

REPORT

for the period of July 1st, 2014 to June 30th, 2016

by the Government of the Republic of Estonia on measures pursuant to Article 76 of the European Code of Social Security concerning the parts, which have not been ratified.

The Republic of Estonia has not ratified Part VI of the European Code of Social Security that concerns the work injury benefit.

I.

Part VI of the code is connected with the following legal acts:

Acts:

- 1) [Occupational Health and Safety Act](#);
- 2) [Law of Obligations Act](#);
- 3) [Health Insurance Act](#);
- 4) [State Pension Insurance Act](#).

Regulations of the Government of the Republic:

- 1) Procedure for Identifying the Time of Incurring, Reason and Duration of Permanent Incapacity for Work and a List of Reasons for Incapacity for Work. See the information hereinafter.

Regulations of the Minister of Social Affairs:

- 1) Guidelines for Determining, Recalculating and Paying State Pension;
- 2) Composition of Documents and Data Required for Determining and Paying Benefits for Temporary Incapacity for Work and Procedure for Determining and Paying the Benefit;
- 3) Guidelines for Determining the Percentage of Loss of Capacity for Work;
- 4) List of Occupational Diseases.

All the schemes are obligatory.

The legislation can be accessed in Estonian and English at www.riigiteataja.ee.

II.

The assessment of the conformity of periodic benefits to the standards has been presented as of 31 December 2015 or based on the annual average figures of the same year. Numeric statistics on the persons covered by social security and those receiving social security benefits is presented as of December 31st, 2015.

The analysis of Estonian legislation and practice is presented as of December 31st, 2015 unless another date is specified.

See the information contained in the seventh report of the ratified parts of the European Code of Social Security for Articles 10, 16, 54, 56, 60, 62, 65 and 66 as well as 12, 18, 58 and 64 referred to in this report.

PART VI – WORK INJURY BENEFIT

Article 32

§ 22 and § 23 of the Occupational Health and Safety Act provide the definitions of occupational accident and occupational disease.

In the event of an occupational accident or an occupational disease:

- health services will be provided and sickness benefits will be paid pursuant to the Health Insurance Act;
- pensions for incapacity for work and survivor's pensions will be paid pursuant to the State Pension Insurance Act.

See the information presented under Article 54 about the minimal extent of loss of capacity for work that grants the right to a pension for incapacity for work.

See the information presented under Article 60 for the widow's right to a survivor's pension.

In addition to health and pension insurance benefits, an employee has a right to receive benefits from the employer for health damages caused by the work in the extent provided in the Law of Obligations Act. The purpose of compensation for damage is to place the aggrieved person in a situation as near as possible to that in which the person would have been if the circumstances that are the basis for the obligation to compensate had not occurred pursuant to the Law of Obligations Act. The compensation takes place on the basis of an agreement between the employer and the aggrieved person. If damage is established but the exact amount of the damage cannot be established, including in the event of non-material damage or future damage, the amount of compensation shall be determined by the court.

If the employer has been liquidated without legal successor, the material damage suffered due to health loss caused by occupational accident or occupational disease or due to death is compensated from the state budget through the Estonian National Social Insurance Board.

The Occupational Health and Safety Act provides for the indexation of the compensation that is paid from the state budget with the pension index.

According to the Occupational Health and Safety Act if workers of at least two employers work at the workplace at the same time and there is no employer who organises work, the employers will enter into a written agreement on collective occupational health and safety activities and on the liability of employers. If no agreement has been entered into, the employers will be jointly and severally liable for damage.

Article 33

A. Pursuant to the Health Insurance Act, the State Pension Insurance Act and the Social Tax Act, all workers on behalf of whom employers are paying social tax are insured with health insurance and pension insurance on a compulsory basis.

B. Updated statistical information (*Title I Article 74*)

- a) there were 515,333 economically active insured persons as of December 31st 2015 (data of the Health Insurance Fund);
- b) the total amount of workers was 683,200 at the end of 2015 according to data of the Statistics Estonia;
- c) 90.1% of all workers were insured.

Article 34

A. In the event of a disease condition caused by an occupational accident or an occupational disease, the same benefits will be ensured pursuant to the Health Insurance Act as those specified under Article 10. Those benefits are financed from the social tax.

B. The same rules and procedure (including participation of patients in covering the costs) are in force regarding the benefits provided for in the Health Insurance Act as those specified under Article 10.

Additionally, the employer shall pay compensation pursuant to the Law of Obligations Act.

In the case of health damage or bodily injury caused to a person, the expenses arising from such damage or injury must be compensated for, including expenses arising from the increased needs of the person and damage arising from full or partial incapacity for work, including those damages arising from income decrease and aggravation of further economic opportunities.

In the case of an obligation to compensate for damage arising from a bodily injury or health damage caused to a person, the aggrieved person must be paid a reasonable amount of money as compensation for non-material damage caused to the person by such damage or injury.

