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中国－欧盟社会保障合作项目

Report on Work Injury Insurance Study Tour to Spain and France

Herman Spanjaard

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The study tour on 'Work Injury Insurance' took place from 8 to 17 September 2009. A delegation from the Ministry of Human Resources and Social Security (MoHRSS) and the equivalent officials of provincial and municipal Labour and Social Insurance Bureaus and Agencies visited France and Spain to learn about good practices in the fields of work injury insurance and rehabilitation.

In France, the group visited the Ministry of Health, Youth and Sport, the National Health Fund and a work injury rehabilitation centre. In Spain, the group visited the Mutual Fund Union and its work injury rehabilitation centre and clinic. The selected countries for the study tour, Spain and France, have excellent examples of good practices in the fields of occupational safety and health and injury insurance and rehabilitation. The study tour provided good references for the establishment of a Chinese work injury insurance system, especially the improvement of Chinese work injury insurance administration system and administration capacity.

1. The work injury insurance system in France

1.1. Target Group

The work injury insurance system of France, which is a private non commercial statutory mandatory insurance, was established in 1898 and has been an in global perspective relatively complete system, including prevention, compensation and rehabilitation. The Ministry of Health, Youth and Sport is responsible for making policies of social insurance, including work injury insurance. The National Health Fund and regional Health insurance Funds are responsible for premium collection of work injury insurance, work injury and occupational disease prevention and payment of benefits. The rehabilitation centres under the Health insurance Funds are responsible for work injury rehabilitation.

The target groups of work injury insurance cover most employment categories (except agriculture and mining) including students of technical schools, apprenticeships and occupational trainees. Work injury refers to all accidents caused by work, incurred during working time and on the way to work and in the regular lunch time. In 2008, there were 19 million people participating in this system, among them 80% were salaried people.

1.2. Assessment Procedure

Accidents at work must be reported to the employer within 24 hours. The employer is also required to report the accident within 48 hours to the worker's local Health Insurance Fund. The employer must give the employee a special form which the employee then gives to their doctor. The employee is thus exempted from any upfront medical costs. The employee can report by oneself with 2 years if the employers don't declare.

The employer should submit the medical certification to Regional Health Insurance Fund and the RHIF should take assessment within 30 days. If there are objections to the assessment, the employer can make an appeal to the National Health Insurance Fund.



In 1993, France has revised the Occupational Disease Law to relax the certificated conditions and add following contents: firstly, an employee can get a benefit if a group commission of three doctors can testify that the disease which is not included in occupational disease list is resulted from work circumstances; secondly, the employee who is not in the position regulated by occupational disease list suffers the occupational disease, he can take the former procedure to assess his disease.

1.3. Benefits

A. Temporary Disability Benefits

The conditions governing the payment of industrial injury insurance benefits are the same as those for in-kind sickness benefits, with the exception that all benefits are covered by the Fund at a rate of 100 %. In the case of a hospital stay, there is no daily fee to be paid.

The victim is also exempted from payment of any upfront costs. Practitioners, medical auxiliaries and health care institutions are paid directly by the relevant Fund (direct settlement system).

The injured worker is entitled to their full wage for the day of the accident, which is paid by the employer. Thereafter, the worker is paid a daily allowance amounting to 60% of their daily wage up to 0.834% of the annual Social Security ceiling (maximum daily payment: €171.67). From the 29th day of leave, payments are increased to 80% of the daily wage (maximum: €228.29) and there is no requirement for the employee to have a dependent child as in the case of sickness insurance.

The amount of the daily benefit may not exceed the worker's net daily wage prior to the injury.

B. Permanent Disability Benefits: Pensions

Pension for the injured person

The amount of the pension paid depends on two criteria: the degree of disablement of the worker and their salary before the accident.

a) Permanent disability rating

The local Health Insurance Fund determines the worker's actual level of disability on the basis of an expert assessment and the worker's general health status, age, abilities and professional skills. For this purpose, an official table is used.

The level obtained is then adjusted by dividing the portion below 50% by two and increasing the portion above 50% by half.

For an actual disability rating of 70%, for example, the adjustment applied will be as follows: $50\% \div 2 + 20\% \times 1.5 = 25\% + 30\% = 55\%$. The applicable rating is thus 55%.



b) Remuneration

The minimum annual salary used to calculate the disability pension for a disability rating of 10% or above, is determined each year by executive order. As of 1st January 2009, this minimum annual salary 'S' is set at €16,959.76.

For annual earnings up to twice the salary 'S' ($16,959.76 \times 2 = 33,739.94$), the total salary of the injured worker is taken into account. For the portion of the worker's annual earnings higher than two times 'S' (€33,739.94) but lower than eight times 'S' (€134,959.76), one third of the salary is taken into account. The calculation does not factor in any earnings above this last level.

c) Constant attendance allowance

When the injured person has a permanent disability rating of at least 80% and is unable to perform activities of daily living, they qualify for a 40% increase of their permanent disability pension. This increase cannot be lower than an annual minimum decided by government order (€12,226.97 as of 1st January 2009).

