



Intervention policies and social security in case of reduced working capacity in the Netherlands, Finland and Germany: a comparative analysis

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Abstract

Objectives Working age disability is a major challenge for policymakers in European countries. This pertains to both occupational reintegration and social benefits for work incapacity. In many states reforms have been initiated aimed at reducing disability scheme inflow and fostering return to work. Our study was motivated by the question as to which aspects of these reforms seem to have been effective.

Methods Three different approaches were utilized: case vignettes, interviews and expert workshops in the respective countries (Netherlands and Germany in 2012; Finland in 2015), and a systematic search for relevant studies on occupational reintegration was performed.

Results We found considerable differences as to the assessment of work incapacity and resulting monetary benefits in the three countries. Also, organisation and practices of occupational reintegration vary from one country to another. Major differences concern (1) the timing of interventions, (2) employer responsibility and workplace involvement, (3) incentives and sanctions and (4) organisational and procedural issues.

Conclusions Our results may partly explain why some reform strategies have been more successful than others, and thus contribute to the further development of social and labour policies in Europe.

Keywords Long-term ill or disabled · Social security · Return to work efforts · Policies and practices in the Netherlands · Finland · Germany

Background

Working age disability today is one of the biggest social challenges for policymakers in European countries (OECD 2010) and there are substantial differences, even between

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neighbouring countries (cf. Cornelissen 2009). This also holds true for reform strategies aimed at solving labour market problems, reducing rates of disability benefits and compensating for the consequences of rising legal retirement age.

In the 1980s and 1990s, disability benefit rates in the Netherlands were among the highest in the OECD (cf. Pennings 2011; van Sonsbeek and Gradus 2011). Between 1994 and 2006, a series of policy reforms led to a complete overhaul of the system (Pennings 2011). As a result, disability benefit inflow was reduced by 60% (van Sonsbeek and Gradus 2011). Also, between 2004 and 2009 a reassessment program on about 340,000 persons receiving long-term disability benefits substantially reduced the stock of benefit recipients (van der Burgh and Prins 2010).

In Finland, reforms were introduced much later (cf. Niemelä and Salminen 2006; Halonen et al. 2016), and were more gradual than they were in the Netherlands. Legislation on partial sickness benefit, introduced in 2007, and even more so the policy amendment of 2012 (“30–60–90 days rule”) seem to have enhanced sustainable return to work (Halonen et al. 2016; Kausto et al. 2014).

In Germany, major transformations took place in 2001 with the reform of occupational disability pensions and the adoption of the Social Code on rehabilitation and participation of the disabled with an amendment concerning vocational reintegration in 2004. Serial statistics of the Statutory Pension Fund suggest that neither of these reforms had much effect on occupational disability pension scheme inflow (cf. Deutsche Rentenversicherung 2012).

The main questions that this study addresses are: Which aspects of the reforms seem to have been effective? Are there unwanted effects and other side effects of the reforms? We looked at the Netherlands since the reforms there seem to have been particularly effective. We also looked at Finland because it is an example for the Nordic model that has not been studied as well as Denmark (e.g. Jørgensen 2009) or Sweden (e.g. Hetzler 2009). Our aim was to delineate major differences between practices in the three countries in order to contribute to the further development of social and labour policy in Europe.

Methods

We designed case vignettes with exemplary cases of disability. On the basis of these vignettes, experts in the respective countries answered a standardized set of questions about the concrete processes and results of disability management. Expert meetings in the three countries helped us gain a better understanding of the respective policies. We also systematically searched for relevant research on factors fostering return to work processes. The study took

place between 2012 (Netherlands, Germany) and 2015 (Finland).

Results

Process requirements and disability benefits in case of long-term illness or disability

Germany

An employee is entitled to 6 weeks of employer-paid sick leave (§ 3 Entgeltfortzahlungsgesetz); after that period he can claim sickness benefits (70% of former gross wage) for up to 78 weeks (starting from the first day of illness) from health insurance (§§ 44–51 SGB V).

The health insurance may request that employees receiving sickness benefits file an application for rehabilitation with the pension insurance provider (DRV) (§ 51 SGB V) within a period of 10 weeks. It is regarded as an application for occupational disability pension in case rehabilitation does not promise to be successful (§116 Abs. 2 SGB VI). Generally, for employees the DRV is responsible for medical or vocational rehabilitation.

If the claim for sickness benefits expires and the employee does not receive disability pension he is entitled to unemployment benefits from the Federal Employment Agency (BA). The BA is obliged to request that the sick employee submits an application for rehabilitation treatment within 1 month (§ 145 Abs. 2 SGB III).

