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Horizontal and vertical overview of sickness insurance systems with special regard to the Hungarian sick-pay benefit

1. General overview of sick-pay benefit systems

The notion of paid sick leave is in various ILO Conventions, regulations, concepts and approaches define a broad concept of social health protection¹ that includes paid sick leave by focusing on providing universal access to health care and financial protection in case of sickness. In this context, financial protection includes compensation for the economic loss caused by the reduction of productivity and the stoppage or reduction of earnings resulting from ill health.²

- Sick leave and related income replacement constitute a key component of
- ILO Convention 102 (Minimum Standards)³ on Social Security.⁴ It states that sick-pay benefits cover incapacity to work resulting from a morbid condition and involving suspension of earnings. The later ILO Convention 130⁵ suggests a slightly higher standard of benefits.
 - The ILO Decent Work Agenda defines work of acceptable quality that ensures, among others, basic security.⁶
 - The Social Protection Floor⁷ initiative⁸ led by the ILO and WHO established in the context of the one UN response to the 2007-2011 economic and financial crisis

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¹ ILO, *Social Health Protection: An ILO Strategy towards universal access to health care*, Geneva 2008

² <http://www.who.int/healthsystems/topics/financing/healthreport/SickleaveNo9FINAL.pdf> (06.01.2017)

³ ILO C102 Social Security (Minimum Standards) Convention, 1952

⁴ This convention sets minimum standards for social security and is deemed to embody an internationally accepted definition of the very principle of social security.

⁵ C130-- Medical Care and Sick-pay Benefits Convention, 1969 (No. 130).

⁶ ILO Decent Work Agenda, 1999

⁷ UN System Chief Executive Board for Coordination, New York, 2008

⁸ <http://www.ilo.org/seccsoc/arcas-of-work/policy-development-and-applied-research/social-protection-floor/>

requests countries to build adequate social protection for all through basic social guarantees for every citizen.⁹ This includes a set of essential social transfers, in cash and in kind, to provide a minimum income security.¹⁰

In general, the concept¹¹ of paid sick leave consists of two components:

- a. leave from work due to sickness and
- b. cash benefits that replace the wage during the time of leave due to sickness.

Paid sick leave is intended to protect the worker's status and income during the period of illness or injury through health and financial protection.¹²

The key rationale for paid sick leave is that work should not threaten health and ill health should not lead to loss of income and work. Paid sick leave allows workers to:

- a. Access promptly medical care and the opportunity to follow treatment recommendations.
- b. Recuperate more quickly.
- c. Reduce the health impact on day-to-day functioning.
- d. Prevent more serious illnesses from developing.
- e. Reduce the spreading of diseases to the workplace and community.

Thereby, paid sick leave aims at improving health outcomes and productivity due to faster recoveries. It also addresses income security and avoids sickness-induced financial hardship.

By providing continued job and income security, it is a prerequisite for accessing health care services and a tool against discrimination at the workplace.

lang--ja/index.htm (05.01. 2017)

⁹ Strategies for the Extension of Social Security Coverage, ILO, TMESSC 2009

¹⁰ Key components comprise universal access to essential health care and income support for those with insufficient income and income security. The concept was endorsed by the Global Jobs Pact that the International Labour Conference adopted in June 2009. These concepts are embedded in the Declaration of Philadelphia adopted in 1944 where social security has explicitly been recognized as a Human Right. It is expressly formulated as such in the Universal Declaration of Human Rights (Articles 22 and 25), and the International Covenant on Economic, Social and Cultural Rights (ICESCR, Article 9). The General Comment No. 19 of the Committee on Economic, Social and Cultural Rights (CESCR) on Article 9 of the ICESCR defines the right to social security as encompassing the right to access and maintain benefits without discrimination in order to ensure protection from, for example, lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member. These objectives demand the establishment of measures to provide support to those who are unable to make sufficient contributions for their own protection. In other words, it calls for the continuation of salary payments or income replacement in case of sickness.

¹¹ This concept is reflected in the definition of paid sick leave as compensated working days lost due to the sickness of workers.

¹² Adapted from Duhaime Legal Dictionary, <http://duhaime.org/LegalDictionary/S/SickLeave.aspx>

The organization and financing of paid sick leave is often associated with existing sickness, disability or other schemes, and therefore it shows a strong link to the overall design of the social (health) protection schemes in countries in terms of organization and financing.

In principle, paid sick leave can be funded through:

- a. Taxes collected by the government as part of public social expenditure and provided through public authorities.
- b. Contributions or payroll-taxes— with or without ceilings— under mandatory social health protection schemes as stipulated by legislation and operated by semi-public insurance funds. In such insurance systems contributions might be shared between employers and employees.¹³
- c. Risk-based premiums for coverage in private insurance that might be mandatory. Private insurances cover the loss of earnings in the form of cash benefits, but, for individual workers, are obviously only feasible for those who can afford them.
- d. Employers' funds (which might be supported by insurance) based on legislation, collective agreements on sick-pay benefits or provided as a specific right for employees as a part of employer-based protection schemes.¹⁴

Globally, paid sick leave is provided in countries with both developed formal labour markets and social health protection schemes. In many countries paid sick leave is provided through social health insurance or national health systems and grouped together with other income replacement schemes such as disability programmes, work injury, maternity, long-term care schemes, early retirement or old age pension schemes in order to ensure smooth transitions from temporary disability to long-term disability and retirement. The contribution rate for the cash benefit is usually a fixed percentage of the wage that is shared between employers and employees. In many countries the rate is jointly calculated for sick-pay benefits, paid sick leave and maternity protection. Some countries¹⁵ exclusively use employer funds.

In some countries, for the social health insurance schemes governments provide a subsidy to paid sick leave.¹⁶

Countries that run National Health Services usually cover costs for paid sick leave directly through employer funds such as in the United Kingdom. Exceptions where paid sick leave is administered and funded by public authorities include New Zealand.

¹³ ADEMA, WILLEM-- LADAIQUE, MAXIME: „*How Expensive is the Welfare State?: Gross and Net Indicators in the OECD Social Expenditure Database (SOCX)*“, OECD, 2009. Social, Employment and Migration Working Papers, No. 92, 22-27 pp.

