	Berufsgenossenschaft für Gesundheitsdienst und Wohlfahrtspflege (Germany)
CNAM	Caisse nationale de l'assurance maladie (France)
CPAM	Caisse primaire d'assurance maladie (France)
DGUV	Deutsche Gesetzliche Unfallversicherung (Germany)
FEDRIS	Agence fédérale des risques professionnels (Belgium)
INAIL	Istituto Nazionale per l'Assicurazione contro gli Infortuni sul Lavoro (Italy)
MSA	Mutualité sociale agricole (France)
TVK	Tapaturmavakuutuskeskus (Finland)
AW/OD	accident(s) at work / occupational disease(s)

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Findings

In most of the nine countries covered by this Focus, insurances against accidents at work and occupational diseases (AW/OD) have incorporated infection by SARS-COV-2 in their existing system of recognition of AWs/ODs, without changing the regulations in force.

To initiate the procedure of examination with a view to possible recognition of Covid-19 as an accident at work or an occupational disease, only a positive test is required in most countries except Germany, where at least one relevant symptom is required, and in France, where only the severe forms of Covid-19 can be recognized.

Covid-19 is considered more as an occupational disease than as an accident at work. Note that it can be recognized as an OD and as an AW in Germany depending on whether the worker is a healthcare worker or not, and in Denmark depending on whether the exposure lasted more than five days or not.

Healthcare personnel, in a more or less broad sense depending on the country, everywhere enjoys a legal or de facto presumption of occupational origin (lightening the onus of proof), possibly related to the list of occupational diseases which covers Covid-19 or else related to conditions of recognition which have been specified for the circumstance.

For the other categories of workers not enjoying such a presumption, the onus of proof of the relation between work and infection lies with the claimant, except in Sweden where recognition is reserved exclusively for healthcare personnel and laboratory assistants.

No special compensation scheme has been created. The benefits paid to infected workers are those provided for by general law for occupational injuries: reimbursement of medical expenses for healthcare, daily benefits in cases of temporary disability, lump sum payment and/or pension in cases of permanent disability (provided that a minimum disability rate be attained in most countries³) or death.

While the conditions for recognition of Covid-19 are based on choices made by the insurers, these choices were partially constrained by the national regulations and practices regarding recognition of accidents at work and occupational diseases: existence of an “infectious diseases” category in the national list of occupational diseases, a presumption of occupational origin related to that list, and a complementary off-list system of recognition as an OD.

The systems of recognition of Covid-19 as an AW or OD as described below do not by themselves presage their degree of openness. Only a statistical study covering claims for recognition and cases recognized would make it possible to assess this factor.

3 Most of the countries make compensation conditional on a minimum rate of permanent disability/damage: 33% in Spain, 20% in Germany, 10% in Luxembourg, 6% in Italy, and 5% in Denmark.

Summary table of Covid-19 recognition provisions

Country	Classification	Public concerned	Conditions
GERMANY	OD OD list: BK 3101 (infectious diseases)	Insured working in the health sector, the welfare sector or a laboratory <u>or</u> who have similarly been particularly exposed to the risk in another job	<ul style="list-style-type: none"> • 1 relevant symptom • Professional contact with an infected person
	AW	Other categories of workers	<ul style="list-style-type: none"> • 1 relevant symptom • Identification of the person or group of people who infected the worker
BELGIUM	OD OD list: Code 1.404.03 (other infectious diseases)	Personnel in the healthcare sector who incur a sharply heightened risk of being infected by the virus	Verification of exposure during the work activity
	OD OD list: temporary code 1.404.04	Workers in crucial sectors and essential services, during the lockdown (from 18 March to 17 May 2020)	Impossibility of observing a distance of 1.50 metre with people met in the course of work
	OD OD list: temporary code 1.404.05	Other categories of workers, in the event of a surge in cases in the workplace between 18 May 2020 and 31 December 2021	The causal link is established in the event of a cluster of infection (five people infected) in the workplace
	OD Complementary system ("open")	Other workers	System of proof of the causal link between work and the disease, incumbent on the worker
	AW	Other workers	In the case of an infection event that can be proved (such as "spit")
DENMARK	OD OD list: H2 (infectious diseases in humans)	All categories of workers In case of exposure to the virus for more than five days	<ul style="list-style-type: none"> • Study of actual exposure to the virus in the workplace • Presumption of massive exposure for healthcare personnel
	AW	All categories of workers In the case of a particular incident or increased real risk during at most five days	<ul style="list-style-type: none"> • Less significant presumption for workers in contact with the public • No presumption for other workers

