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INSURANCE AGAINST ACCIDENTS AT WORK AND OCCUPATIONAL DISEASES: THE EU REGULATION AND CASE LAW[2]

Abstract

The matter of accidents at work and occupational diseases, as the subject of insurance protection, falls within the aims of various EU rules. This is part of a more general interest of the European Union's legislator and judges for safety and health in the workplace. In this regard, the present paper aims at analyzing the capacity for the implementation and development of an occupational safety and health management approach in the European Union. The analysis is conducted through the examination of the European legal framework governing the matter, as well as the most recent and relevant case law of the Court of Justice of the European Union on insurance and compensation of damages for accidents at work and occupational diseases. From this research an effort emerges, at the European level, to ensure safety and health standards. However, such efforts are inadequate with respect to a constantly changing labour market, characterized by less and less stable employment relationships, new working patterns and an ageing workforce. Nor are all the people concerned by those changes adequately covered by the existing health, safety and insurance legislation, as well as the increasing number of temporary workers and workers with atypical contracts.

Key words: *European Union; Health and Safety at Work; Accidents at Work; Occupational Diseases; Compensation of Damage; Insurance; Court of Justice of the European Union.*

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1. Introduction

The issues of work and social security, including the aspects related to health and safety at work, have been the subject of the European Union's attention for a long time. This fits into the historical interest of the European Community -and, then, in that of the European Union- for social security as a functional matter to the free movement of workers. The Community regulations on the free movement of workers, in fact, have played a historic role in the European Union's labour law system, given its instrumental nature to the creation of the Community market.

In fact, the right to free movement has always been a cornerstone of the whole European construction, because the objective of implementing the internal market was strictly associated to the full realization of the four fundamental freedoms (free movement of goods, capital and services, alongside with free movement of workers) provided for in Article 3 c of the original TCEE.

As for the secondary EU law, what emerges from the evolution of the right of free movement through the Community regulations governing it (referred to below) is, apart from the specific amendments, the constant importance attributed by the Community legislator to the construction of the single European market, of which the free movement is a key element.

However, the issue of free movement of workers could not be fully disciplined without taking into account the related features of social security. Hence the importance of the regulations, passed in the 1970s and updated several times (as it will be said later), which govern the subject of social security.

The legal framework designed by these regulations is closely linked to the right to free movement of persons, as functional to it. In fact, it seeks to ensure the effectiveness of the right to freedom of movement by eliminating those social security constraints which might restrict it. To this end, it is ensured that workers who have worked in different States are not prejudiced compared to those who have worked in one state.

What is to be highlighted in the analysis of the EU framework for the free movement of workers and social security is an essential element of European legislation: the prevalence that has always been given, in the hierarchy of priorities, to the achievement of the free market and the free competition over social and labour rights. It is with this aim that this legislation (which regulates security and social security in the relations between the countries of the European Union and the European Economic Area and between the countries of the European Union and Switzerland) has been introduced.

Nonetheless, although at a first stage the law -primary and secondary law- of the European Community has dealt with work and social security

almost exclusively with the goal to create a European market, it cannot be denied that the Community legislator has, over time, also produced some relevant social results.

In this context, different EU directives and regulations, relevant to the subject dealt with in this paper, are included. They are, in particular, the directives based on Article 118a of the Treaty of Rome, introduced by the Single European Act of 1986. Around the heart constituted by the Directive No. 89/391/EC, regarding the protection of health and safety in the workplace, a series of minor directives (directives with a sectoral or categorical protection) have been adopted. Moreover, some important directives were implemented, such as that on the protection of pregnant or maternity workers (Directive No. 92/85/EC, connected with the problem of the equal treatment for men and women in matters of social security, as derived from the Directive 79/7/EEC) or on the organization of the working time (Directive No. 93/104/EC, transposed in the codification directive No. 2003/88/EC), which will be recalled in the following paragraph.

2. The EU legal framework on safety and health at work, related accidents and diseases and the procedure to be followed by an EU worker

The matter of accidents at work and occupational diseases, which is the subject of insurance protection, falls within the aims of the various EU rules mentioned above, both at primary and secondary level. However, it is important to note, first and foremost, that it is not only the European Union's law to apply to the matter. Indeed, within the different possible applicable systems, a primary role is played by national legislation and the social security scheme of each Member State. Different aspects are governed by international, European or national law and there are interactions with other compensation schemes[3].