¹⁴ <http://www.who.int/healthsystems/topics/financing/healthreport/SickleaveNo9FINAL.pdf> (02.01.2017)

¹⁵ This is, for example, the case in Sweden, where employers contribute payroll taxes to cover the costs of cash benefits.

¹⁶ Social Security Administration, *Social Security Programmes Throughout the World*, 2014, Washington, 2014.

Some private insurance companies provide benefits for income replacement during sick leave. However, these are not considered as a part of social protection and will therefore not be further considered in the following.¹⁷

There is one more aspect which is worthwhile mentioning, namely the economic costs of working while sick go far beyond increased health care costs due to treating a significantly higher number of people showing more severe signs of ill health. They also involve costs due to lower productivity and subsequent impacts on economic growth and development, in addition to collective costs of growing health and social inequalities.

II. A brief structured international panorama

II.1. Sickness benefit policy clusters

A cluster analysis of sickness benefits over the 20 subcomponents of the compensation indicator and the integration indicator identifies the three types of policies: 1. the social-democratic model, 2. the liberal model and 3. the corporatist model (see Table 1).¹⁸

Table 1

Three distinct policy models of sickness benefit

I. Social-democratic model (mostly North European countries)	II. Liberal model (OECD Pacific and English speaking countries)	III. Corporatist model (mostly continental European countries)
<i>For example:</i> Denmark Netherlands Switzerland Finland Germany Sweden	<i>For example:</i> Australia United Kingdom Canada Japan South Korea United States	<i>For example:</i> Austria Hungary France Poland Czech Republic Slovak Republic

Source: OECD: Sickness, disability and work: Breaking the barriers (A synthesis of findings across OECD countries). OECD Publishing, Paris, 2010. 362 p.

¹⁷ <http://www.who.int/healthsystems/topics/financing/healthreport/SickleaveNo9FINAL.pdf> (02.01.2017)

¹⁸ LOISEL, PATRIC – ANEMA, JOHANNES (eds.): *Handbook of work disability: Prevention and management*. Springer, New York, 2013. 362-363 pp.

11.2. The social-democratic model

This model is generous both in compensation and integration (rehabilitation), but provides better work incentives. It has the strongest sickness absence monitoring and/or sick-pay eligibility control focus and the strongest employer obligations of all the above-mentioned three models. For example:

Finland

Sickness allowance is paid to those between the ages of 16 and 67. The entitlement to sickness allowance commences nine working days after the illness begins (not counting the day of onset). To be entitled to sickness allowance a doctor's certificate is required. The employer generally pays the employee's wages during this waiting period. Most employers also pay the full salary during the first one to two months. Kela¹⁹ will pay sickness allowance for a maximum of one year. If the sick person receives pay during the period of illness, Kela will pay the compensation to the employer in charge.

If the insured person can work part time²⁰ during the illness, without compromising his/her health or recovery, he/she can claim partial sickness allowance (*osasairauspäiväraha*). Partial sickness allowance can be claimed for a maximum of 120 working days.

Sickness allowance is calculated based on annual income declared for taxation purposes or work income for the last six months.

The amount of sickness allowance can also be affected by whether the insured person was in rehabilitation, studying, or suffering from a previous illness or unemployed before he/she fell ill.

The sick person can claim sickness allowance even if he/she has never received income from work or benefits. In such cases he/she is paid at least the minimum amount after the inability to work has lasted for an uninterrupted period of at least 55 days. Sickness allowance is taxable income.²¹

Netherlands

If somebody becomes ill and is in paid employment, his/her employer must continue to pay at least 70 % of his/her pay for 2 years. Temporary employees or unemployed persons come under the Sickness Benefits Act and will receive a benefit from the UWV, the Employee Insurance Agency, equal to 70 % of the average daily pay received before the illness. In case of self-employed persons, they can take out voluntary insurance in case they become ill. This could be with the UWV or a private insurer.

¹⁹ Kela is a Finnish government agency in charge of settling benefits under national social security programs.

²⁰ To receive partial sickness allowance, the working hours and pay must be reduced by 40-60 per cent.

²¹ <http://www.kela.fi/web/en/sickness> (12.01.2017)

When somebody becomes ill, he/she must report this to his/her employer as soon as possible (no later than the second day of his/her illness). Employers may impose checking conditions; the ill employee must comply with these.

The entitled sick person may receive at least 70% of his/her income from his/her employer or from the UWV. They receive this amount during the first 2 years of their illness. If a part-time worker is sick, the continued payment will not extend beyond the duration of the fixed-term contract. After this, the sick person has the right to a benefit from the UWV. However, if he/she receives a benefit from the UWV, the amount is based on the last earned pay, with a maximum of EUR 197 per day (maximum daily pay). If 70% of the daily income is less than the social minimum, he/she may be entitled to a supplement based on the Supplementary Benefits Act.²²

11.3. The liberal model

It has well-organised, coordinated and better accessible benefits, but at the same time it has the shortest sickness benefit payment duration. For example:

United Kingdom

In the UK, employees do not have a statutory right to time off work as a result of sickness. It is, however, common for employers to include such a right in the employment contracts of their employees.

There is no right to receive full pay whilst off work due to sickness. Provided an employee satisfies the qualifying requirements, they will be entitled to receive statutory sick pay. It is, however, common for employers to grant more generous sick pay allowances under their employment contracts, for example 10 days full pay, although these provisions vary greatly between companies. Employers can, and often do, set out more onerous notification requirements in order for an employee to receive contractual sick pay.

Employees do not have a statutory right to time off for medical appointments where these are of a routine nature only and if the employee is fit to attend work. This may be dealt with in the employment contract, although this is not common and is generally granted at the discretion of the employer only.

It is advisable that employers ensure that they have an established sickness policy in place that sets out the procedure that the company will follow in the event that an employee is unable to attend work due to sickness. This should also contain the certification requirements for the employee to follow, i.e. what notification the employee must provide to the employer in order to receive sick pay.²³

²² <http://cc.europa.eu/social/main.jsp?catId=1122&langId=en&intPageId=2999> (12.01.2017.)

²³ <https://www.nidirect.gov.uk/articles/sick-pay-rights> (11.01.2017.)