Country	Classification	Public concerned	Conditions
SPAIN	AW	Medical personnel in healthcare institutions	<ul style="list-style-type: none"> • Verification of exposure by the occupational health service • Presumption of occupational origin
		All categories of workers	<ul style="list-style-type: none"> • Work must be the exclusive cause of the infection • Onus of proof on the worker
FINLAND	OD caused by a biological agent	All categories of workers	<ul style="list-style-type: none"> • Healthcare workers: verification of exposure in the workplace, close contact with an infected person, exclusion of infection in the home • Other workers: identification of the source of the viral infection, mapping of the chain of infection and proof of the probability and primary causal nature of the exposure at work
FRANCE	OD Table 100 (general scheme) and Table 60 (agricultural scheme)	Healthcare personnel	<ul style="list-style-type: none"> • Suffering an acute respiratory form of Covid • Presumption of occupational origin
	OD (complementary system)	Other categories of workers or healthcare personnel suffering from another severe form of Covid	<ul style="list-style-type: none"> • Be suffering from a severe form • Link between work and disease to be proved by the worker
ITALY	AW	Healthcare workers exposed to a heightened risk + Workers in constant contact with the public: checkout counter employees, salespersons, bankers, non-medical hospital personnel in charge of technical and support work, cleaning and patient transport operators, etc.	Presumption of occupational origin
		Other categories of workers	Medico-legal assessment in accordance with the conventional procedure, based on epidemiological, clinical, anamnestic and circumstantial factors

Country	Classification	Public concerned	Conditions
LUXEMBOURG	OD	Healthcare personnel or personnel particularly exposed to similar risks of infection, due to their work	Presumption of occupational disease
		Other public	Proof of having contracted Covid-19 in the workplace, to be provided by the claimant
SWEDEN	OD under the list of infectious diseases	Reserved for persons employed in healthcare services or in other situations where they treat or care for infected people	Investigation concerning the circumstances of exposure
	AW	Reserved for laboratory personnel handling infected substances	

Provisions country by country

Germany

As of the spring of 2020, the occupational injury insurance system stated that cases of Covid-19 infection could be recognized as occupational diseases under the conditions related to section BK 3101 (infectious diseases) in the list of occupational diseases.

The personnel covered by BK 3101 are those working in the healthcare, welfare or laboratories, or was asimilar to risk of infection in the context of another activity.

A few months later, the DGUV (the organization overseeing the nine private-sector insurers and the thirty public-sector insurers) announced that recognition of Covid-19 was extended to workers not covered by BK 3101 as an accident at work.

Recognition of Covid-19 as an OD

Scope of persons insured

See above regarding the personnel covered by BK 3101. For the non-healthcare worker category, a real increase in risk in the entire sector of activity concerned (and not merely at the level of the firm) must have been established epidemiologically.

During the pandemic, the federal Health Minister having called on German clinics to use in particular students and retired personnel, the conditions of coverage for these particular categories were specified:

- Doctors working in private practice or working

for remuneration without a practice are covered by occupational injury insurance provided that they have subscribed beforehand to a voluntary insurance policy with the occupational injury insurance organization for the healthcare sector (*Berufsgenossenschaft für Gesundheitsdienst und Wohlfahrtspflege* - BGW).

- Salaried doctors and other medical/nursing personnel performing their customary work while continuing to be remunerated remain insured as employees.
- Medical students who performed medical tests or treatments to combat the pandemic are covered by the insurance policy of the organization with which they worked as volunteers.

Conditions of recognition as an OD

Section BK 3101 concerns infectious diseases in general and contains no conditions (related to diseases or exposures, for example) apart from those relating to the work covered. The great majority of occupational diseases included in the German list of ODs are listed very concisely, without any recognition criterion, and accordingly without a presumption of occupational origin associated with the list. The link between work and the disease is always investigated on a case-by-case basis.

