

Belgium: Occupational diseases and occupational accidents: a closer look

The Belgian occupational diseases and occupational accidents insurance holds a special position in the European field. Belgium is indeed one of the few countries where the application of the legislation on occupational diseases and the law on occupational accidents is guaranteed by different institutions.

The Belgian Fund for Occupational diseases (FBZ-FMP) undertakes a series of preventive actions and even pays compensations to the victims. While the Fund for occupational accidents (FAO-FAT) sees in the first place to the operation of the sector (control of the compliance with the law, exchange of information and prevention) and grants additional performances. Both institutions are federal public social security institutions reporting to the Minister of Labour. The Fund for occupational diseases (FBZ-FMP) is also reporting to the Minister of Social Affairs.

In total Belgium has 15 public social security institutions. They are funded via taxes, subsidies and social security contributions. There are only two institutions that pay their compensation directly to the citizen, namely the National Service of Pensions (ONP) and the Fund for occupational diseases (FBZ-FMP). The other institutions work together with a partner that effects the payment. The occupational accident insurers are funded by the premiums they are collecting directly from the employers.

Despite the fact that private insurance companies are entrusted to compensate victims of occupational accidents, there is a strong parallelism between occupational diseases and occupational accidents, from the point of view of allowances. The rules for the basic allowances, assessment of disability, allowances in case of death, occupational disability allowances and the allowance for medical care and moving expenses are similar.

Hence the largest difference is that the FBZ-FMP itself examines the requests, decides and pays the victims and their rightful claimants. Besides the FBZ-FMP has in the last years more and more emphasized the prevention of occupational diseases. In the occupational accidents sector private insurance companies determine whether or not to grant compensation and also effect the payment. Consequently the Fund for occupational accidents occupies itself in the first place with the control of these private insurance companies.

Who can file a request?

In Belgium all workers are automatically insured against occupational diseases, occupational accidents and accidents on the way to and from work. There are special rules for public servants. Self-employed people are not insured against occupational accidents or occupational diseases, but they can fall back on the sickness and disability insurance applicable in the self-employed system.

Thanks to the system of social security, each paid worker is automatically covered against occupational diseases. The employer pays a financial contribution to the social security in order to insure his workers against the occupational risk.

For occupational accidents each employer is bound to enter into a private insurance. The FAO-FAT controls in particular whether all employers comply with this obligation and whether the insurance contracts are carried out correctly. The FAO-FAT will nearly never act as direct insurer (except for sailors, workers for whom no occupational accident insurance was taken out, risk of war and acts of terrorism).

The deadlines for making a declaration

The employer should declare any occupational accident to the insurance company within 8 working days. For permanent disability after the occurrence of an occupational disease, there is no deadline. However in case of temporary disability, the latter should last at least 15 days for the request to be valid. Furthermore the request should be filed during that period or during the period during which the symptoms of the disease occur.

Which risks are covered by such insurance?

Both accidents on the workplace and accidents on the way to and from work fall under the legislation on occupational accidents. The cause of an accident should be a "sudden event", for instance stumbling over a plank.

Belgium has its own list of recognised occupational diseases. Indeed, not all diseases are recognised. For instance, at the moment stress is not considered as a recognised occupational disease in Belgium. Through an open system, whereby the victim him/herself has to bring evidence of the exposure to the risk and the causal connection between disease and exposure, one can however still try to obtain the recognition if the disease does not occur on the list.

The FBZ-FMP also deals more and more with prevention. Thus, various measures were taken in order to reduce drastically the number of occupational diseases (for instance: reimbursement of vaccination against hepatitis or prevention programme relating to low backache).

Reimbursements and other allowances

As was mentioned above, the parallelism between occupational diseases and occupational accidents cannot be denied.

The victim is entitled to the reimbursement of medical and related costs (for instance admission in a hospital, physiotherapy, medication, ...). A victim can decide by him/herself which doctor, pharmacist or nursing establishment he/she prefers for the treatment. For occupational accidents that freedom of choice lapses if the employer has a recognised medical, pharmaceutical or hospital service.