United States of America

There is no general legal requirement that employers give employees sick leave. While most employers do in fact give employees some paid time off each year to be used for sick leave, the law does not require employers to do so in most circumstances.

Under some circumstances, however, the law *does* require employers to permit employees to take unpaid time off from work for illness, without negative consequences for the employees. Leave from work may be required by the Family and Medical Leave Act or to accommodate a disability. In the case of pregnancy, an employer cannot deny leave to an employee for a pregnancy-related condition if the employer gives leave to employees for other temporary disabilities.

There is also no federal legal requirement that sick leave, if given by an employer, be paid leave. However, there are some state²⁴ and local laws requiring employers to provide paid sick leave for their employees.

Even though there is no current federal requirement that employers provide their employees with sick leave, if an employer does not treat employees consistently when they take leave (for example, one employee gets paid when he/she misses work because of a cold while others are not paid when they miss work for minor illnesses), that employer may risk discrimination claims brought by employees who use evidence of this different treatment to show they have been discriminated against.²⁵

An employer who does provide paid sick leave is allowed under law to take reasonable actions to ensure that the leave is used for its intended purpose and not as a means to obtain additional vacation time.²⁶

The Family and Medical Leave Act (FMLA) requires companies with 50 or more employees (working within a 75-mile radius) to allow an employee to take unpaid time off of work because of the birth or adoption of a child, the employee's own serious health condition,²⁷ or the need to care for a seriously ill child, spouse or parent.

Under the FMLA, the person can use accrued paid sick leave instead of unpaid FMLA leave if the reason for the leave is covered by the employer's sick leave policy. For example,

²⁴ For example: California, Oakland, California, San Francisco, California, Connecticut, Massachusetts, Oregon, Portland, Oregon, District of Columbia, Vermont, New Jersey cities of Bloomfield, East Orange, Irvington, Montclair, Newark, Passaic, Patterson, and Trenton, Jersey City, New Jersey, Seattle, Washington, New York, New York, etc.

²⁵ <https://www.dol.gov/general/topic/workhours/sickleave> (12.01.2017.)

²⁶ For example, an employer may require the employee to call in each day when he/she is ill, or require a doctor's note for serious illnesses. An employer may also monitor patterns of sick leave use, for example, to identify employees who consistently take sick time at the beginning or end of the week (to have longer weekends) or at the end of each year (to avoid losing accrued sick time). Employees who abuse sick leave policies run the risk of discipline or termination.

²⁷ What is a serious health condition for the purposes of the FMLA? Unfortunately, this is not well defined under the law. Illnesses such as upset stomach, common cold, or non-migraine headaches may not qualify. If the medical condition requires hospitalization or requires bed rest under the supervision and care of a physician for more than three calendar days, the condition will most likely be considered a serious medical condition.

the employee will almost always be able to substitute accrued sick leave for his/her own serious health condition, since that is the purpose of sick leave. Using accrued sick leave to care for an ill family member will be allowed only if his/her employer's policy allows employees to use sick leave for that purpose.²⁸

11.4. The corporatist model

It has the strongest employment orientation, well developed rehabilitation and employment programs, and low benefit levels. It pays attention to sickness absence monitoring.²⁹ Hungary belongs to this group, therefore the most numerous countries will be briefly introduced under this model. For example:

Austria

In Austria, the system of continuation of payments in cases of sickness or incapacity is dominated by the "Principle of Loss Compensation" (Ausfallsprinzip) and is therefore extremely employee-friendly.

The Principle of Loss Compensation states that an employee, who is unable to work due to sickness, accident or a medically recommended stay at a health resort must, in financial terms, be treated as if he/she were able to work for a certain period of time. This period of time depends on years of service and varies from six to twelve weeks.

This means that the employee must be granted the same salary he/she would have earned had he/she been working during his/her actual absence and therefore the salary equivalent is not limited to base salary but also includes overtime, bonus payments and usual commission.

Where an employee has a commission agreement guaranteeing commission upon reaching specific sales targets in a calendar month, the drawback of the system becomes evident. If the respective employee is absent from work for, for example, three weeks in one calendar month, the employee will receive an average (full) salary during the period of sick leave, taking overtime, bonus payments, usual commission into account according to the Principle of Loss Compensation.

In addition, if, for example, an employee only works one week in a calendar month, the employee will probably not reach the required monthly sales target in that week and will not therefore be eligible to earn commission. As this has not been tested in the courts in Austria, according to the prevailing opinion in literature, the Principle of Loss Compensation goes so far as to reduce the required sales target in order to give the employee the chance to achieve his/her target and not to make gaining commission impossible. In other words,

²⁸ <http://www.workplacefairness.org/sick-leave> (08.01.2016)

²⁹ LOISEL, PATRIC – ANEMA, JOHANNES (eds.) 2013. 362-363 pp.

the principle not only protects the time of absence but has to be construed as having effect on the actual working period as well.³⁰

France

In France, a distinction has to be made between 'ordinary illness' and 'occupational/work-related illness'. In both cases, the employment contract is suspended during sick leave, except for remuneration and the loyalty obligation which continues to bind the employee.

Ordinary illness, which prevents the employee from temporarily performing his/her job, only suspends the employment contract if the sick leave is certified by a medical certificate.

When ordinary sick leave lasts more than 30 days or if the employee is suffering from a work-related illness, the employee must be examined by an occupational health doctor and declared able to work prior to returning to the company. The doctor may also declare the employee able to return to work under certain conditions. The employer must comply with these recommendations and adapt the employee's position if necessary. This may include, for example, a temporary change to their working hours.

Regardless of whether the sickness is work-related or not, the employee is entitled to return to his/her previous position or a similar one at the end of the leave (with equivalent qualifications and remuneration), unless the employee is declared unable to perform their function.

If the doctor declares that the employee is not totally able to work, the employer must research suitable alternative positions not only within the company but also within other group companies (if any). The employee can refuse the alternative position if it does not match the employee's qualifications and remuneration and the medical recommendations. If there is no suitable alternative position, the employer may dismiss the employee for physical inability. The dismissal is not based on the employee's illness but on the consequences that their absence has on the company. Such a dismissal requires payment of a dismissal indemnity, which is doubled if the sickness is work-related.