In particular, the role of the national government should be to lay down the overall structure of the scheme and to make sure that the legal

[3] For an overview of the legal framework on safety and health at work see, *inter alia*, J.M. Stellman, *Encyclopaedia of occupational health and safety*, International Labour Office, Geneva 1998; S. C. Lonergan, "Human Security, Environmental Security and Sustainable Development. Environment and Security" (eds. M. Lowi, B. Shaw), MacMillan, London 2000; F. Murie, "Building Safety—An International Perspective", *International Journal of Occupational and Environmental Health*, 1/2007, 5-11; L.S. Robson, J.A. Clarke, K. Cullen, A. Bielecky, C. Severin, P. L. Bigelowa, Irvin, E., A. Culyer, Q. Mahood, "The effectiveness of occupational health and safety management system interventions: A systematic review", *Safety Science*, 3/2007, 329–353; J. Ridley, J. Channing, *Safety at Work*, Routledge, London 2008; D. Walters, *The Role of Worker Representation and Consultation in Managing Health and Safety in the Construction Industry*, International Labour Organization, Geneva 2010, 1-48.

framework and the obligations, in general, are respected. This includes the responsibility for setting or controlling the premiums, the level of claims reserves held by insurers or the whole area of prevention.

The national social security plays an active part in claims handling or in organizing rehabilitation and is responsible for taking recourse against the insurer. The costs of this intervention should be covered by a contribution from the workers' compensation scheme.

So, to sum up, the legal obligations are set at a national level and at a European level through competition law, standards for prevention and safety at work and other relevant standards for the protection of workers against discriminations.

Besides the national and European level, the International Labour Organisation (ILO) has also adopted a certain number of principles on who should be covered in these cases by the insurance system; the definition of a "work accident; the areas for compensation and the overall organization of a workers' compensation scheme.

In practice, the procedure -resulting from interactions between the different regulatory levels- that a worker should follow if he lives and is insured in an EU country (but also in Iceland, Liechtenstein, Norway and Switzerland) and if he suffers from an accident at work or from an occupational disease can be summarized as follows.

The said worker should inform his own insurance institution when the accident at work occurs or when the professional disease is diagnosed for the first time. As each country has different rules, the insurance institution should provide the worker with all the necessary information about the steps to take.

About the responsibility for the healthcare, the country responsible is the country where the worker resides. It is this country that is responsible for providing all benefits like healthcare and medicines. If the worker is not insured there, he is requested to ask his insurance institution for a document giving details of the accident or the disease. This document has to be presented to the competent institution of the country where the worker is living or staying, in order to receive the benefits there.

About the country that should pay the worker's cash benefits, it is important to remember that it is the country where the worker is insured to be always responsible for paying the cash benefits in respect of an accident at work or an occupational disease.

Having briefly outlined the procedure that the worker has to follow in the European Union, as the result of the interaction between different levels of regulation, some regulations and directives relating to the matter should be mentioned. Also, the Court of Justice refers to them in its pronouncements about insurance and compensation of damages for accidents at work and occupational diseases.

In particular, we have to recall the Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and the Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community[4].

The discipline so traced ruled the matter until the entry into force of the Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems[5]. In fact, with this Regulation repealed Regulation (EEC) No 1408/71 from the date of entry into force of the new implementing Regulation, No 987/2009 of 16 September 2009[6].

The 2009 implementing Regulation has, in turn, replaced the previous implementing Regulation (EEC) n. 574/72, although some of its provisions remain in place to guarantee the legal certainty of certain acts concerning non-Community nationals, whose coordination rules have been extended by Regulation (EC) No 859/2003[7].

