



# THE KEY TO A SUCCESSFUL EMPLOYMENT INJURY INSURANCE SYSTEM

ITCILO E-CAMPUS / ONLINE KNOWLEDGE

Module 5  
ILO Instruments on Employment Injury  
Insurance System and Protection



International Labour Organization



International Training Centre

# Overview

This module provides a basic presentation of relevant ILO instruments and argues for their added-value in terms of policy and legislative framework setting at national level. It presents a detailed reading of the most important conventions in relation to employment injury protection, i.e. C.102 and C.121. It provides detailed information on key notions such as coverage, entitlement, benefits, contribution rate. Finally, it highlights the important connection of protection with prevention and rehabilitation.

## Learning Outcomes

By the end of Module 5, participants will:

- Get a basic knowledge of the ILO instruments relevant to employment injury benefit
- Understand the value of ILO instruments in policy and legislative framework setting at national level in relation to employment injury protection
- Understand the meaning and the extent of key terms used in employment injury protection, such as coverage, entitlement, rate, benefits
- Understand the importance to establish an operational connection between prevention, protection and rehabilitation to address effectively work-related injury

# Legend

If you find this icon , you are facing an **EXTERNAL** link

In order not to lose the current page, it can be useful to open a web page in a new tab. By default, the rule is that an external link (to another site) opens in a new tab, and an internal link (to another page on the site) opens in the same tab. But this is not always the case, and it is also sometimes useful to want to open several pages of the same site at the same time, in several tabs.

If you want to open a link in a new tab, **right click on the link and select “Open in new tab”**. You can also use the keyboard shortcut **“Ctrl”+left mouse click** on the link.

If you find one of these icons    , you are facing an **INTERNAL** link



left mouse click on the icon (link) to see more information.



left mouse click on the icon (link) to return to the original slide.



left mouse click on the icon (link) to go to the next page.



if this icon is grey, you have reached the last page.



left mouse click on the icon (link) to return to the previous page.



if this icon is grey, you have reached the first page.

# ILO Standards and Employment Injury Protection

What are the ILO Main Standards on Employment Injury?  
How the ILO standards shape EIS schemes



# International standards relevant to employment injury protection

- The right to protection against employment injury is enshrined in the Universal Declaration of Human Rights (UDHR, Art. 22 and 25), 1948, and the International Covenant on Economic, Social and Cultural Rights (ICESCR, Art. 9), 1966.
- The realization of this right requires the application of safe and healthy working conditions; the prevention, treatment and control of occupational diseases; and the provision of adequate benefits, in cash or in kind, that ensure access to adequate health care and income security for victims of employment injury and their dependent family members (UDHR, Art. 25.1; ICESCR, Art. 7(b), 12 (b) and (c). See also ICESCR, General Comment No. 19, the right to social security (Art. 9), paras 2 and 17 (2008).

# International standards relevant to employment injury protection

**Many other international instruments recognize the right to protection against employment injury:**

- ☒ Convention on the Elimination of All Forms of Discrimination against Women, 1979
- ☒ Convention on the Rights of the Child, 1989
- ☒ Convention on the Elimination of All Forms of Racial Discrimination, 1965
- ☒ The International Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990
- ☒ Convention on Rights of Persons with Disabilities, 2006
- ☒ Convention relating to the Status of Refugees, 1951 and
- ☒ Convention relating to the status of stateless persons, 1954

# International standards relevant to employment injury protection

## Regional instruments:

- ☒ [African Charter on Human and Peoples' Rights, 1981](#)
- ☒ [Arab Charter on Human Rights, 2004](#)
- ☒ [American Declaration of the Rights and Duties of Persons, 1948](#)
- ☒ [Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 1988](#) and
- ☒ [Ibero-American Code of Social Security](#)
- ☒ [European Social Charter, 1961](#)
- ☒ [Charter of Fundamental Rights of the European Union, 2000](#) and
- ☒ [European Code of Social Security, 1964](#)
- ☒ [Commonwealth of Independent States – Convention on Human Rights and Fundamental Freedoms, 1995](#)



## ILO relevant conventions (first generation)

Protection from employment injury has been the object of a number of Conventions and Recommendations adopted by the ILO from its early days.