The research into a suitable alternative position and/or the dismissal procedure must take place within one month of the doctor's recommendations. If not, the employer must reinstate the payment of the employee's full remuneration.³¹

Poland

In Poland, employees have the statutory right to paid leave from work as a result of sickness. In addition, an individual's employment contract cannot be terminated whilst on sick leave. This often results in the abuse of the right to sick leave. There are some instances where malingering employees are issued with sick notes by medical practitioners, allowing them to receive remuneration and sick pay and, at the same time, secure them from

³⁰ <http://www.eurofound.europa.eu/observatories/eurwork/comparative-information/national-contributions/austria/absence-from-work-austria> (12.01.2017.)

³¹ http://www.clciss.fr/docs/regimes/regime_france/an_1.html (12.01.2017)

being dismissed. It is common for an employee who is informed in advance of a planned termination, to go on sick leave. For this reason it is advisable to ensure that an intended dismissal is kept confidential until the employee is notified in writing, if not, the employer must wait until the employee returns to work in order to terminate the employment and, as a result, the termination can be suspended for weeks or even months. If an employer suspects an employee is malingering, the Polish Social Insurance Institute (the ZUS) can be informed. The ZUS will summon the employee to a medical examination to verify the individual's actual medical condition. The employer can also check whether the employee actually remains at their place of residence during the period of sick leave.

There is a difference between small and large companies in Poland regarding sick pay. Employers who employ more than 20 employees pay the whole period of sickness. Employers employing 20 employees or less pay only the first 33 days of sick leave in a given calendar year.³² For the remaining period the entire amount of sick pay is paid by the ZUS.

The total number of days of sick leave that an employee has taken during their employment with any given employer is recorded in the employment certificate, which is issued at the end of the period of employment. It is a document which prospective employers often request from candidates in order to verify how often the potential employee has been on sick leave.³³

III. The structure of the Hungarian social security system, in a nutshell

The Hungarian social security system offers protection against sickness, maternity, old-age, invalidity, occupational diseases and injury, accidents at work, survivorship, children's education and unemployment. However, two independent branches have been operating within the social security system since January 1992: 1. the pension insurance branch (Pension Insurance Fund— PIF)³⁴ and 2. the health insurance branch (Health Insurance Fund— HIF). In principle, the funds should be self-financed by contributions from employers and employees.³⁵

All persons who are gainfully employed and those of equivalent status are insured against all risks, which are exclusively defined in the social security legislation. These persons include those in paid employment (both in private and in public sector), the self-

³² The number of employees (more or less than 20) is verified once a year on 30 November and this number is set for the whole of the following year.

³³ <http://ec.europa.eu/social/main.jsp?catId=1122&langId=en&intPageId=2999> (12.01.2017.)

³⁴ As for pension – since 1 January 1998 –, the Hungarian pension system has been financed jointly by the compulsory pension scheme of social insurance (1st pillar) and, in addition, by compulsory private pension insurance (till 2011) (2nd pillar). It is also possible to complete a social insurance pension through voluntary private pension funds (3rd pillar).

³⁵ https://www.igpinfo.com/igpinfo/public_documents/ss_summaries/Hungary.pdf (13.01.2017)

employed (including members of co-operative societies), numerous groups of persons of equivalent status, persons receiving income subsidy, job-seeker benefit and job-seeker aid before pension.³⁶

Everyone is automatically affiliated to a social insurance scheme as soon as he/she begins to work. Self-employed people register themselves, and employers register their employees, with the competent local bureau of the taxation and finance office and/or the competent social insurance organisations, as necessary.³⁷

IV. Financing of sick-pay benefit in Hungary

The health insurance benefits – including sick-pay benefit as well – are financed by the Health Insurance Fund (hereinafter: HIF; in Hungarian: Egészségbiztosítási Alap). Both workers and employers are required to pay health/sickness insurance contributions or tax. Anyone who voluntarily subscribes to the social security system can sign an agreement with the competent social security institution.³⁸

The Fund's revenues come from compulsory health insurance contributions (by employees) and taxation (by employers). The amount of contribution/tax payable by both parties is calculated on the basis of the gross – before taxation – wages, income.

There is *no ceiling* for health/sickness insurance contributions, and they are paid to the National Tax and Customs Administration (in Hungarian: NAV). Self-employed persons who perform activities in a complementary way or their joint ventures and otherwise not insured or entitled persons are obliged to pay a healthcare contribution if they are continuously resident in Hungary for one year. Subject to some exceptions, dependent close family members or their spouses are also obliged to pay a healthcare contribution.³⁹

IV.1. Employee's health/sickness insurance contribution

The rate is 7% of gross pay for workers.⁴⁰ The health insurance contribution was separated to “in-kind” (health care services) and “in cash” (e.g. sick-pay benefit) part. For example,

³⁶ http://ec.europa.eu/employment_social/cmpl_portal/SSRinEU/Your%20social%20security%20rights%20in%20Hungary_cn.pdf (03. 01.2017)

³⁷ HAJDÚ JÓZSEF – HOMICSKÓ ÁRPÁD OLIVÉR (szerk.): *Bevezetés a társadalombiztosítási jogba*. Patrocinium, Budapest, 2016, 11-13 pp.

³⁸ HAJDÚ JÓZSEF – HOMICSKÓ ÁRPÁD OLIVÉR, 2016, 61-68 pp.

³⁹ http://ec.europa.eu/employment_social/cmpl_portal/SSRinEU/Your%20social%20security%20rights%20in%20Hungary_cn.pdf (03. 01.2017)

⁴⁰ NB: Employers are also obliged to pay social contribution tax from which the Health Insurance Fund is entitled to the part of its annual revenue according to the Act on the Central Budget.

the in-cash part of the employees' health insurance contribution was 3% and the in-kind part was 4% in 2011. The pensioners who were working and had old-age pensions too had to pay the in-kind part of the health insurance contributions.

Pensioners employed in their own right pay neither pension nor health/sickness contribution. If a pensioner, apart from the pension, receives income subject to contribution payment (as an employee or an entrepreneur), contributions payable by employees do not need to be paid, but he/she is still obliged to fulfil obligations of employers.