In the case of an obligation to compensate for damage arising from the death of a person, the expenses arising from the death of the deceased person must be compensated for, especially reasonable funeral expenses, reasonable medical expenses relating to the health damage or bodily injury which caused the death of the person, and the damage arising from the aggrieved person's interim incapacity for work.

In case of causing death, bodily injury or health damage, the damage should be compensated for in periodic payments unless the nature of the damage makes it reasonable to pay the compensation in a lump sum.

In the case of liquidation of the employer with no legal successor, the material damage suffered due to health loss caused by occupational accident or an occupational disease or due to death is compensated for by the state through the Estonian National Social Insurance Board.

C. The purpose of providing benefits by the health insurance system is provided in § 2 (1) of the Health Insurance Act: disease prevention and treatment of insured persons, purchase of medicinal products and medical devices and paying of benefits for temporary incapacity for work and other benefits.

Article 35

Pursuant to the Social Welfare Act, rehabilitation service is a service provided for the facilitation of independent coping, social integration and working or commencing of working of a disabled person financed from the state budget. Rehabilitation service is provided by institutions registered as providers of rehabilitation service in the register of economic activities.

Certain rehabilitation activities that are necessary for commencement of employment by and continuation of employment of the person with decreased work ability are provided as occupational rehabilitation service.

The Ministry of Social Affairs has established the Astangu Vocational Rehabilitation Centre. In the centre, people with special needs can prepare for occupational life and learn various work skills. Also, the centre provides counselling in regard to the adjustment of the home or work environment and selection and use of technical aid.

The Unemployment Insurance Fund provides labour market services to people with decreased work ability, the purpose being the elimination of obstacles in being hired and employed that are caused by the disability or state of health. Adjustments to work premises and tools, provision of technical aid necessary for working, working with a support person and helping at a job interview are financed by the European Social Fund of the European Union by regulation No. 57 of the Minister of Social Protection and the Minister of Health and Labour of 27 March 2015 on the basis of 'Provision of labour market services to the target group of work reforms' and from unemployment insurance resources. Also other labour market services financed from different sources are provided to people with decreased work ability (job mediation, careers counselling,

individual action plan, counselling required to eliminate obstacles to employment, occupational rehabilitation, peer counselling, individual solutions, protected employment).

Article 36

The following Articles of part IX of the Code are referred to regarding the different cases specified in Article 36 (1):

- temporary incapacity for work – Article 65;
- total loss of ability to earn an income – Article 66;
- loss of provider – Article 66.

B.

1) Temporary incapacity for work

Titles I and II, Article 65

a. The rate of sickness benefit in the case of temporary incapacity for work caused by occupational accident or disease is 100% of the insured person's average income per calendar day based on data by the Tax and Customs Board. The average income is calculated on the basis of social tax calculated for or paid to the person. See the information presented under Article 16 regarding the calculation of an insured person's average income. Also see the information presented under Article 16 regarding the upper limit of the income that is taken into consideration and taxation of sickness benefits.

c. The gross earnings of a skilled male worker selected pursuant to Article 65 (6) (c) at the end of 2015 were 1211.32 euros (see also Article 16).

d. The amount of monthly sickness benefits received in 2015 by a standard beneficiary in the case of temporary incapacity for work caused by an occupational accident or occupational disease was:
 $1,00 * 1211.32 = 1211.32$ euros.

e, f. In 2015, the amount of family benefits for a standard beneficiary with two children amounted to 90 euros per month. Payment of family benefits is not related with working of a parent or receiving other social security benefits, i.e. the same family benefit is paid both while working and during a period of sickness.

g. Thus, the gross replacement rate of a standard beneficiary of sickness benefit is:
 $(1211.32 + 90) / (1211.32 + 90) = 100.0 \%$.

Total loss of ability to earn income

See the information presented under Article 56 regarding pension for incapacity for work that is paid in the case of permanent incapacity for work. Pension for incapacity for work is financed from the social tax.

In addition to state benefits a person has the right to receive a benefit for the personal injury caused at work from the employer in the extent established by the Law of Obligations Act.

Damage arising from total or partial incapacity for work, including damage arising from a decrease in income or deterioration in the further economic potential, i.e. first and foremost loss of profit, must be compensated for in the case of health damage or bodily injury pursuant to the Law of Obligations Act.

Damage must be compensated for in periodic payments unless the nature of the damage makes it reasonable to compensate for the damage in a lump sum.

Upon the liquidation of the employer without a legal successor the state shall assume the payment of benefits (Estonian National Social Insurance Board). The periodical benefit paid by Social Insurance Board is indexed with pension index on the 1st of April every year. The benefit is not indexed if the index value is lower than 1,000.

Loss of provider

See the information presented under Article 62 for survivor's pension that is paid in the case of loss of provider.