- 🌐 **Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** recognized the entitlement of workers to be compensated in case of work-related accident.
- 🌐 **Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)** and **Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)** recognized the entitlement of workers to be compensated in case of occupational diseases
- 🌐 Already in 1925, **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)** recognized the entitlement of migrant workers to receive the same treatment than nationals when it comes to work-related accidents.

Although these Conventions have been declared outdated by the ILO Governing Body, there are still binding for a great number of States that have ratified them.



# Four up-to-date ILO instruments on EII protection

## 1) Social Security (Minimum Standards) Convention, 1952 (No. 102), part. VI

- 🌐 According to [Convention No. 102 \(Part VI\)](#), any condition that impacts negatively on health and which is due to a **work accident or an occupational disease**, and **the incapacity to work and earn** that results from it, whether **temporary or permanent, total or partial, must be covered**. The protection also includes, where a worker dies as a consequence of an employment injury or occupational disease, the loss of support suffered by her or his dependents.
- Accordingly, the provision must include **medical and allied care**, with a view to maintaining, restoring or improving the health of the injured person and her or his ability to work and attend to personal needs. A **cash benefit** must also be paid to the injured person or his/her dependents, as the case may be, **at a guaranteed level and on a periodic basis**, serving an income replacement or support function. Where the disability is slight, the benefit can under certain conditions be paid as a lump sum.

# Four up-to-date ILO instruments on EII protection

## 2) Employment Injury Benefits Convention, 1964 (No. 121) and 3) Recommendation (No.121)

- 🌐 The Employment Injury Benefits Convention, 1964 (No. 121), and its accompanying [Recommendation, No. 121](#), set higher standards, mainly in terms of **population coverage and level of benefits** to be provided.
- 🌐 [Convention No. 121](#) also recognizes the **importance of an integrated approach** in improving working conditions, limiting the impact of employment injuries and facilitating the reintegration of persons with disabilities in the labour market and in society; for such purposes, this Convention requires the State to take measures to **prevent** employment injuries, provide **rehabilitation** services and ensure that displaced workers find suitable **re-employment**

# Four up-to-date ILO instruments on EII protection

## 4) Social Protection Floors Recommendation, 2012

- 🌐 The approach taken by [Recommendation No. 202](#) is different, reflecting its focus on preventing or alleviating poverty, vulnerability and social exclusion through income security guarantees rather than on specific life risks; as such, it recognizes sickness and disability, in whatever cause or degree, as a potential source of financial insecurity which should be addressed, in so far as it prevents people of working age from earning sufficient income.
- In the same way, Recommendation No. 202 calls for guaranteed access to at least essential health care for all in need, over the life cycle, irrespective of the origin of the disability or ill health for which such care is required.
- Basic income security and access to essential health care can be ensured through a variety of approaches, combining contributory and non-contributory schemes and different types of benefits, such as disability and employment injury benefits as well as other social benefits, in cash or in kind.
- Particularly relevant to employment injury protection is the Recommendation's further call for the combination of preventative, promotional and active measures with benefits and social services, and the coordination of social protection policies with policies that promote, among other things, secure work within a decent work framework.