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[4] Respectively in OJ L 149, 5.7.1971, p. 2–50 and in OJ L 74, 27.3.1972, p. 1–83. In the vast bibliography on social security in the European Union law, see, among the others: A. Sinagra, "Competenza e normativa della CEE in tema di sicurezza sociale con particolare riguardo agli infortuni sul lavoro", *Rivista di diritto europeo* 2/1983, 101-128; G. Arrigo, *Principi, fonti, libera circolazione e sicurezza sociale dei lavoratori*, Giuffrè, Milano 1998; S. Giubboni, "Libertà di circolazione e protezione sociale nell'Unione europea", *Giornale di diritto del lavoro e delle relazioni industriali* 1/1998, 87; R. White, *Workers, Establishment, and Services in the European Union*, Oxford University Press, Oxford 2004; M. Cinelli-S. Giubboni, *Il diritto della sicurezza sociale in trasformazione*, Giappichelli, Torino 2005; V. Paskalia, *Free Movement, Social Security and Gender in the EU*, Hart publishing, Oxford-Portland 2007; G. Arrigo, "La sicurezza sociale nel diritto comunitario", in: *I diritti sociali degli stranieri* (ed. A. Di Stasi), Roma 2008, 19; G. Caggiano, "Il coordinamento comunitario delle politiche nazionali per la creazione del modello sociale europeo", in: *Studi in onore di Vincenzo Starace*, Editoriale Scientifica, Napoli 2008, v. II, 909; F. Pennings, *European Social Security Law*, Intersentia, Antwerpen 2010; L. Idot, D. Simon, A. Rigaux, "Libre circulation des travailleurs", *Europe*, 2011, 24.

[5] Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (text with relevance for the EEA and for Switzerland), in OJ L 166, 30.4.2004, p. 1. For an analysis of the Regulation see, among others, F. Marongiu Buonaiuti, "La legge applicabile alle prestazioni di sicurezza sociale nel regolamento CE n. 883/2004", in *Rivista del diritto della sicurezza sociale* 2010, 537.

[6] Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, in OJ L 284/1, 30.10.2009, 1.

[7] Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality, in OJ L 124, 20.05.2003, 1-3.

Also, the Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security has to be mentioned[8].

As for the period following the adoption of the Single European Act, we shall recall the Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work[9], but also the Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding[10].

Some of these normative acts of the EU Institutions have been quoted by the Court of Justice of the European Union about the compensation of damages for accidents at work and occupational diseases, as it will be said below.

3. Relevant case law of the Court of Justice of the European Union on insurance and compensation of damages for accidents at work and occupational diseases

The interpretation, within the EU, of the matter of insurance and compensation of damages for accidents at work and occupational diseases, is based on some historical judgments of the European Court of Justice, which we are going to briefly trace back to arrive at some recent important pronouncements.

One of the problematic issues posed at the attention of the Court was the interpretation of the provisions of Article 90(2) of the Treaty (then Article 86(2) EC and 106, TFEU), and if they may be relied on by individuals before national courts in order to obtain review of compliance with the conditions which they lay down. This problem was solved by the Court in a Judgment of 22 January 2002 in Case *Cisal* v. *INAIL - Istituto Nazionale per Assicurazioni contro gli infortuni sul lavori*[11].

Another problem faced up by the Court in that Judgment was the concept of an undertaking, within the meaning of Articles 85 and 86 of the EC Treaty (then Articles 81 EC and 82 EC and 101-102 TFEU). According to the Court, this concept does not cover a body which is entrusted by law with the management of a scheme providing compulsory insurance against accidents at work and occupational diseases, where the amount of benefits and the amount of contributions are subject to supervision by the State and

[8] In OJ L 6, 10.1.1979, 24- 25.
[9] In OJ L 183, 29.6.1989, 1- 8.
[10] In OJ L 348, 28.11.1992, 1- 7.
[11] Judgment of the Court of 22 January 2002 in Case C-218/00, in *Reports of Cases* 2002 I-00691.

the compulsory affiliation which characterizes such an insurance scheme is essential for the financial balance of the scheme and for application of the principle of solidarity, which means that benefits paid to insured persons are not strictly proportionate to the contributions paid by them. Such a body fulfils an exclusively social function. Accordingly, its activity is not an economic activity for the purposes of competition law[12].

In the particular case, it was the Tribunale di Vicenza that referred to the Court for a preliminary ruling under Article 234 EC the two questions on the interpretation of Articles 85, 86 and 90 of the EC Treaty[13].

