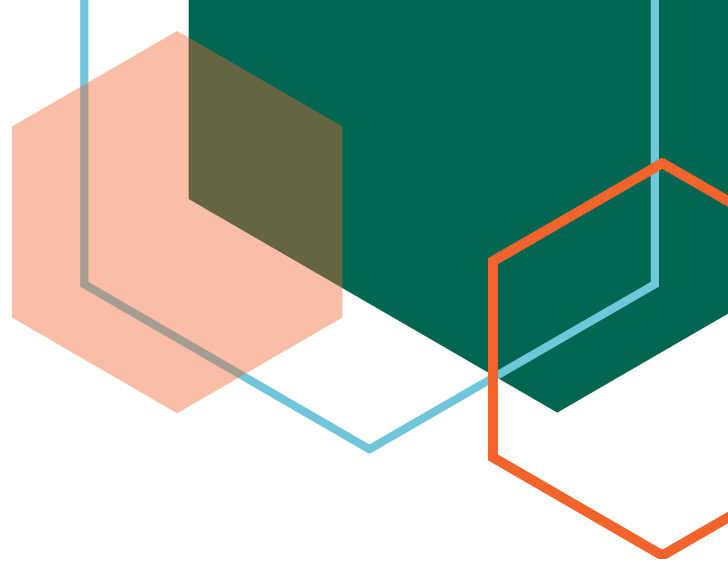


# REWIR

## POLICY BRIEF

February 2021



# How can social partners and policies boost return to work after serious illness?

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**Negotiating Return to Work in the Age of  
Demographic Change through Industrial Relations (REWIR)  
Project No. VS/2019/0075**

## **Deliverable 4.2**

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## **1. Introduction: why do return-to-work policies matter?**

Demographic change and population ageing are major societal challenges, with profound impacts for labour markets across the EU. These processes put pressure on the fiscal sustainability of the welfare state and the capacity of healthcare systems. To tackle these challenges, policy measures include raising the retirement age, but also activation measures to support labour market transitions and (re)integration into the labour market for individuals who have become inactive through illness or disability. The latter complement the system of sick leave and disability entitlements, which remain paramount to ensuring the protection of an ageing workforce. Healthy ageing practices, good workplace health standards and increasing fitness for work to enable longer labour market involvement have become EU priorities, as underscored in the Europe 2020 agenda.

The prevalence of chronic diseases is a significant obstacle to the retention of older workers in European labour markets, as the incidence of disease tends to increase with age. Chronic diseases are diseases of long duration and slow progression, such as cancer, cardiovascular diseases, diabetes, musculoskeletal disorders and mental disorders (Akgüç et al., 2020). Over a quarter of the European workforce live with a chronic disease (Eurofound, 2019), which can often mean long interruptions in a career, or even labour market exclusion, and an increased risk of poverty. Returning to work after a long absence can prove difficult and workers can face a lack of support or discrimination when reintegrating into their workplace. In addition to posing a threat to the sustainability of social security systems, inactivity due to incapacity to work can jeopardise the fundamental rights of people with a health condition leading to a prolonged impairment. These rights, enshrined in the UN Convention on the Rights of Persons with Disabilities and the European Charter of Fundamental Rights (Arts 15, 21 and 26), include the rights to work and to reasonable accommodations at the workplace.

To address these issues, return-to-work policies are key, encompassing both workplace reintegration and vocational rehabilitation (Akgüç et al., 2020). They entail support to return to the same company and job held before the prolonged absence from work, as well as re-skilling measures to perform new tasks or a new job after a prolonged absence. The need for re-skilling could arise either from the consequences of the illness, enabling the worker to perform different tasks from before, or from changed production patterns and work organisation in the firm during the absence of the worker. It could eventually lead the worker to change occupation, employer or sector of employment.

Social partners can play a role in addressing these issues, participating in the development and implementation of return-to-work policies. Their role is particularly relevant as they are instrumental in the functioning of the labour market and directly shape the working environment. As they are involved at several levels of the decision-making process, they can pursue different types of actions to improve reintegration. At the company and sectoral levels, they can focus on developing tailored guidelines and processes to ease the return to work. At

the national level, they can negotiate cross-sectoral collective agreements and influence the development of the national policy framework. At the EU level, they can facilitate efforts on the EU's priorities on active ageing, demographic change and workers' wellbeing by exchanging good practices, raising awareness of this issue and addressing key gaps in the legislation.