In case of an occupational accident, the employee is entitled to injury benefit amounting to 80% of his former wage (§ 45 SGB VII). After 26 weeks he can claim disability pension from the Statutory Accident Insurance (UV). The pension depends on the reduction in earning capacity; the full disability pension amounts to two-thirds of the former wage (which would be some 180% of the benefit in case of a leisure accident).

Since 2004, employers have been obliged to offer a vocational reintegration program for employees who have been on sick leave for longer than 6 weeks (§ 167 SGB IX). The employer is supposed to clarify how the work disability can be overcome, and how the workplace can be maintained. The workers council is to be involved, and the company physician and the pension insurance provider should be consulted. The program can only be put into effect if the employee agrees. If the employer fails to offer the reintegration program, the dismissal of a sick employee might be unlawful (Kohte 2008). The awareness level of vocational integration programs is still low, especially in small and medium enterprises (Ramm et al. 2014).

There also is the option of gradual reintegration (§ 44 SGB IX) in which a sick worker starts working part-time at

the former employer and gets paid a 70% benefit by the pension, sickness or accident insurance (§ 65 SGB IX).

An employee is entitled to an earnings-related occupational disability pension if he is unable to work for at least 6 h (half pension) or 3 h per day (full pension) under the conditions of the general labour market (§ 43 SGB VI). Disability pensions in principle are granted on a temporary basis for a maximum of 3 years and are converted to a permanent pension, at the latest, after 9 years (§ 102 Abs. 2 SGB VI). Occupational disability pensions are based on the contributions of the insured persons and, on this basis, their projected earnings till the age of 62. With reaching the statutory pension age the occupational disability pension is converted to an old age pension.

The responsible social body does the assessment of rehabilitation need before granting social benefits. The assessment is based on socio-medical records or an examination by a medical expert. Rehabilitation treatment should take precedence over any other social benefits (§ 9 SGB IX; § 9 Abs. 1 S. 2 SGB VI; § 26 Abs. 3 SGB VII) but this is not executed in many cases (Mittag et al. 2014).

The Netherlands

Up to 2 years after reporting sick, employers and employees in the Netherlands follow specific process requirements (Table 1) as specified in the “Gatekeeper Act” (Wet Verbetering Poortwachter, WVP, 2003) which aims at improving return to work. Employer and employee can mutually exact adherence which is monitored by the Employee Insurance Agency (UWV). (cf. Pennings 2011).

Wage payment during sickness absence was extended from 2 weeks (large enterprises, 6 weeks) in 1994 to 52 weeks in 1996 (Wet Uitbreiding Loondoorbetaling Bij

Ziekte, WULBZ), and to 104 weeks from 2004 (Wet Verlenging Loondoorbetalingsverplichting Bij Ziekte, WVLBZ). In this period the focus shifts from job adaptations (e.g. part-time work) to getting a new job at another employer (“2nd track”).

The employer pays a minimum of 70% of the salary (often raised to 100% in the first year of sickness). Private insurances may cover the payment of wages, fully or partly. If an employee becomes long-term disabled, the employer’s insurance premium raises, stimulating employers to promote return to work.

The Dutch benefit system recognizes remaining theoretical earning capacity, unlike Finland or Germany (remaining working capacity e.g. in hours per day). Remaining earning capacity (the wage a person can earn in suitable work and despite illness or infirmity; Pennings 2011, p. 83) is assessed by an insurance physician and a labour expert (at UWV). This assessment uses the reintegration report, information from the Occupational Health Service (Arbodienst) and from treating physicians and a face to face assessment by the insurance physician and results in a “Functional Ability List” (70 items). This list is compared to a database of about 7500 jobs (demands and earnings; de Boer 2010). Loss of earning capacity is the difference between residual earning capacity and previous earnings. Benefit is granted if the loss of earning capacity exceeds 35%, proportional to the loss of earning capacity.

The Disability Benefits Act (Wet Werk en Inkomen naar Arbeidsvermogen, WIA) distinguishes claimants who are found permanently fully disabled from claimants (receiving a benefit of 75%) who are temporarily and/or partly disabled. The latter are stimulated to return to work. Work accidents are not treated differently. Disability benefits end at statutory pension age.