IV.2. Employer's social insurance contribution

From 2012, the employer's social security contributions (including health insurance, pension insurance and labour market contributions) were abolished, and replaced by an „inclusive” 27 per cent social contribution tax. In 2017 the rate of social contribution tax payable by employers is 22 per cent. Part of this tax is the source of the sick-pay benefits.

There is a special form of financial burden on the employers relating only to sick-pay benefit. This is the *sick-pay contribution* (táppénz hozzájárulás).⁴¹ According to the legislation, 1/3 of the sick-pay benefit (táppénz) paid to the insured person⁴² must be paid back to the state (Health Insurance Fund) by the employer in question, as a sick pay contribution.⁴³

IV.3. Self-employed social insurance contribution

Joint and private entrepreneurs are obliged to pay both the employer's and the employee's part of the health insurance contribution and tax.

In the case of joint businesses and entrepreneurs, health insurance contribution is calculated on the basis of the income paid to the entrepreneur as personal agency, but at least the amount of the minimum wage. In the case of private entrepreneurs, contribution is calculated on the basis of the entrepreneurial withdrawal, in the case of presumptive taxpayers, the presumptive income tax is based on at least the amount of the minimum wage. Joint and private entrepreneurs pay 22% social contribution tax in 2017.

For those who pay simplified business tax (EVA), contribution payable is calculated on the basis of the minimum wage, but they can choose to declare higher income. If apart from having a partnership or a private enterprise someone has another legal relation providing social insurance (employee, full-time student etc.), social contribution is calculated on the basis of income actually received. In the case of EVA, contributions do not need to be

⁴¹ Subsection 5, Section 19 of Act LXXX of 1997 on the Eligibility for Social Security Benefits and Private Pensions and the Funding for These Services

⁴² For example: the wage is EUR 1000 – sick-pay benefit 60% of the wage=EUR 600 – sick-pay contribution is 1/3 of the paid sick-pay benefit which means: EUR 200 (1/3 of the sick-pay benefit EUR 600).

⁴³ <http://ado.hu/rovatok/ado/elfogadtak-az-idci-utolso-adocsomagot> (05.01.2016)

paid. Joint and private entrepreneurs are exempt from paying contributions if they receive sick-pay, maternity allowance, child-care allowance, child rising support, child-care fee, nursing fee, except if they personally continue their activities during this time.⁴⁴

V. The administration of the Hungarian social security system

There are five main branches of the social security system in Hungary. Pensions and health services (including the statutory work accident system) are classified as social insurance. The other three branches are the unemployment „insurance”, the family support system and the social assistance system. The management, organisation and administration of the Hungarian social insurance system are centralised; the social assistance service is decentralised to local governments.⁴⁵

There is only one statutory health insurance system in Hungary. The Ministry of Human Capacities (Emberi Erőforrások Minisztériuma) is responsible for health insurance and the health sector. The Ministry monitors the activities of all insurance providers, the Health Insurance Fund and providers of healthcare services in respect of healthcare benefits, and also investigates complaints relating to the procedures the health insurance agencies. The National Health Insurance Fund of Hungary (Nemzeti Egészségbiztosítási Alapkezelő) (Hungarian acronym: OEP)⁴⁶ operates via its central service and in the local government

⁴⁴ <http://ado.hu/rovatok/ado/elfogadtak-az-idei-utolso-adocsomagot> (05.01.2016)

⁴⁵ http://ec.europa.eu/employment_social/empl_portal/SSRinEU/Your%20social%20security%20rights%20in%20Hungary_en.pdf (03. 01.2017)

⁴⁶ The core activity of the National Health Insurance Fund Administration includes:

- functions relating to the management of the Health Insurance Fund, including funding and reimbursement accounting, the maintenance of records, keeping financial accounts and fulfilling reporting obligations,
- participates in drafting the Health Insurance Fund budget, the preparation of the final accounts and the tasks entrusted to it in relation to the determination of the detailed budgetary allocations of the Health Insurance Fund,
- performs the tasks entrusted to it in relation to healthcare services that are excluded from health insurance, carries out procedures relating to the social security assistance of pharmaceuticals and medical aids and the adoption of health technologies,
- maintains a unified record of the pharmaceuticals, medical aids and healthcare services receiving social security reimbursement,
- maintains health insurance records,
- conducts the procedures of legal remedy, individual authorisation and the leniency procedures provided for by legislation,
- manages and operates the supervisory, financial, professional and internal control system as defined in specific legislation,
- manages, operates and develops the information systems needed to perform health insurance functions, collects statistical data and publishes such data with the level of detail required,
- comments the mandatory health insurance bills, proposes amendments and initiates new legislation,

offices in the country's 19 counties. The law⁴⁷ determines the legal status guaranteeing ipso facto compulsory insurance coverage. Employers must declare their employees and pay national insurance contributions for them to the competent tax authority, which transmits the data relating to their insurance rights to the competent county-level health insurance funds. Healthcare services can be received from specified healthcare providers, including private providers contracted by the National Health Insurance Fund of Hungary (OEP).⁴⁸

The compensation is paid by the health insurance service of the county government offices within 30 days or by the corporate social insurance payment service on the pay day (an employer with a payroll of more than 100 persons is required to create an in-house social insurance payment service).⁴⁹

VI. Entitlement for sick-pay benefit in Hungary

VI.1. Eligible persons and the covered risks

Sick-pay benefit is due and payable to any person who becomes incapacitated for work during the life of the insurance relationship, if required to pay a health insurance in cash.

In the case of concurrent insurance relationships⁵⁰, incapacity for work and entitlement to sick-pay, the rate and amount of benefits and their duration are evaluated and determined separately for each relationship. This provision also applies where concurrent insurance relationships exist at the same employer.⁵¹

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- takes part in the analysis and evaluation of health insurance related processes and in the elaboration of short-, medium- and long-term development concepts,
 - within its scope of responsibility, the OEP contributes to the preparation and implementation of international treaties related to social security, maintains contact with the designated competent institutions and bodies, performs the coordination tasks stemming from EU membership and participates in the professional work of special EU committees and international organisations,
 - provides information on health insurance and ensures the development of services allowing the enforcement of claims,
 - ensures the education, training and examination of leaders and officers of the health insurance sector, including the officers of health insurance disbursement units.