Relying on the research results of the REWIR project ("Negotiating return to work in the age of demographic change through industrial relations"), this policy brief presents a few recommendations for social partners at these different levels to strengthen their role in return to work and enhance their contribution to these priorities. Depending on the industrial relations regime and the return-to-work policy framework of the country, the relevance of the following recommendations for each country might vary. The actors involved should consider each recommendation according to their country context and refer to national reports and policy briefs for more specific insights.<sup>1</sup>

## **2. Recommendations for social partners at the company and sectoral levels**

Returning to work after a long-term illness can be difficult with one-size-fits-all solutions, given its sensitive and private nature. It involves workers at the margin of traditional social dialogue, industrial relations and collective bargaining, as they are often excluded from professional life during the period of their illness. However, employers and trade unions can play a crucial role at the firm level in ensuring smooth reintegration, for example by providing guidance and involving colleagues and line managers in the process, complementing the action of human resources (HR) and occupational health services. This can also include informal procedures, yet with representation of the interests of all those involved in the return-to-work situation.

Survey findings from the REWIR project show that interest representation was perceived as important at the company level when returning to work. As such, opportunities for employer and employee representatives were identified in assisting practical implementation of return-to-work policies at the company level. The involvement of employers and trade unions or employee representatives in return to work at the company level reinforces basic rights and requirements in reintegration procedures considering the specificities of each situation. Such specificities include the workers' conditions and needs, the characteristics of the firm and its sector of operation. When tailored, the most efficient measures can often be low-cost and take advantage of informal channels, if the discussion is open between the employee and the employer. Social partners at the sectoral level and their representatives at the company level can have a detailed picture of the context in which return to work occurs and the room for more granular actions to ease actual reintegration and rehabilitation at work.

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<sup>1</sup> For evidence from the six countries and recommendations, the national reports and policy briefs are available at [www.celsi.sk/en/projects/detail/64/](http://www.celsi.sk/en/projects/detail/64/).

## 2.1 Company level

- **Return to work as part of workforce diversity policy and related training.** After long-term sick leave and/or treatment for chronic diseases, workers with reduced work capability because of a health condition can be included within a diverse workforce. Evidence from several countries, such as Estonia and Slovakia, shows that employers, especially large foreign-owned companies, are interested in adopting a workforce diversity approach in their HR policies. This is part of the development of corporate social responsibility, but also a response both to obligations vis-à-vis state policies to employ people with reduced work abilities and to corporate policies within multinational companies. The workforce diversity approach implies recognising differences among the workforce and putting in place measures encouraging productivity and avoiding any sort of discrimination due to a certain characteristic. For example, in Estonia, employers have developed a different frame of reference for addressing people with reduced work capability.

In this context, a first action by employers and employee representatives to embed return to work in diversity policies should be conducting training at the firm level. Such training could involve HR managers and line managers and be about fostering inclusivity at the workplace and return to work explicitly. Examples of this approach are training in disability case management in Belgium and several good practices in Italy developed by patients' organisations or with the cooperation of private firms, patients' organisations and public bodies.

- **Internal policies for return to work at the company level.** Employers and trade unionists at the company level should cooperate to agree on an internal policy for return to work. Industrial relations at the firm level should plan time and occasions for interaction between workers, their representatives and employers to discuss a return-to-work policy at the company level. This topic could be included on the agenda of occupational safety and health (OSH) committees and form part of diversity management strategies, in firms (often larger ones) that have such committees and strategies in place. For example, in Belgium, companies with a health and safety committee must discuss and review the internal return-to-work policy every year. Employee representatives as well as experts on return to work should be included on OSH committees and in outlining strategies on this theme. Relying on research findings, the following aspects are important for a company-level return-to-work policy and can support the relevant actors in its development. The internal policy for return to work at the company level should
  - cover **reintegration, vocational rehabilitation** where needed and the approach to offering **reasonable accommodation**. These three aspects could represent a checklist, especially for smaller firms, which may need special support and may opt for more informal but still planned procedures (see the recommendations at the sectoral level below);