The BGW⁴ and the DGUV⁵ specified the framework for recognition of Covid-19 as an occupational disease (cumulative conditions):

- Infection by the coronavirus must be proved by a PCR test. Without this, recognition is

4 <https://www.bgw-online.de/bgw-online-de/corona-navigationssebene/coronavirus/berufskrankheiten-anzeige-und-kostenuebernahme-von-testungen-bei-43564>

5 https://www.dguv.de/bk-info/icd-10-kapitel/kapitel_01/bk3101/index.jsp

nevertheless possible if the insured has had direct contact with a person infected by Covid-19 (the “index person”) or is strongly suspected of having been infected when performing their insured job and if, following this contact, symptoms appeared during the incubation period. Direct contact is presumed notably in the case of nursing work on the index person, during a physical examination of the index person or when handling respiratory secretions or secretions of other body fluids.

- The insured must show relevant symptoms, such as fever or coughing. If there are initially no symptoms but they appear later, a claim for recognition can be made retrospectively.
- The insured must have been in work-related contact with a person infected by the coronavirus. Such contact may, for example, occur in a medical centre, at the hospital or during transport in an ambulance, or in a laboratory in which suspicious samples are examined to detect pathogenic agents.
- Lastly, the insured must work in a hospital medical organization or a medical or dental outpatient centre, a medico-social or welfare organization, or a laboratory. Those working in fields such as maintenance, repair and waste disposal, as well as those working in genetic engineering, biotechnology and in sewage treatment plants are also concerned.

Recognition as an accident at work

For the activities not covered by BK 3101, i.e. for personnel other than healthcare or similar workers and other than those performing work exposing them particularly to the risk of infection, Covid-19 can be recognized as an accident at work.

This applies to all workers covered by the legal occupational injury insurance system and to other groups of insured such as children in day-care centres, school pupils, students and volunteer

workers.

The cumulative conditions of recognition are as follows:

- Infection by Covid-19 must be proved and the person must have at least one symptom (like for recognition as an OD).
- Recognition as an occupational injury requires that contagion can be clearly attributed to a person infected by the virus (“index person”). This implies intensive work-related contact with this index person. If, however, no specific index person can be identified, a large number of people verifiably infected in a firm or a plant may be sufficient to prove that the infection is a result of the insured job. This also applies if the infection occurred during commuting.

Insurance organizations receiving claims for recognition as an AW/OD

Claims for recognition are sent to the sector insurance organization (*Berufsgenossenschaft, BG*) or the insurance fund of the public entity in which the worker is employed.

In the case of Covid-19, the main insurer concerned is the healthcare sector insurer, *Berufsgenossenschaft für Gesundheitsdienst und Wohlfahrtspflege - BGW*, which covers non-state and non-religious healthcare and social welfare institutions .

Medical students' insurance depends on the work performed as part of the training course and on the occupational injury and disease insurance organization which covers the university hospital, institute, etc. Usually, it will be the public-sector regional injury insurance fund. If a student works on a non-paying basis in a medical centre, insurance coverage is provided by the BGW.

BELGIUM

Belgium has gradually organized a system of recognition as ODs based on the presumption of having contracted Covid-19 for three categories of personnel: those exposed to a heightened risk in the healthcare sector and in essential sectors during lockdown, and workers exposed to a surge in the number of cases in their workplace.

This system is supplemented by possible recognition as an occupational disease under the complementary (“open”) system for other categories of workers provided that they can prove the causal link between the disease and occupational exposure.

Lastly, recognition as an accident at work is theoretically possible if an infection event in the workplace can be documented.

Scope of insured workers

Most workers are insured against occupational diseases by the Federal Agency for Occupational Risks, Fedris. This includes private-sector employees and the employees of provincial and local government departments.

Other civil servants (regions, communities, federal government) are covered by their own organization. Self-employed workers (general practitioners, self-employed nurses, physiotherapists, etc.), however, are not covered by Fedris.

OD for healthcare personnel

As of March 2020, Fedris decided to recognize Covid-19 as an occupational disease for people working in the healthcare sector, who incur a sharply heightened risk of being infected by the virus.