Table 1 Mandatory process requirements during the first 2 years of illness in the Netherlands (“Gatekeeper protocol” from 2003)

When?	What?	Who?
Week 1	After the worker has reported that he or she is ill, the employer informs the Occupational Health Service (Arbodienst) or the company doctor	Worker, employer
Week 6	After consulting the worker, a <i>problem analysis</i> is produced by the Arbodienst, including <i>advice about resumption of work</i>	Occupational physician from the Arbodienst
Week 6	Start of a <i>reintegration file</i>	Employer
Week 8	<i>Plan of action</i> (mandatory periodical evaluation about every 6 weeks), <i>case management assignment</i>	Worker, employer
Week 46–52	<i>First year evaluation</i> to the Employee Insurance Agency (UWV) including plans for the second year of illness	Worker, employer
Week 87–91	After consulting the worker, the employer produces a <i>reintegration report</i> according to WIA (Wet Werk en Inkomen naar Arbeidsvermogen). During week 91, the employee applies for a WIA benefit; this application includes a copy of the reintegration report	Worker, employer
Week 91–104 (“waiting period”)	On the basis of the reintegration report, UWV decides whether the employer and worker have made sufficient efforts to reintegrate the worker. If the reintegration report is not satisfactory with regard to the employers’ actions, the employer is obliged to pay wages for another 52 weeks	UWV

Those partly and/or temporarily disabled who do not work receive benefits of 70% of the previous wage. If working, 70% of the income will be deducted from the benefit. After the period of earnings-related benefit has expired, a wage supplement benefit is paid (70% of the difference between the individual's previous earnings and his residual earning capacity), provided the claimant earns at least 50% of his residual earning capacity. If earning less than this 50%, he receives a pro rata follow-up benefit related to the minimum gross wage.

Finland

Employees in Finland are entitled to a sickness allowance according to the Sickness Insurance Act (SVL, 1224/2004). It is earnings-related if the annual income of the employee exceeds 1425 € (SVL VII, 1 §). There is a waiting period of 10 weekdays (SVL VIII, 7 §), but on the basis of the Employment Contract Act (TSL, 55/2001) the employee is entitled to salary for the first 10 days (TSL II, 11 §).

The sickness allowance is paid to the employee by the Social Insurance Institution of Finland (KELA). If the employer continues to pay salary to the employee even after 10 working days, KELA pays the sickness allowance to the employer. The maximum duration of the allowance is 300 weekdays (SVL VIII, 8 §). The average amount of the earnings-related sickness allowance is some 70% of the employee's prior earnings.

If the sickness allowance period exceeds 30 days, the employer must inform occupational healthcare (Occupational Health Care Act, 10 a §). In order to receive sickness allowance, the employee or employer must provide a medical certificate for KELA. When the number of sickness allowance days exceeds 60, KELA is obliged to check if the employee is in need of rehabilitation (SVL XII, 6 §). After 90 sickness allowance days, the employee must deliver a medical certificate about his work ability obtained from occupational healthcare to KELA (SVL VIII, 5 a §). Otherwise, the sickness allowance is suspended. This "30–60–90 days rule" has been in force since 2012.

The employee may also be entitled to a partial sickness allowance if he can manage part of his job tasks without endangering his health. In this case, his working hours are reduced at least 40% but not over 60% (SVL VIII, 11 §).

If the sickness allowance period exceeds 300 days and there is no prospect of recovery, the employee is considered for disability pension. It can be granted either through the national pension scheme or through a statutory earnings-related employee pension scheme. A person is entitled to disability pension paid from the national pension scheme if he has no earnings history or his earnings-related disability pension would remain below the guaranteed

pension. The national pension system is thus complementary in regard to the earnings-related employee pension scheme. It only provides a minimum level of income security.

According to the National Pension Act (KEL, 568/2007), a person between the age of 16 and 64 is entitled to disability pension if incapable, due to a sickness, defect or an injury, to perform usual or corresponding work that would secure livelihood and be suitable with regard to age, professional skills and other relevant factors (KEL 12 §). The national pension system does not recognize partial disability pensions.

According to the Employee Pension Act (TyEL, 395/2006), an employee is entitled to an earnings-related disability pension if his ability to work has been reduced, due to a sickness, defect or an injury, at least by 40% continuously at least a year. The employee is entitled to full disability pension if the capacity to work is reduced by at least 60%. Otherwise he is only entitled to a partial disability pension (TyEL 35 §). Working capacity is determined by the pension insurance companies.

Earnings-related employee disability pension comprises two components: earnings-based pension (accrued by earnings before the disability) and projected earnings after the disability pension. In order to have the right to the projected pension, one needs to have earned at least 17455.15 € (2017) during the ten calendar years preceding the year that one's disability began. If one is between 24 and 55, the earnings-related disability pension will be increased by a lump sum when one's disability pension has continued uninterrupted for 5 years.