- allow for standard procedures **that are flexible and tailored** to the needs of workers and their medical conditions, considering the option of informal procedures case by case, and based on the interested parties' dialogue and exchange;
  - outline **clear responsibilities** for the employer and the worker to cooperate on making individualised reintegration plans, in coordination with health professionals;
  - define a **code of conduct for the employer and the line manager** on the appropriate way to handle the management of workers' absence and reintegration (informal contacts during the sick leave and regular meetings to discuss the reintegration). This includes well-defined managerial communication procedures with employees from diagnosis and during sickness and recovery until they are ready to return to work; and
  - include an **annual policy review**, which is important as it evaluates weaknesses and emerging needs, and it could benefit from an assessment by the occupational physician.
- **Direct support during reintegration.** Company-level trade unionists or employee representatives can perform important functions in supporting workers in their reintegration process. They can
    - foster **cultural change** within the firm on the ability to work despite suffering from a chronic illness or having an impairment;
    - offer **emotional support**;
    - provide **legal advice** in the event of conflict;
    - offer **strategic advice** during the negotiations;
    - be **mediators** with the HR services and with colleagues; and
    - make sure that the **focus of the return-to-work process and agreement is on the capabilities** of returning employees, for example through ad hoc skills assessment.
- **Dialogue with the occupational physician, general practitioner or specialist doctor.** In challenging cases, both the employer and the employee representatives can call for these professionals, who have a neutral role and help assess individual caveats without undermining the worker's health. In several countries, the occupational physician has a key intermediary role between the employer and the employee, most notably during the employee's preliminary return visit and assessment of work ability.
- **Good communication with colleagues.** The actual process of reintegration at work is a collective experience, not just involving the formerly ill employee. It can often impact the overall workflow in the company, and thus colleagues should be made aware of the process and the potential difficulties, also to avoid stigmatisation and discrimination.

Extensive *ex ante* preparatory training at the company level (see the internal policy for return to work at the company level above) can help employees to be well aware of the issues at stake and equip them with adequate tools to deal with the reintegration of a returning colleague.

- **Vocational rehabilitation in the case of dismissal.** When the return-to-work process cannot lead to reintegration within the firm, due to incompatibility between the firm's needs and worker's health, the employer and the trade unionists or employee representatives at the company level should find agreement on vocational rehabilitation. This should include providing the workers with a full skills assessment and possibly certifications to enable them to face (sectoral) job transitions more easily.

## 2.2 Sectoral level

- **Sectoral collective agreements or guidelines addressing return to work.** Sectoral features play a substantial part in determining the possibility and success of reintegration. Therefore, depending on the role and strength of sectoral collective bargaining in the country's industrial relations regime, sectoral social partners are well placed to develop collective agreements or guidelines tackling issues in returning to work. These actors are aware of sector-specific and occupational issues that need to be considered when dealing with actual return to work at the company level. Documents at this level can include practical information and better suit situations for some sectors or categories of workers.
- **Support for micro, small and medium-sized enterprises (MSMEs).** Certain industries, especially in services sectors, are marked by a prevalence of MSMEs employing the majority of the workforce. These firms often lack HR departments or the legal expertise to implement return-to-work procedures, which become an additional administrative and organisational burden for them. Given the limited size of the staff, these firms also experience a higher opportunity cost for workers on sick leave or reintegrated on a part-time basis, which might lead to more frequent interruption of the employment relationship. In these firms, the level of unionisation is also lower, and the enforcement of workers' rights can be blurred. For these reasons, social partners in sectors characterised by small-scale production and services could devote focused attention and support to MSMEs and their employees. Sectoral social partners could develop mechanisms to pool sectoral resources together for access to specialised administrative or legal services, to consult with health professionals, and to deal with providing reasonable accommodation. On the one hand, a sectoral approach would enable participants to join forces on return-to-work issues, as pooling resources at the sectoral level would be a way to alleviate the costs of reintegration within MSMEs. On the other hand, the expertise put in place would consider sector-specific risks and advice on procedures that would fit the constraints of the sector.

### 3. Recommendations for social partners at the national level

A tailored company-level approach tends to be more efficient when combined with a broad national framework, at the policy or collective-agreement level. In this sense, the role of social partners in return to work varies not only across assorted industrial regimes, but also depending on the policy framework developed at the national (or subnational) level in this area. The policy frameworks on OSH and those explicitly regulating return to work differ significantly across countries in the EU. While some countries like the Netherlands or Belgium have a body of legislation (including formal procedures) to reintegrate workers after sick leave, others have fewer provisions on the matter, like Romania or Slovakia. In yet other cases, like in Italy, return to work often relies on legislation that regulates broader issues.