These cases come under category 1.404.03 already existing in the list of occupational diseases: “other infectious diseases of personnel performing prevention, healthcare, home-help or laboratory work and other work in healthcare institutions where there is a heightened risk”.

Initially, the following were concerned:

- ambulance service providers involved in transporting patients suffering from Covid-19;
- personnel working in hospitals: in emergency and intensive care wards, in lung and infectious disease wards, in other wards where patients suffering from Covid-19 are admitted, personnel who performed diagnostic and therapeutic acts on patients suffering from Covid-19, and personnel working in other healthcare departments and institutions where a cluster of Covid-19 infection has appeared (two cases or more within a period of at most two weeks).

At mid-April 2020, several categories were added, namely the personnel of patient triage centres, those who perform clinical examinations or take clinical samples, and the personnel of laboratories, rest and care homes, and collective accommodation institutions for sick and disabled persons.

OD for workers in crucial sectors and essential services during the first lockdown

In June 2020, a Royal Order⁶ established a new occupational disease together with a temporary code 1.404.04 in order to cover workers who have performed work in firms in crucial sectors or provided essential services during the lockdown (18 March-17 May 2020).

This concerned workers in the private and public sectors, who have worked in particular in the police, the media, food stores and large retail

6 http://www.ejustice.just.fgov.be/cgi/article_body.pl?language=fr&pub_date=2020-07-08&caller=summary&numac=20202903

stores, waste collection and treatment services, firms in the cleaning sector, emergency response areas, in civil protection, in at-home support for families and the elderly, in schools and universities, judicial institutions, public transport systems, taxis, veterinary services, hotels, postal services, the energy sector and the water sector.

For these workers in crucial sectors and essential services, the cumulative conditions of recognition are:

- that their infection by Covid-19 was ascertained during the period from 20 March 2020 to 31 May 2020 inclusive, by a reliable laboratory test (in exceptionally serious cases, the diagnostic may be proved on the basis of other factors);
- that the working conditions or the work performed were likely to make it regularly impossible to observe a distance of 1.5 metres during contacts with other people;
- that at most fourteen days have elapsed between the occurrence of the disease and the most recent activities actually performed outside the home, or between the occurrence of the disease and the date on which the firm was removed from the list of firms in crucial sectors and essential services.

Surge in the number of cases in the workplace

In December 2021, a Royal Order⁷ also made it possible for Covid-19 to be covered as an occupational disease for workers in the private sector or in a local or provincial government department (within Fedris's jurisdiction) and for public-sector workers having contracted the disease following a surge in the number of infections in the workplace.

This coverage as an OD was retroactive to 18 May 2020 (end of lockdown) and was terminated on 31 December 2021. This category of cases is

covered by the new code 1.404.05 in the list of occupational diseases. The conditions of recognition are as follows:

- At least five people must have been infected by Covid-19 in the same workplace during a 14-day period, and these people must have shared the same work area (they are not necessarily all workers, they may be customers or suppliers).
- The working conditions must have facilitated transmission of the virus (hard to comply with social distancing, for example).
- There must be an epidemiological link between these five infections (the people must have passed one another).

Of these three possibilities for recognition as an OD, the only one still in force now is that concerning healthcare personnel and that applying via the complementary (“open”) system.

Recognition as an accident at work

In 2020, after having ruled out recognition of Covid-19 as an accident at work, Fedris nuanced its position by specifying that such recognition was foreseeable in certain situations and on four cumulative conditions, namely that the worker prove a sudden event (spray of respiratory droplets or contact with a surface covered with droplets) having caused a lesion and occurring in the course of and due to performance of the work contract. Proof of the sudden event can be provided by all means, including testimony.

⁷ <http://www.ejustice.just.fgov.be/eli/arrete/2021/12/09/2021205900/moniteur>

Denmark

The Danish Work Environment Authority (*Arbejdstilsynet*), in cooperation with the insurance organization (*Arbejdsmarkedets Erhvervssikring - AES*), published on 21 April 2020 a document setting out the procedure for recognition of Covid-19 as an AW/OD⁸.