Compensation for loss of income

During the disability caused by an occupational accident or an occupational disease, the victim is entitled to an allowance on account of loss of income. The victim is hence compensated for the loss of economic ability, not for the physical damage. The compensation is based on a basic income and if necessary limited (on 1.1.2010: € 36.809,73 per year).

The compensation for temporary disability is due until one is cured or until the consequences of the occupational disease or occupational accident remain permanent. The period of remaining disability starts as from the “consolidation”, i.e. as from the time the disease or lesion presents stabilizes.

If the consequences of the disease or accident are or become permanent, an allowance will be allocated for permanent disability. This allowance is based on a calculation of the basic wage taking into account the degree of disability. Such allowances can be increased if the victim needs on a regular basis another person's (third person's) assistance.

There is an important difference between the two branches regarding the possibility to review the disability. Concerning occupational diseases, the victim as well as the Fund can request such a review at any moment. In the case of an occupational accident however this is only possible during the first three years after the Fund for occupational accidents ratified the agreement between the victim and the insurance company. After the expiry of these three years the worsening is compensated on a flat rate basis.

The FBZ-FMP and FAO-FAT refund in principle all moving costs incurred by the victim on account of his/her sickness or accident.

What happens in case of death?

If a victim dies as a consequence of an occupational disease or an occupational accident, the person who took care of the funeral costs is entitled to the reimbursement of these costs (up to 30 times the victim's average daily wage). Furthermore also the costs of transfer of the deceased to the burial place are refunded.

The surviving spouse or legal cohabitant receives up to his/her death an annual allowance equal to 30% of the deceased's basic wage. Furthermore there are also allowances for children or grandchildren (most of the time 15% of the basic wage per child) or sometimes even for the deceased's parents or grandparents. For the surviving spouse that is divorced or legal cohabitant whose contract is broken off, the allowance can never exceed the amount of the alimonies.

Civil liability

If the victim of an occupational disease does not agree with the amount paid (or the decision in itself), it can lodge an appeal with the competent industrial court. If in case of occupational accident, the parties reach an agreement, such agreement will be proposed for ratification to the Fund for occupational accidents. If no agreement is reached or if the Fund refuses to ratify it, the litigation will be submitted to the industrial court.

The victim of an occupational accident can however not file a claim for damages against the employer or his representative to compensate other damages (e.g. damage to goods, moral damage), except in a series of cases specifically provided for by the law (especially when the accident has deliberately been brought about by the employer).

The victim of an occupational accident can file a claim for damage against any third person responsible for the accident. In case of an accident on the way to or from work, the victim can, in addition to the flat rate allowance in the framework of the occupational accident insurance, always file a claim for compensation of other damages, whoever is liable for the accident (employer or third party).

More information is available on the websites of FBZ-FMP and FAO-FAT: www.fbz.fgov.be and www.fao.fgov.be.

The Asbestos Fund

Since 1 April 2007 Belgium has an Asbestos Fund. That fund is set up within the Fund for occupational diseases and can pay allowances to the victims of mesothelioma or asbestosis (or diffuse bilateral pleural thickenings). In case of death of the victim the Asbestos Fund also pays an allowance to any rightful claimants. Unlike the professional scope of application of the law on occupational diseases, anyone in Belgium who develops this kind of disease can file a claim for compensation (so also for instance neighbouring victims). More information can be found on the website about the Asbestos Fund: www.afa.fgov.be.

Funding sources (contributions, subsidies, taxes)



National Social Security Office

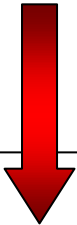


Social security institutions

Fund for occupational diseases

Pensions

Unemployment
Child benefits
Sickness-Disability insurance
Occupational accidents
Annual vacations



Intermediary payment institutions

* The occupational accident insurers are funded by the premiums they are collecting directly from the employers.

POPULATION