⁴⁷ Act LXXX of 1997.

⁴⁸ http://ec.europa.eu/employment_social/cmpl_portal/SSRinEU/Your%20social%20security%20rights%20in%20Hungary_cn.pdf (03. 01.2017)

⁴⁹ http://ec.europa.eu/employment_social/cmpl_portal/SSRinEU/Your%20social%20security%20rights%20in%20Hungary_cn.pdf (03. 01.2017)

⁵⁰ The insured person works for two or more employers/enterprises or is self-employed besides his/her original work.

⁵¹ Section 43 of Act LXXXIII on the Services of the Compulsory Health Insurance System.

According to the Health Insurance Act,⁵² there are several categories of „incapacity for work”. These are the following:

1. *the insured person temporarily loses his/her working ability (the insured worker is sick)*⁵³
 - a. when the worker is unable to perform his/her work duties due to health reasons;
 - b. when the worker is unable to perform her work duties due to pregnancy or giving birth, and she is not eligible for infant care benefits;⁵⁴
 - c. when the worker is receiving treatment in an inpatient medical institution after being diagnosed with a disease or for medical treatment.

2. *the insured person cannot work due to the sickness of his/her children (up to a certain age limit)*⁵⁵
 - a. where the mother is nursing her hospitalized child of less than one year of age;
 - b. when a parent stays with his/her child under twelve years of age in a medical institution providing care for inpatients, for the duration while the child is hospitalized;⁵⁶
 - c. Established: by Section 14 of Act CLXXIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph i) Section 56 of Act CXXVII of 2013. In force: as of 6. 07. 2013. The change does not affect the English version. when a parent is providing home care for his/her sick child below the age of twelve and raises the child in his/her own household.⁵⁷

3. *the insured person is prohibited to work by itemized reasons (the reasons are as follows: a) public health and b) epidemiological or c) animal health emergency)*⁵⁸
 - a. when a worker is prohibited from performing his/her job in the interest of public health and no other position is offered, or if isolated on public health grounds by order of the relevant authority, furthermore,
 - b. if the worker is unable to commute to his/her workplace on account of an epidemiological or animal health emergency and no other employment or position is available on a temporary basis or otherwise.

Home workers, sole entrepreneurs, assisting family members, or members of partnership enterprises (unless they carry out work in the framework of employment), persons or

⁵² Section 44 of Act LXXXIII on the Services of the Compulsory Health Insurance System.

⁵³ Paragraphs a-b) and f) of Section 44 of Act LXXXIII on the Services of the Compulsory Health Insurance System.

⁵⁴ Amended by Paragraphs i), r) of Section 48 of Act CXI of 2014.

⁵⁵ Paragraphs c-e) of Section 44 of Act LXXXIII on the Services of the Compulsory Health Insurance System.

⁵⁶ Established: by paragraph (1) Section 39 of Act CXXVII of 2013. In force: as of 6. 07. 2013.

⁵⁷ Established: by Section 14 of Act CLXXIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph i) Section 56 of Act CXXVII of 2013. In force: as of 6. 07. 2013. The change does not affect the English version.

⁵⁸ Paragraph g) of Section 44 of Act LXXXIII on the Services of the Compulsory Health Insurance System.

apprentices conducting work on the basis of assignment, and persons becoming incapable of earning after their employment has terminated are not entitled to sickness leave.

VI.2. Cash benefits available under special and equitable circumstances (based on discretionality)

The health insurance administration may, within the limits of the budget of the Health Insurance Fund and under special consideration, provide sick-pay to the insured person if the insured person does not have the necessary periods of insurance (see details later).

Accordingly, the health insurance administration may – under special consideration – provide home child-care allowance (gyermekápolási táppénz) beyond the designated periods⁵⁹ to the insured person who is taking care of his/her sick children at home.

Sick-pay benefits are provided under special discretionary consideration in the following cases: a) when a parent is providing home care for his/her sick child of the age of twelve or older, but under eighteen years of age, or b) when a parent stays with his/her child between twelve and eighteen years of age in a medical institution providing care for inpatients, for the duration while the child is hospitalized.

VI.3. The assessment of incapacity

Where incapacity for work occurs resulting from sickness, the occupation or job in which the insured person was last employed before the commencement of incapacity for work is taken into account.

Earning capacity is determined by a doctor (GP) of the healthcare service provider indicated in the financing contract and a doctor engaged under contract for the assessment of earning capacity. In cases when employed or self-employed insured parents care for sick children, it is also the family doctor (GP) who must assess and certify the illness of the child.

Incapacity for work may be verified by way of derogation from the date of reporting for examination, for a maximum of five days retroactively. However, by way of derogation from the 5 days, in exceptional cases the board of medical experts may verify incapacity for work for a maximum of six months retroactively from the date of reporting for examination.⁶⁰

The person has to be re-examined regularly (depending on the doctor's decision).

⁵⁹ See in Paragraphs c)-e) of Subsection (1) of Section 46 of Act of LXXXIII.

⁶⁰ Section 45 of Act LXXXIII on the Services of the Compulsory Health Insurance System.

VI.4. The evaluation of legal eligibility conditions

If the period of insurance cover is considered continuous⁶¹ before the first day of eligibility for sick pay, the amount of sick pay is established based on the income acquired during one hundred and eighty calendar days falling chronologically the closest to the last day of the period beginning on the first day of the calendar year immediately preceding the first day of eligibility for sick pay benefits and ending on the last day of the third month immediately preceding the first day of eligibility. If the continual insurance cover is interrupted, the amount of sick pay may not be established based on income earned before the interruption.

If the insured person has no income for one hundred and eighty calendar days during the period, but has income for one hundred and twenty calendar days during the period falling chronologically the closest to the last day of the period provided for in Subsection (1), and he/she has continual insurance cover from the first day of eligibility for sick pay benefits for at least one hundred and eighty days as provided for in Subsection (2) of Section 48/A, the calendar day base of sick pay shall be calculated based on the actual income acquired during that one hundred and twenty days.