Before the disability pension, an employee is entitled to rehabilitation services and benefits on the grounds of either the earnings-related pension system (TyEL 25 §) or the Act on the Rehabilitation Services and Monetary Rehabilitation Benefits of KELA (566/2005). Services include vocational rehabilitation, medical rehabilitation for persons with severe disabilities, psychotherapy or discretionary rehabilitation.

In case of an occupational accident, benefits are based on the Occupational Accidents, Injuries and Diseases Act (459/2015). Benefits include compensation for medical treatment, daily allowance, occupational accident pension, monetary handicap compensation, rehabilitation allowance and vocational rehabilitation.

Comparison of benefits in the three countries

Results were based on five exemplary case vignettes covering various health problems. As the nature of the respective problem did not have any impact on social benefits (nor on return to work practices) in any of the three countries, we confine ourselves to two model cases to

The experts agreed that John has a working ability of less than 3 h per day (Germany) or that his working ability is fully reduced (Finland); his loss of earning capacity amounts to 100% (Netherlands). The resulting benefits can be taken from Fig. 2.

The difference between disability benefits in Germany depending on the causation of the work disability is striking. In case of a work accident or occupational disease, benefits from the Statutory Accident Insurance (and subsequently the later old age pension) would be about twice as high compared to the disability pension from the Pension Insurance in case of a leisure accident. In Finland, accidents at work or occupational diseases are treated differently too, but the difference is not nearly as high. The occupational accident pension system in Finland seems most generous compared to either Germany or the Netherlands. In the Netherlands, there would be no difference between work and leisure accidents as to the resulting benefits; there is only one insurance scheme in the Netherlands for work disability. This also applies to the obligations of the employer as to wage payments during

sick leave. In Germany and in Finland incentives to avoid occupational accidents seem stronger because the resulting benefits are employer-founded, and prevention is promoted by the occupational accident insurance.

Discussion

We looked at differences in return to work practices and social security so as to understand why social reforms aimed at reducing disability scheme inflow in some European countries like the Netherlands proved effective and in others (e.g. Germany) did not. Indeed, we found differences between the policies and practices in the three European countries that might help to explain the diverging results.

However, we were surprised that even though assessment instruments and procedures vary between countries, these differences seem to have rather little impact on the outcomes as far as degrees of disability are concerned. The thresholds appear to be similar across countries even if the key concept of the Dutch benefit system (loss of *earning capacity*) is unique.

Differences mainly concern (1) the timing of interventions, (2) employer responsibility and workplace involvement, (3) incentives and sanctions and (4) organisational and procedural issues.

Timing of interventions

Systematic reviews suggest that early contact with the worker on sick leave enhances return to work (e.g. Franche et al. 2005; Gabbay et al. 2011; Hoefsmit et al. 2012). The return to work practices in the Netherlands and also in Finland follow this principle. In the Netherlands, contact with the sick worker is initiated during the first 6 weeks of absence, and the subsequent interventions aimed at occupational reintegration follow a fixed schedule with “milestones” that are mandatory by law. Procedures in Finland seem somewhat less strict but also follow a predefined time schedule. In Germany, the company reintegration management also states a 6 weeks rule, but the implementation strongly depends on the state of industrial relations between works council and management. The involvement of social insurance is not obligatory.

Employers’ responsibilities

In the Netherlands, employers bear responsibility for the reintegration of sick employees for as long as employment continues. Together with the obligation of wage payment for 2 years this is a strong stimulus for doing everything possible to get employees back to work as quickly as