# Aims and principles underpinning the ILO instruments relevant to employment injury protection

- Provide the broadest possible protection in terms of personal coverage, risk coverage and an adequate level of compensation for loss of income and medical care
- Strengthen social cohesion by promoting solidarity between active and non-active members of society, between rich and poor and between present and future generations, and a common approach to social risks by:
  - basing social security systems on organizational principles such as **risk pooling and collective financing** by the members of the community, and
  - guaranteeing a **minimum level of protection** sufficient to maintain the family of the beneficiary in health and decency and to fulfill the income replacement function of benefits

# Aims and principles underpinning the ILO instruments relevant to employment injury protection

## **Fundamental principles of governance:**

- Supervision by a public authority
- Participatory management involving employers and workers
- Strong role of employers' and workers' organizations
- General responsibility of the State for the due provision of benefits (financial sustainability, right to complain and appeal) and for the proper administration of the institutions and services concerned (enforcement and compliance)

# Specific features of ILO instruments relevant to employment injury protection

*There is not a unique model for social security:*

**Built on the basis that there is not a unique model for social security**

- The employment injury scheme should reflect each country's social and cultural values, its history, in accordance with existing institutions and level of economic development
- C.102 and C.121 include several flexibility clauses to allow as many countries as possible to fulfill their provisions and progressively extend their system towards comprehensive coverage
  - States can apply temporary exceptions and ratify by covering a lower percentage of the population than required and providing benefits for a shorter period, for a temporary period

# Why ratify and apply ILO Conventions on employment injury benefits?

## A path to decent work, strategy for reducing poverty and contribution to the



### Sustainable Development Goals (SDGs)


- Once ratified, implemented through law and applied in practice, C.102 and C.121 can contribute to decent work and poverty alleviation by providing for adequate minimum levels of benefits which are designed to guarantee the replacement of former earnings as well as access to medical care if workers get injured.

## A tool for policy and legal action

- Since its adoption C.102 has had and continues to have a strong influence on the design and development of formal social security systems worldwide, including EII schemes. C.121 contains all the elements on which a sound policy and legal framework for a solid and effective EII can be based.

# Why ratify and apply ILO Conventions on employment injury benefits?

## Social security frameworks act as social and economic stabilizers in times of crisis

- The social impact of financial and economic crises on workers and their families can be mitigated by social security, notably income replacement measures and health care protection.
  - By ratifying C.102 and in particular C.121, a country undertakes to implement minimum social security standards for employment injury protection through a legal framework; this ensures that the levels of social security provided in compliance with these conventions are maintained at all times.
  - These conventions therefore act as a powerful tool for the maintenance of worldwide agreed minimum standards on employment injury protection at the national level (and therefore preserving decent standards of living and the health of its people) and for preventing countries from backsliding and suffering from long-term social consequences of the crisis.
-  EIS can play an important role in time of crisis, including [pandemics](#) because it can offer an effective protection for workers who get injured in work-related activities



# Why ratify and apply ILO Conventions on employment injury benefits?

## **A tool for the progressive implementation of social security and the vertical extension of coverage**

- C.102 and C.121 provide ratifying countries with an incentive for doing so by offering flexibility in its application, depending on the socio-economic level of the countries.

## **A guarantee of State responsibility for the proper administration of social security and the provision of regular and sustainable benefits**

- Ratification and application of C.102 and C.121 will enhance the confidence of persons protected in the social security system and in the national social security administration in general.

## **A guarantee of priority technical assistance**

- When a Convention is ratified, state parties benefit on a priority basis from ILO experience in the field of social protection and from technical assistance, including policy advice and actuarial studies, collection of data, support to drafting of legislation, etc.;

## 2. Guidance provided by ILO instruments in the design of the scheme:

### a summary

#### Coverage:

- Identification of workers and employers
- Identification of dependents (including spouses, children and parents)
- Contingencies covered

#### Entitlement

- Medical and allied services
- Physical and vocational rehabilitation services
- Temporary incapacity and permanent
- Death including funeral grants

#### Benefits

- Forms
- Mode of payment (lump sum, monthly payments)
- Duration

#### Contribution rates



[Assessment Tool on the Fundamental Elements of an EII Scheme Based on Technical Guidelines and ILO Standards \(Convention No. 121 inter alia\)](#)

# Who should be protected? Coverage

## Convention No. 102:

- At least 50% of  all employees, and in case of death of the breadwinners their wives and children

## Convention No. 121:

- All public and private sector employees including members of cooperatives and apprentices and in case of death of breadwinners, spouse, children and other dependents as prescribed
- Exceptions permitted:
  - employment of a casual nature and not employed for the purpose of the employer's trade or business
  - out-workers
  - members of the employer's family living in his house, in respect of their work for him
  - seafarers and public servants (by declaration).