Pensions payable to survivors

When an industrial injury or occupational disease results in the death of the employee, some of the employee's dependants may be entitled to a survivor's pension. Such dependants include:

A spouse, partner or person with whom the deceased has entered into a Solidarity Civil Pact. Such persons may be entitled to a pension amounting to 40% of the deceased person's wage. If the spouse is over 55 years of age or has a disability rating of at least 50 %, they are entitled to a pension supplement equal to 20% of the deceased worker's wage.

Dependent children or descendants under 20 years. The amount of the pension is equal to 25% of the deceased's annual earnings for each of the first two children, and 20% for each additional child. When the child is fully orphaned, the pension is equal to 30 % of the deceased's annual earnings.

If the deceased person has neither partner nor child, those ascendants that were eligible for maintenance allowance. If the victim does have a spouse or children, the ascendants will have had to have been dependent on the victim to receive a survivor's pension. In this case the pension is generally 10% of the worker's annual earnings and the combined total of pensions paid to ascendants may not exceed 30%.

The total amount of pensions paid to all survivors combined may not exceed 85% of the annual earnings on which they were determined.

1.4. Fund Management



The Health Insurance Fund is responsible for fund management. Its headquarters is in the Paris, there are 120 branches and 7000 staff members. Health Insurance is private sector; in fact, its nature is non-profit institution.

In 2008, the income of work injury insurance all over the country was 11.3 billion and expenditure was 11 billion, 30% of expenditure used in treatment of asbestosis, 30% for short-term treatment, 36% for long-term treatment and 7% for regular management, 3% for work injury prevention and 4% for other costs. The resources of fund are as followings:

91% of employer contribution. Contribution rate are various for different industries, a total of 300 kinds. The highest of them is 15% or more for architecture industry, the lowest is 1% for bank and insurance industry, and the average rate is about 9.5%.

4% of the third-party recovery of traffic accident. The work injury caused by the third-party infringement should be paid by Health insurance Fund firstly, and then the third-party should reimburse for this.

1% of cost of recovery. Injured worker will be sent to the hospital immediately, the cost will be paid by work injury insurance fund in advance. If assessment fails, the injured worker (or medical insurance fund) should pay back the cost to work injury insurance fund.

4% of operating income.

1.5. Prevention

France uses the work injury insurance fund to establish the National Institute for Occupational Safety and Prevention of Occupational Disease. This institution is responsible for technical supporting and academic research of work injury prevention and training expert for work injury prevention and informing the related information. Regional Health Fund take some measures for work injury prevention. In fact these are the main actors in the implementation of the policy with more than 120 staff working in the field of prevention: firstly: carrying out publicity; secondly: take safety training for the employer and employee; thirdly, help the employer to improve the working circumstance; fourthly, incentives for good employers

1.6. Rehabilitation

The main contents of rehabilitation are improvement in body injury and psychological condition. In France, the group has visited Nancy Work Injury Rehabilitation Centre, this centre has initially established in 1954 and has re-established in 2007. There are 90 beds and various professional staff 155. The budget of every year is about 50 Million euro, is paid by work injury insurance fund.



2. Work Injury System in Spain

2.1. Target Group

The target groups of work injury insurance in Spain not only include various vocational groups but also include the self-employed people. In 2008, there were 17 million people participating in the WII, among of them 3 million self-employed people.

2.1. 1. Assessment and Benefit

Spain has established reporting system for work injury accident, all the accidents should report to related Labour Department, especially, in which injured people more than 4 or have died person must be reported within 24 hours. In Spain, enterprises are required to complete “work injury or occupational disease report” within 3 days once happened work injury accident. This report has 4 copies and is submitted to Labour Office, Work Injury Insurance Management Institution, survivor respectively, and one is used for retaining. Same as France, the assessment of Spain is also relatively simple, just need doctor to provide evidences to certificate whether the injury is work related injury.

The disability can be divided into 4 categories in Spain:

- A. Temporary injury
- B. Permanent injury
- C. Permanent Disability
- D. Death

The benefit of work injury will be paid by Fund Union depending on the disability rating.

Injury occurred: full payment of medical expenditure

Temporary injury: the 75% of salary until recovery.

Permanent injury but doesn't affect work disability: lump sum compensation according to the injury situation.

Permanent disability:

Part of loss: lump sum compensation of one year's salary.

Complete loss: lifetime allowance of 55% industry-average salary

Absolute loss: lifetime allowance of 100% industry-average salary. If no self-care ability, lifetime allowance of 150% industry-average salary.



Death compensation: including a one-off funeral, lifetime allowance of 120% of spouse's salary, children supporting payment to 18 years old, if the children enter into university, the maintenance will be extended.

2.2. Fund Management

The Mutual Fund is responsible for the work injury insurance fund management and benefit payment. The Mutual Fund is a non-profit union which is made up by plenty of companies. Mutual Fund is the element of public social security system of Spain, the main job is to dealing with the compensation and rehabilitation for work injured people; the outlay should be approved by Labour Department and Congress. Mutual Fund was established in 1903, after the years of merger, currently there are about 20 Funds under the management of Mutual Fund Union.