All those insured can make a claim for recognition irrespective of their occupation. This claim will be examined as an accident at work if it is possible to isolate a single incident likely to have exposed the worker to infection, or if the worker was exposed briefly, i.e. for five days at most.

In all other cases (i.e. probably most cases), the claim will be examined as an occupational disease, under heading H2 on the Danish list of ODs (infectious diseases in humans).

As is the case for all ODs, the claims will be subject to a pragmatic overall assessment, described precisely in the aforementioned guide.

The examination for recognition as an OD comprises the following aspects:

Diagnostic of the pathology: antibody detection test, or failing that an assessment of the symptoms;

Requirement of a probability of the risk of infection at work, assessed according to four factors:

1. The nature of the insured's work (collective approach): for certain groups of people exposed to a massive risk of Covid-19 infection in the course of their everyday work, there is a strong presumption that the person was infected in the course of their work.

Those involved are primarily healthcare professionals who have extensive direct contact with patients suffering from Covid-19 (e.g. nurses). This may also concern other employees in the healthcare and welfare services sector. Examples are cited for which the presumption is less strong (checkout operators, pharmacy employees, educators, bus drivers and prison warders). For remote workers, on the other hand, there is a strong presumption that infection occurred in the private sphere.

2. Diseases and contacts to which the insured was exposed (individual approach): study of direct or indirect contacts with infected persons, and with objects which have been or could have been infected by Covid-19.
3. Protective behaviours and equipment: study on workplace compliance with the measures taken by the authorities to prevent circulation of the virus.
4. Position of the employer regarding the probability of work-related origin of the infection.

These guidelines also give indications concerning the causal link and the importance to be assigned to possible extra-occupational situations of contagion, and illustrate each description with examples.

The criteria for examination as an AW are roughly the same, except for the classification of the accidental event (one-off or short exposure).

8 <https://at.dk/regler/at-vejledninger/vurdering-arbejdsskadesager-Covid-19/>

SPAIN

The recognition of Covid-19 has been permitted and clarified by several successive regulations.

As of 10 March 2020⁹, it was decided that sick leaves due to Covid (infection, quarantine of close contacts, temporary layoff of vulnerable workers) would give entitlement to the same daily benefits as those paid for an accident at work (75% of the capped salary, more advantageous than those of the sickness insurance scheme). This was not a procedure of recognition as an accident at work or an occupational disease, but a derogatory rule of sickness compensation.

Recognition as an accident at work

If it is proved that work is the exclusive cause of the sickness

On 8 April 2020¹⁰ it was specified that Covid-19 could be considered as an occupational injury if it is “proved that the sickness is caused exclusively by work”. It is up to the worker to prove that it is the exclusive cause.

It seems that in practice it is very difficult, or even impossible, to obtain recognition as an AW for non-healthcare workers.

With a presumption for healthcare personnel

Article 9 of legislative decree 19/2020 of 26 May 2020¹¹ provided initially for easier recognition as an AW for medical personnel, until the end of the state of emergency (terminated on 21 July 2020).

Two decrees in August and September 2020¹² extended this coverage by determining that the Covid-19 cases of healthcare personnel can be recognized as an accident at work, with a presumption of occupational origin if, cumulatively:

- Infection occurred between 11 March 2020 (date of declaration of the pandemic by the WHO) and the removal by the health authorities of all the preventive measures taken to cope with the health crisis.
- The claimant is a medical staff member (strictly speaking), working in a health or socio-health centre entered in the Register of Health Centres and Services¹³ (hospitals, healthcare centres, dental clinics, laboratories, pharmacies, etc.).
- The claimant contracted Covid-19 when performing their job and was exposed to a specific risk: a report by the occupational health service by which the organization is covered is necessary, certifying that infection occurred when performing work and containing a description of the claimant's work and of the circumstances of the direct exposure to risk.

Lastly, a legislative decree of 3 February 2021¹⁴ specified that infections of medical personnel will give entitlement to the same benefits as those awarded for an occupational disease. The advantage of this measure apparently lies in the risk insurance period, which extends to the worker's entire life for occupational diseases, compared with only five years for an occupational injury.