# Who should be protected? Coverage

## Recommendation No. 121:

- Calls for the progressive **extension** of the application of legislation **to any categories of employees** which may have been excluded;
- States shall secure the provision of benefits, if necessary through voluntary insurance, to prescribed categories of **self-employed persons** and certain categories of **persons working without pay**.

# Who should be protected? Beneficiaries



## Convention No. 102:

- The workers/employees themselves;
- Beneficiaries in case of death of the breadwinner are the widow or the children.

## ■ **Convention No. 121:**

- There are prescribed categories of beneficiaries:
  - Widow or disabled and dependent widower;
  - Dependent children of the deceased;
  - Any other person prescribed by the legislation (generally parents, grandparents, etc.).

# What should be covered? Contingencies

## Convention No. 102 & Convention No. 121

- a morbid (medical) condition;
- incapacity for work due to such a condition and resulting suspension of earnings;
- total loss of earning capacity or partial loss at a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
- the loss of support suffered as the result of the death of the breadwinner (worker) by prescribed categories of beneficiaries.

## Convention No. 121 additional requirements

- A prescribed definition of industrial accident and occupational disease
- A prescribed list of occupational disease

 [Recommendation provides further elements, including on commuting accidents](#)

# What are the ILO standards regarding the identification of occupational disease\*?

- Schedule I to the Convention No. 121, updated in 1980, identifies 29 categories of occupational diseases (15 initially) and the corresponding types of work involving exposure to the risk.
- *Recommendation concerning the List of Occupational Diseases and the Recording and Notification of Occupational Accidents and Diseases* (No. 194) adopted in June 2002 simplified the procedure for updating the occupational diseases.
- 🌐 The list annexed to [Recommendation 194](#), last revised in 2010, includes:
  - A range of internationally recognized occupational diseases, from illnesses caused by chemical, physical and biological agents to respiratory, skin and musculoskeletal disorders and occupational cancer;
  - A section on mental and behavioural disorders;
  - Specific occupational diseases caused by hazardous agents arising from work activities and
  - Open items which allow recognition of a disease not listed where a direct link is established scientifically or determined by methods appropriate to national conditions and practice, between the exposure arising from work activities and the disease contracted by the worker.
- Protected persons who are victims of one of these listed diseases and have been employed in work involving exposure to the corresponding risk, benefit from the presumption of the occupational origin of the disease\*\*.

*\*Excerpts from “ILO list of occupational diseases and health care workers”, Asian-Pacific Newsletter on occupational health and safety, Volume 17, number 2, September 2010*

**\*\* Paragraph 6(2) of Recommendation No. 121**

# What are the ILO standards regarding the identification of occupational disease?

## Recommendation No. 194

- Calls upon member States to establish a national list of occupational diseases for the purposes of prevention, recording, notification and compensation. Such national list should include:
  - at least those in Schedule I to Convention No. 121 and,
  - to the extent possible, other diseases contained in the list annexed to Recommendation No. 194;
  - The national list should be periodically reviewed and updated;
- The ILO list is a useful reference for occupational health practitioners, government officials, workers and employers:
- Occupational disease victims need:
  - Cooperation of their employers for reporting their disease in order to receive proper treatment and compensation.
  - Assistance and advice from medical professionals through a user-friendly consultation system when applying for compensation.