In different contexts, national social partners can help develop systems to face the challenges of returning to work. As a common denominator, social partners can address an increasing demand for instruments and tools to deal with situations involving return to work, in light of the growing relevance of this challenge in European countries. This can be done mainly through three channels, though the actual strategy can be developed considering the country's industrial relations regime and policy framework.

#### 3.1 Influence on policy

- **Advocacy for integrated provisions in return-to-work policy.** Where detailed policies on return to work exist or can be developed in the future, social partners could take part in the policymaking process and stress the importance of an integrated approach to return to work, from prevention and early intervention to actual reintegration and rehabilitation. Social partners could insist and cooperate on prevention of professional exclusion through anticipation and early identification of at-risk situations. For example, social partners could insist on systematic medical appointments during the first period of sick leave, which help determine paths for returning to work from the beginning. Then, social partners could draw attention to the period when the worker is back to work. Training courses for vocational rehabilitation, to re-skill when necessary, is a substantial aspect of returning to work, and social partners can help define dedicated paths for that.
- **Better integration of policies on disability and return to work after serious or chronic illness.** Where there is not a dedicated framework, the disability legislation often serves as an umbrella to address return-to-work issues, leaving the distinct situation of people suffering from a chronic disease unclear if they do not have a recognised disability. Social partners should participate in the policy debate, flagging this gap and demanding that it be addressed. Indeed, this gap fails to recognise the spectrum of situations ranging from disability and illness to being in good health and creates uncertainty for employers on how to proceed, ultimately undermining employees' right to work.
- **Dedicated multi-stakeholder fora to inform policymaking.** Social partners can contribute to setting up a forum or a platform for policy discussion on return to work at the national



level, in cooperation with all the stakeholders involved in rehabilitation and reintegration at work. These stakeholders could include national social security institutions, networks of health professionals, relevant ministries, employment agencies and patients' organisations. Such cooperation could facilitate an open and inclusive dialogue on return-to-work processes and outline the most relevant policy options for the country to inform policymaking. National bipartite or tripartite social dialogue bodies could be the initiators of such a forum. This kind of coordination has taken place in Belgium for example, via the "Platform for consultation between actors involved in the process of voluntary return to work of people with health problems".

- **Data collection on return to work.** Social partners should also insist and cooperate on more comprehensive and systematic data collection at both the company and national levels on the number of workers reintegrated after sick leave and their outcomes. Data collection provisions should be included in relevant policies as part of a monitoring and evaluation system. It would be important to have gender-disaggregated data on the topic, to enable better understanding of the gender-related implications of return to work, as female-dominated sectors tend to allow for less flexibility in terms of tasks and display more atypical and precarious forms of employment.

### 3.2 Collective bargaining

- **Provisions or guiding principles on return to work in collective agreements.** A collective agreement on wellbeing or health at work can be negotiated and ensure workers' right to have support for returning to their job progressively as their health condition improves. Collective agreements could also clearly outline the responsibilities of each stakeholder in the reintegration process. They could set out the duty of the employer to provide training for vocational rehabilitation in order to re-skill. This would be important if the company cannot offer reasonable accommodation to the formerly ill employee or the situation entails unfitness to work following the illness. In this sense, collective agreements could complement policy thanks to more precise provisions for return to work, especially in countries where a clear framework is not yet in place. For example, in December 2020 French social partners agreed on a cross-sectoral collective agreement on health at work. This introduces a new concept on prevention of the risk of professional exclusion, which is the joint duty of employers, employee representatives and health professionals (including the general practitioner, the occupational physician and the health insurance doctor), triggering national policy developments on the topic.

### 3.3 Information, advice and awareness campaigns

- **Awareness raising for employers and workers.** National social partners are well placed to raise public attention on return-to-work issues. Awareness-raising campaigns could focus on the need to avoid discrimination and stigmatisation of chronically ill employees, on the part of both employers and colleagues, which remain open issues at the workplace even

where the legislation is well developed. Such awareness raising would be necessary to foster an inclusive work culture in the context of population ageing.