The Law of Obligations Act provides additionally that if a person whose death has been caused has at the time of his or her death an obligation arising from law to maintain another person, the person obligated to compensate for the damage will pay the person reasonable monetary compensation corresponding to the maintenance payments which the deceased person would have paid to the person during the deceased person's presumed lifetime. Compensation must also be paid to a person whose obligation to maintain would have arisen for the deceased person in the future during his or her presumed lifetime or who was conceived but not yet born at the time of death.

Damage must be compensated for to the dependant person by periodic monetary payments.

If the employer has been liquidated without legal successor, the material damage suffered due to health loss caused by occupational accident or an occupational disease or due to death is compensated from the state budget through the Estonian National Social Insurance Board. The periodical benefit paid by Social Insurance Board is indexed with pension index on the 1st of April every year. The benefit is not indexed if the index value is lower than 1,000.

C In the case of partial incapacity for work, a reduced pension will be paid pursuant to § 18 (2) and (3) of the State Pension Insurance Act. See the information presented under Article 56.

D. Benefits that are paid by instalments cannot be replaced by a lump sum.

Article 37

There is no requirement for length of service in order to receive health care and sickness benefits. There is no requirement for length of service to determine a pension for incapacity for work if the reason for the permanent incapacity for work is an occupational accident or occupational disease ascertained pursuant to the legislation of Estonia whereas a general requirement for length of service in order to receive a pension for incapacity for work has been provided for in the State Pension Insurance Act (§ 15 (2) of the State Pension Insurance Act).

Article 38

1. The benefit will be paid for the whole duration of the comprised case (see Articles 12, 18, 58 and 64).

2. The waiting period in the case of incapacity for work caused by an occupational accident or an occupational disease is one day. Whereas the length of the waiting period was changed on 1.07.2009, in the case of illness not caused by an accident or regular employment, the waiting period remained the same in the case of occupational accidents and occupational diseases. The whole benefit is also still paid by the Health Insurance Fund.

3. Suspension of providing or paying the benefits will take place on the same grounds as referred to under Articles 12, 18, 58 and 64.

Miscellaneous provisions regarding the unratified report form:

(a) Regarding the granting of permanent incapacity for work, complaints may be addressed to the dispute committee at the Social Insurance Board or the court, complaints regarding compensations for loss shall be addressed to the court.

(b) *Please see the text above.*

(c) The Ministry of Social Affairs carries out supervision in its area of government. The main task of the Internal Audit Department is to provide an independent evaluation of the legitimacy, expediency, economy, efficiency and effectiveness of the activities of the Ministry and the institutions in its area of government.

The Health Board carries out supervision of its area of activity, including health care, surveillance of communicable diseases, environmental health, chemical safety and safety of medical equipment. Also, the Health Board solves statements and applications of persons in its area of activity, including the quality of treatment.

The Tax and Customs Board carries out state supervision regarding the correctness of calculation and payment of state taxes and application of tax exemptions, collection of tax arrears, postponement of payment of tax arrears, writing off and cancellation of tax arrears.

The Labour Inspectorate carries out state supervision over compliance with the requirements of legislation regulating occupational health and safety, including investigation of occupational accidents and deceases if necessary.

(d) There are no separate reports.

The legal acts referred to in the present report are available at the following addresses (in English):

1. Occupational Health and Safety Act:
<https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/510112015002/consolide>
2. Law of Obligations Act:
<https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/528032016012/consolide>
3. Health Insurance Act:
<https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/516052016001/consolide>
4. State Pension Insurance Act:
<https://www.riigiteataja.ee/en/eli/ee/501022016016/consolide>

The regulations referred to in the present report are available at the following addresses (in Estonian):

1. Procedure for Identifying the Time of Incurring, Reason and Duration of Permanent Incapacity for Work and a List of Reasons for Incapacity for Work:
<https://www.riigiteataja.ee/akt/129122012072>
2. Guidelines for Determining, Recalculating and Paying State Pension:
<https://www.riigiteataja.ee/akt/131032015010>
3. Composition of Documents and Data Required for Determining and Paying Benefits for Temporary Incapacity for Work and Procedure for Determining and Paying the Benefit:
<https://www.riigiteataja.ee/akt/129122014040>
4. Guidelines for Determining the Percentage of Loss of Capacity for Work:
<https://www.riigiteataja.ee/akt/119022016005>
5. List of Occupational Diseases: <https://www.riigiteataja.ee/akt/897867>

6. regulation No. 57 of the Minister of Social Protection and the Minister of Health and Labour of 27 March 2015 on the basis of ‘Provision of labour market services to the target group of work reforms’: https://www.sm.ee/sites/default/files/content-editors/ESF/57_lisa.pdf

III.

Estonia did not ratify part VI of the Code in 2004 regarding work injury benefit because cost-sharing by the patient for benefits in kind (health care and medicinal products) was not fully precluded in the case of occupational accidents of occupational diseases.

No changes have taken place during the reporting period.

Also at present, Estonia cannot ratify part VI, as self-participation of the aggrieved person regarding medical help provided in Article 34 cannot be excluded.