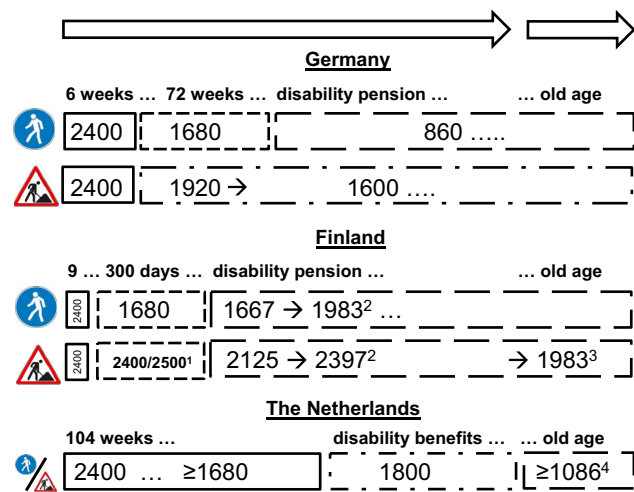


Fig. 2 Sickness benefits, disability pensions and old age pensions in Germany (2013), Finland (2016) and the Netherlands (2012); leisure versus work accident (case vignette 2). ¹After 4 weeks; includes the annual holiday bonus. ²Increased by a lump sum after age 36. ³After age 65. ⁴Usually supplemented by a company pension. To simplify matters, it is assumed that gross wages will remain the same over time; therefore the actual pensions in Germany and in Finland would be somewhat lower. **Employer.** **Health Insurance (Germany)/social insurance (Finland).** **Pension insurance.** **Employee insurance (Netherlands).** **Accident insurance.** **Leisure accident.** **Work accident.** Note: per capita gross domestic product (GDP; current prices) in Germany (2013) was 35044 €, in Finland (2016) 39101 € and in the Netherlands (2012) 38505 € (International Monetary Fund 2017)

possible. As in Finland, occupational physicians play an important role managing interventions at work, sick leave and return to work processes. Thus, workplace involvement in both countries seems more common than in Germany.

Incentives and sanctions

Financial incentives for the employer to get sick employees back to work are strong in the Netherlands (e.g. long duration of sick pay, experience-rated premiums) as well as in Finland (e.g. large companies have to reimburse disability pensions). It pays for the employer to invest in health prevention and to help sick workers back into their job. On the other hand, at least in the Netherlands, sickness or disability beneficiaries are better off by staying in work or seeking sustainable work in another company. Proactive interventions (e.g. case management, monitoring of sickness absence, reassessment of disability) also provide a strong incentive and have proved to be effective in supporting return to work (e.g. Hoefsmit et al. 2012; Pomaki et al. 2010). Compared to that, incentives for the employees to resume work seem rather weak in Finland. Especially in the Netherlands there remains the risk, though, that the regulations form a disincentive for employing chronically ill, disabled or elderly persons, or else offering them only fixed-term labour contracts.

In Germany, the financial obligation of the employer ends after 6 weeks when the wage payment on sick leave terminates and the worker is off the payroll. The occupational reintegration program, though required by law, is not always put into practice, and consequences depend on the activity of the works councils or the sick worker himself. At least during sick leave it does not pay for the employee to take up another job that for instance pays less because he would lose his sick pay that way.

So, the systems follow a different logic. In Germany, in the early phase of work disability benefits would cease when the sick employee takes up another job no matter how much it pays, and later there is a reduction of disability benefits if the additional income exceeds certain thresholds, thus weakening the incentive to find work; whereas in the Netherlands, it is not only expected but rather rewarded to have a sustainable income (cf. Devetzi 2011).

Organisational and procedural issues

Few players and structured, close communication between stakeholders have proved to facilitate return to work (e.g. Franche et al. 2005; Pomaki et al. 2010; Prinz 2010, Schandelmaier et al. 2012). Especially in the Netherlands, but also in Finland, few actors (worker, employer, occupational health service) are responsible for the return to

work process, and they are committed to coordinated and structured practices. The employee benefit provider does not come into play until just before the waiting period of 2 years ends.

In Germany we find fragmented structures with many and often poorly connected actors (health insurances, pension fund, employment agency, family doctor). The multitude of health insurances in Germany alone (as of yet some 110 statutory) has proved an important barrier against the effectiveness of occupational reintegration programs (Ramm et al. 2014). Another issue is that the employer in many cases is not involved. In case of an occupational accident or disease there is only one major actor (one out of ten Statutory Accident Insurances), and procedures are much more structured and coordinated.

Also, assessing work capacity instead of incapacity seems to be somewhat effective in supporting return to work, especially if there are arrangements for partial sickness benefits like in the Netherlands and in Finland (cf. Kausto et al. 2014; Van Wel et al. 2012). Comparable regulations are currently suggested by national experts in Germany too (Sachverständigenrat 2015). Finally, facilitating outflow from disability benefits by means of a broad reassessment of people receiving benefits has proved effective in the Netherlands (van der Burgh and Prins 2010).

All this taken together, compared to other European countries like the Netherlands, “‘activation’ still does not seem to be the main goal of incapacity insurance in Germany—at least not in the pensions insurance scheme” (Devetzi 2011, p. 178). This may at least in part explain why social security reforms in Germany were not nearly as successful in terms of keeping sick or disabled employees in work and reducing rates of disability benefits as compared to the Netherlands and Finland. We did not find that lowering the benefit level or putting higher barriers to benefit access—which Germany did in the 2001 reforms—as an isolated measure was effective for promoting return to work. Benefit cutting alone does not seem a successful activation policy.

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Compliance with ethical standards

Conflict of interest The authors declare that they have no conflicts of interest.

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