The Court answered by underlining that, according to settled case-law, Community law does not affect the power of the Member States to organize their social security systems[14].

In particular, the covering of risks of accidents at work and occupational diseases has for a long time been part of the social protection which the Member States afford to all or part of their population.

Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community[15], contains specific provisions for coordinating national schemes on accidents at work and occupational diseases, for the application of which, in the case of the Italian Republic, the INAIL is expressly designated as the competent institution, within the meaning of Article 1(o) of that regulation.

In summary, the Court states that the amount of benefits and the amount of contributions, which are two essential elements of the scheme managed by the INAIL, are subject to supervision by the State and that the compulsory affiliation which characterizes such an insurance scheme is essential for the financial balance of the scheme and for application of the principle of solidarity, which means that benefits paid to insured persons are not strictly proportionate to the contributions paid by them[16].

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[12] See paragraphs 44-46 and operative part of the Judgement.

[13] The questions have been raised in proceedings between Cisal di Battistello Venanzio & C. Sas (hereinafter Cisal) and the *Istituto nazionale per l'assicurazione contro gli infortuni sul lavoro* (National Institute for Insurance against Accidents at Work - INAIL), concerning an order to pay the sum of ITL 6 606 890 representing insurance contributions not paid by Cisal.

[14] See, in particular, Case C-158/96 Kohll [1998] ECR I-1931, paragraph 17, and Case C-157/99 Smits and Peerbooms [2001] ECR I-5473, paragraph 44. For an historical perspective of the Italian situation see, among the others, G. Assennato, V. Navarro, "Workers' participation and control in Italy: the case of occupational medicine", International Journal of Health Services 10(2)/1980, 217-232.

[15] Modified and updated, at the time of the Judgement, by Council Regulation (EC) No 118/97 of 2 December 1996, in OJ 1997 L 28, 1.

[16] Conclusions of the Court, paragraph 44.

So, with regard to that specific case, the Court concluded in the sense that in participating in this way in the management of one of the traditional branches of social security (in this case insurance against accidents at work and occupational diseases) the INAIL fulfils an exclusively social function. It follows that "its activity is not an economic activity for the purposes of competition law and that this body does not, therefore, constitute an undertaking within the meaning of Articles 85 and 86 of the Treaty"[17].

Finally, in answer to the questions submitted to it by the Tribunale di Vicenza, the Court ruled that the concept of undertaking, within the meaning of Articles 85 and 86 of the Treaty, does not cover a body entrusted by law with the management of a scheme providing insurance against accidents at work and occupational diseases, such as the INAIL[18].

Later, with the Judgment of the Court of 3 September 2014 the *Korkein hallinto-oikeus* (Supreme Administrative Court of Finland), the Court of Justice ruled on some important themes such as the equal treatment for men and women in matters of social security, as derived from the Directive 79/7/EEC[19]; the accident insurance for workers; the amount of a lump-sum compensation for permanent incapacity; the actuarial calculation based on average life expectancy by sex of the recipient of that compensation; the concept of "sufficiently serious infringement of EU law"[20].

In this Case, the request for a preliminary ruling (under Article 267 TFEU) was made in a dispute between X and the Finnish Ministry of Social Affairs and Health concerning the grant of lump-sum compensation paid following an accident at work. In particular, the request concerned the interpretation of Article 4 of Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security. The Directive, that applies to statutory schemes which provide protection against the risks, *inter alia*, of

[17] Conclusions of the Court, paragraph 45.

[18] Conclusions of the Court, paragraph 46.

[19] Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security, in OJ 1979 L 6, p. 24.

[20] Judgment of the Court of 3 September 2014, case C-318/13, published in OJ C 233 of 10.8.2013. This case originated from a letter sent by X, on 13 October 2008, to the Finnish Ministry of Social Affairs and Health. In this letter X claimed that the lump sum paid to him as compensation for his long-term disability had been determined in disregard of the provisions of EU law on equal treatment of men and women. X therefore claimed an amount that corresponded to the difference between the compensation received by X and that payable to a woman of the same age and in a comparable situation. On 27 May 2009, the Ministry refused to pay the sum claimed. On 17 June 2009, X brought an action before the Helsinki Administrative Court, seeking an order that the Finnish State pay him the sum in question. By a decision of 2 December 2010, this Court declared that action inadmissible on the ground that it did not have jurisdiction. X then brought an appeal against that decision before the Supreme Administrative Court which, on 28 November 2012, set aside the decision of the previous Court.