9 Royal Decree 6/2020 : https://www.boe.es/diario_boe/txt.php?id=BOE-A-2020-3434

10 Royal Decree 13/2020, alinea 1 de l'article 5 de la “*disposicion final primera*”
<https://www.boe.es/eli/es/rdl/2020/04/07/13/con>

11 https://www.boe.es/diario_boe/txt.php?id=BOE-A-2020-5315

12 Royal Decree 7/2020 (“*Disposición adicional octava*”) <https://www.boe.es/buscar/act.php?id=BOE-A-2020-9131#da-8>
and 28/2020 <https://www.boe.es/buscar/act.php?id=BOE-A-2020-11043>

13 https://www.sanidad.gob.es/va/profesionales/saludPublica/ccayes/alertasActual/nCov/documentos/Proteccion_Trabajadores_SARS-CoV-2.pdf

14 Royal Decree 3/2021 (article 6) <https://www.boe.es/buscar/act.php?id=BOE-A-2021-1529>

Finland

Covid-19 can be compensated by occupational injury insurers (private companies) as an occupational disease (exposure to a biological agent).

Until June 2021, the AW/OD insurers' association TVK¹⁵ had to be consulted for an opinion on each claim for recognition of Covid-19 cases. Since then a uniform practice has been able to be established, and TVK's occupational injury compensation committee is consulted only for cases of non-healthcare personnel and for all rejected cases (except if the rejection is on grounds of absence of Covid-19 infection).

For a case to be considered as an occupational disease, TVK gives a reminder that the disease must be probably and primarily caused by a physical, chemical or biological agent at work, in the workplace or in the context of work-related training. For compensation as an OD, the conditions of recognition are as follows:

- Classification as an OD requires a diagnosed disease. Exposure to the virus on the journey between home and work is not covered by the AW/OD insurance.
- For workers in the healthcare sector:
 - A consistent report by the employer and the worker must be drawn up concerning exposure during work or in the workplace.
 - The worker must have been exposed personally to Covid-19 and close contacts with an infected person must be proved.
 - The time between exposure at work and the appearance of the symptoms must not exceed 10 days.
 - The worker must not have contracted the virus from their close family.

- The worker must not have a prior history of infection before the date of the claim for recognition, and no other likely source of infection must be identified.

- For all other workers: classification as an OD therefore requires that the source of infection be identifiable and that the chain of infection be traced.

TVK specifies that the insurance company performs no enquiry into the chain of infection. An investigation report on this chain should be prepared on the basis of Article 22 of the law on contagious diseases, with information notably concerning the time and place of infection so as to clarify its suspected nature as an OD.

Proof of the probability and primary nature of exposure to the coronavirus in the job context is required like for any suspected occupational disease.

It is incumbent on the industrial doctor to carry out the necessary research on the working conditions and on how the infection could find its starting point at work. For this purpose he or she shall collect information from the employee and from their employer, and any other information making it possible to produce a detailed report concerning the working conditions and the exposure. The insurance company will also examine the statement by the employer, and the medical reports received from the healthcare units which examined and treated the patient.

Based on these various indications, the insurer will then assess the likely primary link between the exposure and work. If occupational exposure is not likely to be the primary cause, the disease cannot be recognized as work-related.

¹⁵ Tapaturmavakuutuskeskus (TVK) is the association of Finnish occupational health and safety insurance institutions responsible, *inter alia*, for monitoring changes in the insurance legislation, representing the member institutions and ensuring uniform claims processing in the member institutions. By law, an insurance company covering AWs/ODs in Finland must be a member of TVK.

France

Two new occupational disease tables (Table 100 for the general social security scheme, Table 60 for the agricultural scheme) were created by Decree 2020-1131 of 14 September 2020¹⁶ to cover the severe forms of respiratory conditions related to Covid-19 infection.

This decree also provides for the creation of an ad hoc recognition committee to examine the claims of employees, self-employed healthcare professionals and farmers not complying with the conditions of the tables.

Scope of application of the new occupational disease tables

From a statutory viewpoint, the tables of the general scheme apply to private-sector employees, self-employed healthcare professionals (exceptionally even those who have not subscribed to a voluntary occupational injury insurance policy) but also employees having special schemes and government, hospital and regional civil service personnel (since 2007 for the latter).