2.3. Prevention

Spain establishes a relatively complete work injury prevention system. Firstly, the government makes the policies and detail management measures of work injury prevention according to the constitutions. Government orders all the enterprises to develop work injury prevention program under the guidance of professional expert or organization. For the enterprise which disobeys the measures and doesn't develop the prevention program, the Labour Department not only order deadline for completion of plan, but also impose fine of up to 800 thousands and even criminal penalties. Secondly, enterprise should have a clear understanding and assessment for every post in order to develop prevention program and make appropriate preventive measures to reduce the accidents. Thirdly, third-party consulting agencies should help enterprise to develop prevention and occupational health program, and take training for the employers and employees.

2.4. Rehabilitation

The work injury rehabilitation hospital and clinic under control of Mutual Fund are responsible for helping injured people to recover work ability. The rehabilitation service team is made up of doctors, psychologists, social welfare workers and other experts. The team will set up special rehabilitation and vocational training program according to the different circumstances of every person. In order to improve service, Mutual Fund also set up a right protection and quality supervision department. Patient can sent E-mail and letter to make service evaluation.

In Spain, the study tour group has visited the rehabilitation hospital under the FREMAP Mutual Fund. This hospital has established in 1933, there are 126 beds and the construction area is about 200 thousand square metres. This hospital has complete physical therapy equipments and professional labs.

3. Recommendation for China



3.1. Further expand the coverage of work injury insurance

In France and Spain, the work injury system almost cover all the vocational people; in France, it also covers the trainees, student of technical school and apprentice; in Spain it also covers the self-employer. From the global perspective, work injury insurance is the most widely used insurance. In China, currently, civil servants, flexible worker (including self-employer) and some groups existing vocational risk are not included in the coverage of work injury insurance. Establishment of unified work injury system which covers the workers of enterprise and government is a general trend. Currently, form the point of system design, work injury insurance has already covered all the workers who have labour relation, and the flexible workers can not covered in this system. Drawing up the experiences of Spain and France, we should explore the approach of improvement of individual contribution and establishing the benefit standards

3.2. Promote work injury prevention

Spain and France have already established the complete work injury system which includes work injury prevention, work injury compensation and work injury rehabilitation, and the prevention takes the important role in the system. It reflects the modern idea of focusing on prevention and prevention of priority. In the history of work injury insurance development of our country, work injury compensation has been the most important element in the initial stage.

However, in the process of industrialization and urbanization, the work injury prevention should not be ignored; we must promote the establishment and improvement of work injury prevention system.

The functions of prevention in the work injury insurance are mainly reflected in two aspects: one is the floating contribution rate mechanism; other one is to directly input the work injury insurance fund into work injury prevention. In the context of floating rate, there are regulations on the differential rate and floating rate in principle in the central level, local authorities also regulated the implementation measures for floating rate. However, currently, the rate grades are not enough, the risk assessment mechanism for work injury is not established, and rate mechanism do not fully played the economic leverage function which can promote enterprise to promote work injury prevention. We need to promote the research on risk assessment, develop appropriate rate standard and grade according to vocational risk to establish scientific floating rate system. In the use of work injury insurance fund, we take a little detour: the *measures for trial implementation for enterprise work injury insurance* enacted in 1996, regulated to extract the work injury prevention fee from work injury insurance fund to carry out work injury prevention; the *regulation for work injury insurance* enacted in 2004, abolished the related provision; the revised version of *regulation for work injury insurance* enacted in 2009, planed to add the related provision. In 2009, MoHRSS issued the *notice on implementation of work injury prevention pilot work* to start the pilot work of making use of work injury insurance fund to carry out the work injury prevention. In the pilot work, we should use the reference of related



experiences of France and Spain, promote the research on the scope and impact of fund, and improve the cooperation among work injury department, safety supervision department and health department.

3.3. Establishment of work injury rehabilitation

The work injury rehabilitation system in France and Spain reflect the social function and responsibility of work injury insurance taken as a social insurance. In China, the work of rehabilitation started late, the model is still in the phase of exploration, and the concept is still not well understood and supported by public. From our visit for two countries' rehabilitation hospitals, there are advanced facilities and highly targeted rehabilitation. In China, currently, insured persons of work injury insurance have reached into 14 million, there are nearly 1 million persons every year, most of them need to re-integrate into society by virtue of work injury rehabilitation. It is a good time to promote the development of work injury rehabilitation. We should seize the opportunity, explore the various rehabilitation model (such as establishing the rehabilitation hospital and purchasing the rehabilitation service and so on), research and improve the related regulations and measures. At the same time, we should take attention on publicity, carry out the concept of first rehabilitation, secondly assessment, first rehabilitation, secondly compensation, establish the appropriate work injury rehabilitation system adapted to our country's circumstance.