accidents at work[21], states, under article 4, paragraph 1, that: "the principle of equal treatment means that there shall be no discrimination whatsoever on ground of sex either directly, or indirectly by reference in particular to marital or family status, in particular as concerns: the scope of the schemes and the conditions of access to them; the obligation to contribute and the calculation of contributions; the calculation of benefits including increases due in respect of a spouse and for dependants and the conditions governing the duration and retention of entitlement to benefits".

As for the Finnish law, the implementation of the accident insurance is a public management task which, in Finland, is carried out by private insurance companies. Employers, in order to satisfy their obligation to provide for their workers' safety as regards accidents at work, are required to take out insurance with an insurance company approved to insure the risks covered by the Law on accident insurance of 1992 ('the Law on accident insurance'). The costs of the statutory accident insurance are covered by the insurance premiums paid by the employers[22].

In deciding on the matter, the Court ruled that the article 4, paragraph 1, of Council Directive 79/7/EEC of 19 December 1978 must be interpreted as precluding national legislation on the basis of which the different life expectancies of men and women are applied as an actuarial factor for the calculation of a statutory social benefit payable due to an accident at work, when, by applying this factor, the lump-sum compensation paid to a man is less than that which would be paid to a woman of the same age and in a similar situation[23].

Furthermore, the Court of Justice of the European Union ruled that it is for the referring court to assess whether the conditions for the Member State to be deemed liable are met[24].

Similarly, as regards whether the national legislation at issue in the main proceedings constitutes a 'sufficiently serious' infringement of EU law, that court will have to take into consideration the fact that the Court has not yet ruled on the legality of taking into account a factor based on average life expectancy according to sex in the determination of a benefit paid under a statutory social security system and falling within the scope of the Directive 79/7. The national court will also have to take into account

[21] Council Directive 79/7/EEC, art. 3.1.a.

[22] Paragraph 14(1)(1) of that law provides for the payment, in particular, of compensation for an injury or illness caused by an accident at work.

[8] In particular, the paragraph 18b(1) of the Law of 1992 provides that compensation is paid either as a lump sum or continuously. Under Paragraph 18b(3), the lump sum compensation is calculated in the form of capital corresponding to the value of the disability allowance, taking into account the employee's age according to criteria approved by the Ministry.

[23] Conclusions of the Court, paragraph 40.

[24] Conclusions of the Court, paragraph 51.

the right granted to the Member States by the EU legislature, set out in Article 5, paragraph 2 of the Council Directive 2004/113/EC[25], and Article 9, paragraph 1, letter h, of the Directive 2006/54/EC[26].

In reaching such a decision, the Court confirms its previous case-law, where it had held that the first of those provisions is invalid since it infringes the principle of equal treatment between men and women[27].

In a recent Judgment of 1 February 2017, the Court was requested for a preliminary ruling under Article 267 TFEU from the Supreme Court of the United Kingdom, made by decision of 29 July 2015, received at the Court on 5 August 2015, in the proceedings *Secretary of State for Work and Pensions* v. *Tolley*[28].

The request for a preliminary ruling concerned the interpretation of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (abovementioned).

The request had been made in proceedings between the Secretary of State for Work and Pensions ('the Secretary of State') and Mrs. Tolley, who died on 10 May 2011 and was acting in the main proceedings by her husband as her personal representative, concerning the withdrawal of her entitlement to the care component of disability living allowance ('DLA') on the ground that she no longer satisfied the conditions as to residence and presence in Great Britain.

On the grounds of a deep analysis of the Council Regulation (EEC) No 1408/71, the Court ruled, first of all, that "a benefit such as the care component of disability living allowance is a sickness benefit for the purposes of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, in the version amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Council Regulation (EC) No 307/1999 of 8 February 1999"[29].