The tables of the agricultural scheme apply to workers coming under the Mutualité Sociale Agricole (MSA: Agricultural Mutual Benefit Society).

Case management is still entrusted to various bodies: primary health insurance funds (CPAMs) for private-sector employees, and the MSA for farmers. Claims by government civil servants are dealt with by their supervising ministry, and those of regional and hospital civil servants are dealt with by the administrative department to which each civil servant is accountable.

When the claims for recognition do not fulfil the conditions of the occupational disease tables, they may on certain conditions be examined by:

- a recognition committee (a single one for Covid-19, regional for other occupational diseases) if the claim is made by an employee or a farmer;
- a reform commission (one for each "département", one for each ministry and several established for certain public establishments).

Diseases covered under the occupational disease tables

Only acute respiratory forms that have required oxygen therapy or another form of ventilation assistance or having resulted in death are concerned.

The documentation to be provided as evidence by the insured is indicated in the tables: the respiratory condition must be confirmed by a biological examination or by scanner or, failing that, by a documented clinical history (hospitalization report, medical documents). Oxygen therapy or any other form of ventilation assistance must be attested by medical reports.

Personnel concerned by the occupational disease tables

In its exhaustive list of jobs, Table 100 ("Acute respiratory conditions related to a SARS-COV2 infection") of the general scheme designates:

- administrative, healthcare and maintenance personnel in hospital or accommodation organizations (elderly people, disabled children) and in domestic care; in healthcare centres and pharmacies;
- health service personnel in penitentiary environments, the armed forces, in the workplace and in schools and universities;

¹⁶ <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042328917>

- personnel in charge of transport and support for patients.

As regards the agricultural scheme, Table 60 applies to administrative, healthcare and maintenance personnel working in organizations coming under the agricultural social protection scheme: occupational health services, organizations providing accommodation and services for dependent elderly people and for disabled adults and children, and at-home support services for vulnerable people.

The personnel designated in occupational disease tables 100 and 60 suffering from the designated pathology benefit from the presumption of occupational origin associated with all the occupational disease tables.

Pathologies or activities not covered by tables 100 and 60

A (single) committee for recognition of ODs has been set up to examine and recognize the claims of workers:

- suffering from a pathology described in the tables but not performing one of the jobs listed (in practice not belonging to the universe of healthcare and similar workers) or in cases where the period of liability has been exceeded (i.e. if the condition was detected more than 14 days after the end of the exposure); the case is recognized if a direct link between the job and the disease is ascertained;
- having contracted a form other than a respiratory condition, i.e. cardiovascular, neurological, pulmonary embolism, heart rate disorders, renal infections, or digestive, cutaneous or psychological forms (PTSD); the case is recognized if the claimant is suffering from a foreseeable permanent disability of at least 25% and if a direct and essential link between the job and the disease has been ascertained; the existence of a justified sick

leave is a factor in favour of a severity rate of more than 25%.

In both the cases coming within its jurisdiction, the committee relies on the recommendations of a national committee of experts. The timing of occurrence of the infection relative to lockdown periods, the existence of other cases in the firm, effective work in contact with the public or colleagues and performed within the 14 days preceding the first symptoms are factors taken into consideration for assessing the link between the condition and work.

Italy

On 17 March 2020, the Italian Institute of Occupational Injury Insurance (INAIL) published its decision to recognize as accidents at work cases of Covid-19 infection affecting doctors, nurses and other employees of the National Health Service and of any other healthcare organization (public or private) insured by it¹⁷.

By circulars of 3 April¹⁸ and 20 May 2020¹⁹, INAIL specified the conditions of coverage of coronavirus infections for all insured workers.

This recognition of Covid-19 as an accident at work, and not as an occupational disease, is in accordance with INAIL's policy for dealing with cases of infectious and parasitic diseases. Virus infections, which are likened to a violent causal factor, are regarded as accidents at work.

INAIL's scope of coverage

INAIL insures private-sector employees and public-sector personnel, except for a few specific categories of civil servants (fire fighters, magistrates, military personnel, etc.). Self-employed workers are not covered by INAIL. This is the case for self-employed doctors in particular.