VI.5. The types of remuneration/benefit paid during the sickness

There are two types of remuneration/benefit paid to the sick person. One is the *absence fee* paid during the first 15 working days of the sick leave (covered exclusively by the employer, under the provisions of the Labour Code) and the second is the *sick-pay benefit* (covered by the health insurance system).

- a. For the first 15 days of sick periods employees in Hungary have to take sick leave (*betegszabadság*) during which time they receive 70 per cent of their daily gross salary (absence fee), which is paid for by their employer.
- b. After 15 working days, if needed, the employee may then receive sick-pay benefit (*táppénz*) which is funded jointly by the employer and the Health Insurance Fund (*Egészségbiztosítási Alap*).

VI.6. Duration of the sick-pay benefit

Sick-pay is paid for the duration of incapacity for work, within the following limits:

- a. during the duration of the previous (before the date of sickness) social insurance period, but there is a maximum for one year;

⁶¹ According to Sub-section 1, Section 48/A of Act of LXXXIII of 1997, the insurance period is considered continual if it has not been interrupted for any period of thirty days or more. The thirty-day period of interruption should not include the duration when a) drawing sick-pay benefits, b) benefits for accident-related injuries, c) infant care benefits, child-care benefits or d) child-care assistance benefits.

- b. on the grounds of nursing or providing home care for a child below the age of one, or staying with the child in a medical institution providing care for inpatients, for the duration while the child is hospitalized, up to the child's first birthday;
- c. on the grounds of providing home care or staying with the child in a medical institution providing care for inpatients, for the duration while the child is hospitalized for a child between one year and three years of age, for maximum eighty-four calendar days per child and per year;
- d. on the grounds of providing home care for a child between three years and six years of age, or staying with the child in a medical institution providing care for inpatients, for maximum forty-two calendar days per child and per year for the parent, or eighty-four calendar days for single parents;
- e. on the grounds of providing home care for a child between six years and twelve years of age, or staying with the child in a medical institution providing care for inpatients, for maximum fourteen calendar days per child and per year for the parent, or twenty-eighty calendar days for single parents.

If the insured parent requests sick-pay benefits on the grounds of caring for a sick child, it is determined on the basis of the period for which sick-pay was paid between the child's last birthday and the child's next birthday.⁶²

The duration of the payment of sick-pay benefits for nursing a sick child varies according to the age of the child: a) children below 1 year: until the child reaches 1 year of age, b) children between 1-3 years: 84 calendar days/year/child, c) children aged 3-6 years: 42 calendar days/year/child (84 days for single parents), and d) children 6-12 years: 14 calendar days/year/child, (28 days for single parents).

If the insured person eligible for paid sick leave according to the provisions of the Hungarian Labour Code⁶³, shall be entitled to health insurance based sick-pay in connection with incapacity for work mentioned⁶⁴, as of the first day following the expiry of his/her eligibility for paid sick leave.

The sick-pay is – irrespective of the duration of insurance cover – due and payable to a person:

- a. whose incapacity for work commences before reaching eighteen years of age; or
- b. who joins the health insurance scheme within one hundred and eighty days following the termination of his/her studies, and remains insured without any interruption until the commencement of incapacity for work.

⁶² Enacted by Subsection (2) of Section 10 of Act XXXIV of 2016, effective as of 1 July 2016.

⁶³ Act I of 2012 on Labour Code.

⁶⁴ See in Paragraphs a) and f) of Section 44 of Act LXXXIII.

Where an insured person has received sick-pay inside a period of one year immediately preceding the day of commencement of incapacity for work, this duration must be included in the duration of eligibility for sick-pay on the newer grounds of incapacity for work.

In the application of this provision, the time when the insured person was drawing sick-pay on the grounds of: a) nursing a child below one year of age; b) providing home care for his/her sick child, and c) being prohibited from performing his/her job in the interest of public health, or if isolated on public health grounds or if unable to commute to his/her workplace on account of an epidemiological or animal health emergency, will not be included in the duration of eligibility.⁶⁵

The sick-pay is due and payable for each calendar day, including days off, weekly rest days and legal holidays.

However, no sick-pay is paid:

- a. for any duration of incapacity for work during which insurance cover is suspended, if there is no loss of income in the absence of work duty, and also for days off and weekly rest days following the expiry of paid sick leave, if on the following working day (legal holidays) incapacity for work no longer applies;
- b. for any duration of incapacity for work for which the insured person is paid his/her full wages, or if he/she receives only part of his/her income, in respect of the partial income;
- c. for any duration of drawing child-care assistance benefits, not including the sick-pay paid in respect of work performed while drawing the said allowance;
- d. for any duration of pre-trial detention or imprisonment;
- e. for any duration of drawing pension benefits in one's own right;
- f. for any duration of drawing benefits provided before the legal age limit, service emoluments, ballet dancers' annuities and provisional miners' allowances, not including the sick-pay paid in respect of work performed while drawing benefits provided before the legal age limit, service emoluments, ballet dancers' annuities or provisional miners' allowances.

The payment of sick pay benefits must be terminated if the recipient a) failed to attend the medical examination as ordered without reasonable cause, or b) if he/she did not consent to be examined by an expert, or c) by the chief medical supervisor for the purpose of determining his/her earning capacity.

The expert or the chief medical supervisor is authorized to check the patient's earning capacity in his/her place of abode in the presence of the treating doctor. Furthermore, the payment of sick pay benefits is terminated if the person drawing sick pay manifestly fails to abide by the instructions of the doctor designated to review his/her earning capacity, or if he/she deliberately delays his/her recovery.⁶⁶

⁶⁵ Section 46 of Act LXXXIII on the Services of the Compulsory Health Insurance System.

⁶⁶ Section 47 of Act LXXXIII on the Services of the Compulsory Health Insurance System.

VI.7. The amount of the sick-pay benefit

Depending on the time spent in insurance, the rate of sick-pay benefit is 60% or 50% of the daily average salary having an upper limit of daily HUF 8500. Accident benefits are as follows: accident sick pay, accident allowance, and accident health care services. Any event classified as an industrial accident provides entitlement to accident benefit. The interests of young career starters are served by the provision under which, without respect for the time spent in insurance, sick pay is due to anyone who becomes incapable of earning before the age of 18, or becomes insured within 180 days of the end of their school studies (or enters into an employment relationship), and was insured without interruption until the time they became incapable of earning.⁶⁷

The base for sick pay is the earnings upon which the insured was obliged to pay health insurance contribution in the governing period (in general, that is the preceding calendar year if the insured had earnings for at least 180 calendar days during that period). On 1st January 2001, the ceiling on health insurance contribution was abolished.