Second of all, according to the Court, article 13(2)(f) of Regulation No 1408/71 (in the version amended and updated by Regulation No 118/97, as amended by Regulation No 307/1999), must be interpreted as meaning that the fact that a person has acquired rights to an old-age pension by virtue of

[25] Council Directive 2004/113/EC of 13 December 2004, implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

[26] Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

[27] Judgment of the Court of 1 March 2011, case C-236/09.

[28] Judgment of the Court of 1 February 2017, case C-430/15.

[29] Conclusions of the Court.

the contributions paid during a given period to the social security scheme of a Member State does not preclude the legislation of that Member State from subsequently ceasing to be applicable to that person. It is for the national court to determine, in the light of the circumstances of the case before it and of the provisions of the applicable national law, when that legislation ceased to be applicable to that person.

Third of all, article 22(1)(b) of Regulation No 1408/71, in the version amended and updated by Regulation No 118/97, as amended by Regulation No 307/1999, must be interpreted as preventing legislation of the competent State from making entitlement to an allowance such as that at issue in the main proceedings subject to a condition as to residence and presence on the territory of that Member State.

4. Concluding remarks

From all the foregoing it emerges an effort, both at the European legislation and case law level, to ensure safety and health standards through important instruments against accidents at work and occupational diseases.

However, many problems remain, and they are indeed accentuated by a labour market constantly changing. In fact, new challenges arise for health and safety at work from less stable employment relationships, new working patterns and an ageing workforce. Nor are all the people concerned by those changes adequately covered by the existing health, safety and insurance legislation. The increasing numbers of temporary workers and of atypical contracts raise concerns on the degree of coverage of health and safety provisions. Many workers report that they are not well informed about health and safety risks related to their jobs, with a higher share in small and medium-sized workplaces[30].

Furthermore, even if the EU minimum requirements have contributed to deeply focus on the risk management cycle at the national level, the application of the rules varies significantly from one Member State to another, entailing different levels of workers' health protection.

Thus it remains, among the European States, an unbalanced implementation of the European Union legislation in the field of health and safety at work. Moreover, the protection offered by the different national regulations, as well as the effectiveness and efficiency of the related control systems and the imposition of penalties, remains strongly differentiated.

[30] Oh this issues see C. Mayhew, M. Quintanb, R. Ferrisc, "The effects of subcontracting/ outsourcing on occupational health and safety", *Safety Science*, 1–3/1997, 163–178; G. Papadopoulos, P. Georgiadou, C. Papazoglou, K. Michaliou, "Occupational and public health and safety in a changing work environment: An integrated approach for risk assessment and prevention", *Safety Science*, 8/2010, 943–949.

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OSIGURANJE OD POVREDA NA RADU I PROFESIONALNIH BOLESTI: REGULATIVA I PRAKSA EU

Rezime

Pitanje nesreća na radu i profesionalnih bolesti, kao predmet zaštite u oblasti prava osiguranja, deo je ciljeva nekoliko evropskih propisa. Ovo pitanje je deo opštijeg interesa zakonodavca na nivou Unije i sudije za bezbednost i zdravlje na radu. U tom smislu, ovaj rad nastoji da analizira sposobnost za implementaciju i razvoj pristupa upravljanja rizicima bezbednosti i zdravlja na radu na nivou EU. Analiza se sprovodi kroz ispitivanje pravnog okvira EU koji uređuje ovo pitanje, kao i najnovijih i najrelevantnijih slučajeva Suda pravde Evropske unije u pogledu osiguranja i naknade štete za povrede na radu i profesionalne bolesti. Iz ovog istraživanja se može videti nastojanje da se na evropskom nivou obezbedi postojanje bezbednosnih i zdravstvenih standarda. Međutim, ti napori su neadekvatni u pogledu tržišta rada koje se stalno menja, a koje karakterišu sve manje stabilni radni odnosi, novi oblici angažovanja i sve starija radna snaga. Svi oni kojih se ove promene tiču nisu pokriveni postojećim zakonodavstvom u oblasti zdravlja, bezbednosti i osiguranja, a ono se ne odnosi ni na sve veći broj onih koji su privremeno angažovani ili su angažovani kroz netipične ugovore.

Ključne reči: Evropska unija, bezbednost i zdravlje na radu, nesreće na radu, profesionalne bolesti, naknada štete, osiguranje, Sud pravde Evropske unije.