All workers insured with INAIL can lodge a claim for recognition as an accident at work.

Furthermore, the legal beneficiaries of workers who have died of Covid-19 contracted at work, whether or not they are insured by INAIL, receive a one-off benefit payment paid (possibly as an extra) by the Fund for the victims of serious injuries at work.

Presumption of occupational origin for healthcare personnel and certain categories of workers in constant contact with the public

Healthcare workers exposed to a heightened risk enjoy a presumption of occupational origin, given their high probability of being in contact with the virus.

The circular of 3 April 2020 specifies who is concerned: healthcare professionals, doctors, nurses, technicians and other health personnel working in hospitals, rest homes and other socio-health establishments.

Workers in constant contact with the public are also concerned: checkout counter employees, salespersons, non-medical hospital personnel in charge of technical and support work, cleaning and patient transport operators (non-exhaustive list).

For these categories of workers, a causal link with the work performed is assumed in the case of infections occurring in the work environment or due to the performance of work.

The presumption of occupational origin is simple, and admits proof to the contrary. The chronological consistency of the worker's infection (relative to the presence of the virus in the workplace) and the reality of the work-related exposure are verified.

INAIL specifies that the high risk of infection incurred by healthcare workers should be assessed in the light of regional epidemiological data.

Ordinary examination procedure for other categories of workers

The onus of proof of infection in the workplace or during work rests with the claimant (no presumption). INAIL carries out a medico-legal assessment in accordance with the ordinary procedure, focusing mainly on the following aspects: epidemiological, clinical, anamnestic and circumstantial.

17 <https://www.inail.it/cs/internet/comunicazione/news-ed-eventi/news/news-nota-17-marzo-contagi-coronavirus-sanita-2020.html&tipo=news>

18 <https://www.inail.it/cs/internet/docs/circolare-13-del-3-aprile-2020-testo.pdf>

19 <https://www.inail.it/cs/internet/docs/alg-circolare-inail-n-22-del-20-maggio-2020.pdf>

Luxembourg

In a FAQ section on Covid-19²⁰, the Accident Insurance Organization (AAA) provides the following details concerning the recognition of Covid-19 as an occupational disease:

Healthcare personnel and workers particularly exposed to similar risks of infection due to their occupation enjoy a presumption of work-related nature of the disease in their favour.

Otherwise, they must provide proof that they contracted Covid-19 in their workplace.

The doctor must report to the AAA whenever he has justified suspicions that the decisive cause of a disease is the insured occupational activity.

He (she) must append to the report the precise medical diagnostic of the disease and its number in the occupational disease table (MP 3101), thus corresponding to an indication of the occupational risks that could be the source of the disease.

Sweden

There exists no list of occupational diseases (unlike most European countries). Claims for recognition of ODs are examined on a case-by-case basis via an assessment *in concreto* of the link between exposure and the work.

There is, however, a list of infectious diseases in which the Swedish social insurance agency (*Försäkringskassan*) included Covid-19 on 24 April 2020²¹. As a result of this addition, a Covid-19 infection can be recognized as an occupational disease.

However, since this is a widespread disease which could affect the entire population, any classification as an OD concerns (like for all infectious diseases) only the personnel working in a healthcare organization or in charge of other healthcare work, notably for an infected person or for handling an infectious animal or material.

As regards the complementary group insurance system for private-sector employees and employees of local governments and the regions, AFA Försäkring, it can compensate cases of Covid that are recognized by the Social Security system as work-related if the pathological condition of the affected worker persists for at least 180 days (90 days for the personnel of the regions which supervise the public hospitals)²². These time frames apply to all occupational diseases.

Note that a disease caused by an infection (including the coronavirus) can be considered in Sweden as an accident at work if the infection occurred in a laboratory in which work is performed on the substance.

20 <https://aaa.public.lu/fr/support/faq/Covid-19.html>

21 <https://www.svenskforfattningssamling.se/sites/default/files/sfs/2020-04/SFS2020-245.pdf>

22 <https://www.afaforsakring.se/privatperson/arbetsskadeforsakring/fragor-och-svar---arbetsskadeforsakring/raknas-Covid-19-som-arbetsskada/>



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