- **Practical guidance for employers and trade union representatives on the ground.** National-level social partners could provide guidance to practitioners on the ground on how to act when workers return to their jobs after an illness, based on thorough knowledge of the legislation and best practices. The legislation on return to work, especially if not dedicated to the issue, provides scattered information that is hard for individuals to navigate. To address these difficulties, social partners, in cooperation with other stakeholders (see the last point in this section below), could help establish online or in-person one-stop shops regarding the norms on return to work and most successful examples to follow.
- **Training and information days.** National social partners could organise such events to improve the ability of on-the-ground actors and local affiliates to negotiate these issues and to provide practical advice in individual cases of returning to work, relying also on specific experts (see also the last point of this section). Moreover, these events could be key to informing MSMEs, which are often unaware of the financial support available to them or the details of the regulations on return to work. In general, these events would be important to raise awareness about potential underexploited public resources dedicated to reintegration and reasonable accommodation.
- **Involvement of health professionals or patients' organisations in the above activities.** As both employers' organisations and trade unions often lack expertise on how to deal with chronic diseases, cooperation with patients' organisations seems especially fruitful for social partners, as these organisations know well the different aspects of illnesses and can provide tailored advice on adequate reintegration processes. Patients' organisations could become more involved in promoting workers' rights to return to their jobs by participating in the set-up of a one-stop shop for information on combining treatment and working life, and the related regulations, as well as by taking part in training and information events for on-the-ground actors.

## 4. Recommendations for social partners at the European level

The evidence collected through the REWIR project suggests that national social partners expect the EU-level social dialogue agenda to include return-to-work policies (Akgüç et al., 2021). It is important, however, to keep in mind the subsidiarity principle and member states' competence on employment and social policy. Accordingly, EU actions on return to work are constrained to non-legislative and non-binding initiatives. Nonetheless, social partners at the EU level could still play an important role in facilitating return to work for workers with a chronic disease in Europe.

- **Advancement of EU policy and social dialogue.** Several EU policies relevant to return to work exist at the EU level. These include strategies for the social inclusion of people with disabilities and anti-discrimination policies, as well as occupational health and safety legislation. EU-level social dialogue could bridge these policies and advocate for addressing the existing gap, and developing a coordinated strategy on the issue of return to work at the EU level. Such a strategy would raise awareness among member states and national social partners and foster developments at the national level. The strategy could be included in a framework agreement between social partners on OSH or wellbeing at work. Return to work could also be addressed more extensively in sectoral social dialogue committees given the sector-specific issues involved in managing the reintegration of workers after suffering from a chronic disease. At the same time, social partners can lobby and cooperate with European institutions to help develop a European policy on return to work or other targeted policy actions, even if non-legislative. Two concrete (not mutually exclusive) options emerge in this sense:
  - Explicit inclusion of return to work within the context of European disability policy could be an avenue, as the **European disability strategy 2021** will soon be published. Drawing from the jurisprudence of the Court of Justice of the European Union on the Directive on Equal Treatment (2000/78/EC), which extended the definition of disability status, social partners could insist that workers with a health condition are covered by the strategy and leverage its provisions to enhance a European approach to return to work.
  - Return to work could also be addressed more clearly in the new **EU strategic framework on health & safety at work for 2021-27**. The EU OSH framework is primarily focused on prevention of occupational risks but could include provisions on return to work, reintegration, rehabilitation and adaptation of the working environment for reasonable accommodation. Building on the strategic framework for 2014-20, the new one could set up an action plan on returning to work after chronic illness and channels to share best practices and tools among all relevant stakeholders across member states.
- **Exchange of knowledge, experience and best practices.** EU-level social partners are best placed to initiate and engage in capacity-building processes through the exchange of best

practices and learnt lessons. This would contribute to raising awareness among national members of the need to act on return to work through industrial relations at the national, sectoral and company levels. In particular, it should draw attention to provision of reasonable accommodations, as implied in the Directive on Equal Treatment (2000/78/EC). This exchange and learning process could lead to the creation of a joint toolkit for social partners to deal with return to work at various levels. In this sense, it would be important to continue the cooperation with the European Agency for Safety and Health at Work to gather and disseminate knowledge on return to work and rehabilitation processes at the company level and across different sectors.

- **Cooperation with other stakeholder organisations.** EU-level social partners should enhance cooperation with organisations representing people with disabilities and chronic diseases. These organisations can offer a wealth of information resources to support the design and implementation of return-to-work policies, as well as practical procedures. Enhanced cooperation with stakeholder organisations can be a resource for EU social partners to address return to work as a priority on the EU agenda on active ageing. The exchange of information, development of joint policy objectives or awareness-raising campaigns with these organisations are a few suggestions for action that could lead to synergies between the health and employment sides of the return-to-work issue in social dialogue.

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