In case the insured did not obtain earnings for 180 days in the preceding year, the base of sick pay on which he/she shall receive benefits will be the 180 calendar days preceding the incapacity to work. If the insured person does not obtain 180 salaried days, then sick pay is based on the minimum wage valid in the previous 3 months, except in cases when the insured received daily benefits due to accident or any cause, or confinement benefit. In the mentioned cases the base of sick payment equals to the daily benefit received in the previous sick-leave period.

As of 1st January 1996, the first 15 workdays of sickness in any calendar year are no longer covered by the Health Insurance Fund. The employer is required by law to pay 70% of the “income during absence” for those 15 days.⁶⁸

Sick-pay benefit is subject to taxation. There is no special relief for benefits. Absence fee (*távolléti díj*) is subject to all contributions. However, no contributions from sick-pay benefit (*táppénz*) are required.

⁶⁷ <https://www.angloinfo.com/how-to/hungary/money/social-security/benefits-allowances> (04.01.2017)

⁶⁸ https://www.igpinfo.com/igpinfo/public_documents/ss_summaries/Hungary.pdf (04.01.2017)

Table 2

Variations in the design of paid sick leave benefit schedules

Definition of work	Work in public and private sector; Uncovered work usually includes domestic work and work of self-employed or work not provided under an employment contract.
	Limitations might apply regarding minimum working hours per week/month such as in most EU countries.
Wages covered	Effective wages received before the leave or average earnings with or without supplements for dependents
	Coverage might be excluded below or above a certain wage ceiling.
Period of leave	Between 1 day and up to two years.
	Limitations might be applied based on minimum and maximum periods of paid sick leave.
	Often limited to a single disease.
Income replacement rate	Replacement rates vary between lump sums and up to 100 percent of wages.
	A few countries, such as Australia, require means testing.
	Waiting times and differences for short-term and long-term sickness might apply.
Linkages with other benefit schemes	Linkages with benefits from disability, unemployment, old age pension schemes etc. that allow transforming paid sick leave, for example, into disability benefits e.g. in most Nordic countries or other social risks.
Specific conditions and requirements	Waiting periods might apply. Some regulations stipulate that between 3 and 6 days of waiting period are to be reimbursed at a later stage if the period of absence exceeds a specific time period.
	Medical certificates are often required if a certain period of sickness is exceeded e.g. in Germany.

Source: SCHEIL-ADLUNG, XENIA – SANDNER, LYDIA: *The case for paid sick leave. World Health Report (2010) Background Paper. 9. World Health Organization, 2010. 9 p.*

Summary

Hungarian social security is a typical Bismarckian social insurance type system. The state plays a significant role in managing the compulsory sickness-pay insurance as well. As in many of the European continental social security systems, the sickness benefits system is divided into two consecutive elements. First, there is sick leave payment, which is operated under the financial responsibility of the employer. Second, after the expiry of the sick leave period, the employee is entitled to statutory sick pay benefit provided by the Hungarian health insurance system if he/she satisfies the qualifying requirements.

In brief, sick leave is provided for 15 working days per year of the period of incapacity, and 70% of salary is paid for this period. This period is completely financed by the employer and it is subject to personal income tax and social security contributions. The sick leave is regulated in the Hungarian Labour Code.

In the case of an employee who is not able to work for more than 15 working days per year, statutory sick pay may be provided for up to one year by the National Health Insurance Fund of Hungary (OEP) for those who are (i) unable to work; (ii) have an insurance relationship; and (iii) required to pay a monetary health insurance contribution. 30% of the sick pay is reimbursed by the employer to the OEP.

The amount of statutory sick pay depends on the length of the insurance period prior to the incapacity. It amounts to 60% of the daily average salary in the case of an insurance relationship of 2 years or more and 50% if the period of insurance is less than two years

HAJDÚ JÓZSEF

A TÁPPÉNZ-SZABÁLYOZÁS HORIZONTÁLIS
ÉS VERTIKÁLIS ÖSSZEFÜGGÉSEI, KÜLÖNÖS
TEKINTETTEL A MAGYAR SZABÁLYOZÁSRA

(Összefoglalás)

A tanulmány három részből tevődik össze. Az elsőben a táppénzre vonatkozó dogmatikai kérdéseket ismertettük röviden. A másodikban a nemzetközi szakirodalomban leginkább ismert táppénzmodelleket – 1. szociáldemokrata modell, 2. liberális modell és 3. a korporativista modell – mutattuk be az egyes modellekhez tartozó néhány kiválasztott ország szabályozásán keresztül. Végül a korporativista modellhez tartozó magyar szabályozás hatályos normáit mutattuk be részleteiben.

Magyarországon a betegség/keresőképtelenség miatt jövedelmét elvesztő biztosított személy, két forrásból részesülhet pénzbeli ellátásban: 1. betegszabadság (munkáltatói fedezet) és 2. táppénz (társadalombiztosítási fedezet). Nem sui generis magyar szabály ez, hiszen az Európai Unió más tagállamaiban is jellemző, hogy a munkáltatót fizetési kötelezettség terheli a munkavállaló keresőképtelenségének első időszakára, a betegszabadság idejére. A magyar munkajogi szabályozás történetében először 1992-ben jelent meg a betegszabadság jogintézménye, amelynek keretében a munkáltató fedezi a munkavállaló keresőképtelenségének első időszakára (jelenleg 15 munkanap) járó keresetpótló juttatást. Második lépésként, ha az orvosilag igazolt keresőképtelen állapot a betegszabadság lejártát követően is fennáll, akkor a biztosítási jogviszonyban álló személy (aki lehet munkaviszonyban álló, egyéni vagy társas vállalkozó), ha korábban megfizette a pénzbeli egészségbiztosítási járulékot – differenciált mértékű – táppénzre lesz jogosult.