# Why is it important to have a list of occupational diseases?

- A list of occupational diseases:
  - Has the disadvantage of covering only a certain number of occupational diseases;
  - Has the advantage of listing diseases for which there is a presumption that they are of occupational origin and of indicating clearly where prevention should take place;
  - It is often very difficult, if not impossible, to prove that a disease is directly attributable to the victim's occupation.
- Without a list of occupational diseases, a country still can theoretically cover all occupational diseases by including a general definition of occupational diseases in its legislation.
- A general legal definition of occupational diseases affords the widest and most flexible protection, but leaves it to the victim to prove the occupational origin of the disease, and no emphasis is placed on specific prevention.
- A mixed system, including a list of occupational diseases and a general definition, combines the advantages of both without their disadvantages and tends to spread to more countries;
- *For further information on occupational diseases see Module 6*

# COVID-19 infections contracted at the workplace

- 🌐 Infection by COVID-19 and post-traumatic stress disorder, if contracted as a result of work, could be considered as a work or employment injury. Such injuries (accidents or diseases), as defined in the [Employment Injury Benefits Convention, 1964 \(No.121\)](#), comprise diseases contracted through occupational exposure (i.e. occupational diseases) and accidents that occur at work or in relation to work (i.e. industrial accidents, including commuting accidents).
- Workers who are infected by COVID-19 as a result of their work should be entitled to health care and, to the extent that they are incapacitated for work, to cash benefits or compensation, as set out in the Convention No. 121. The dependent family members (e.g. spouses and children) of those who die from COVID-19 contracted in the course of work-related activities should be entitled to cash benefits or compensation, as well as to a funeral grant or benefit.

# COVID-19 infections contracted at the workplace (cont')

- The examination of the recent national practice reveals that in some of the most affected countries, the authorities have preferred to consider infection by COVID-19 as a **work-related accident** (e.g. Italy for health workers, Colombia and Spain, for any person affected in the course of work, in respect of temporary incapacity to work) to ensure easier and faster access to associated benefits.
  - With the same objective, a number of other countries have expressly recognized it could be considered as an **occupational disease** (e.g. Luxembourg, Australia, UK, Argentina, Rep. of Korea, Portugal, South Africa, Switzerland, Uruguay), and notably with respect to health workers and other workers particularly exposed (e.g. Germany, Belgium, France).
  - In other countries, the authorities have stated that infection by COVID-19 contracted at work would be treated as a **work-related injury**, without specifying in which category it would fall (e.g. Japan, Québec, Canada). As noted by the national authorities in many of the countries concerned at the time of announcing these measures, national practices are expected to develop further as the situation evolves.
-  For more detail and additional information, see the [ILO's collection of national practices to address infection by COVID-19 as a work-related injury](#).

# What are the amounts of benefits?

## Convention No. 102 ([art. 34](#))

- Morbid condition: Adequate medical care
- Inability to earn/Invalidity : Cash benefits
  - Periodic payment / pension
  - Earnings-related benefit: at least 50% of former earnings
  - Flat-rate benefit: at least 50% of wage of unskilled worker.
  - Exception: Possibility of conversion in **lump sum** in case of partial incapacity at a slight degree (CEACR\*\*: <25%)
- Case of death
- Periodic payment
  - At least 40% of former earnings or of wage of unskilled worker

\*\*\*CEACR : Committee of Experts on the Application of Convention and Recommendation

# What are the amounts of benefits?

## Convention No. 121

- ☒ Morbid condition: in addition to C.102, emergency treatment; follow-up treatment if work not discontinued; medical care should avoid hardship for beneficiary ([art. 9 and 10](#))
- ☒ Inability to earn/Invalidity : Cash benefits ([art. 13, 19 and 20](#))
  - **Periodic payment / pension:**
  - Earnings-related benefit: at least 60% of former earnings
  - Flat-rate benefit: at least 60% of wage of unskilled worker.
  - **Exception:** Possibility of conversion in **lump sum** in case of partial loss of earning capacity not substantial
  - In practice, what is often seen is a replacement rate linked to the disability rate. For instance, it could be established that a 75% or more disability rate means a total incapacity to work. This means that if a worker has a 37,5% disability rate, he/she would receive 50% of the cash benefit.
- ☒ Case of death: **Pension / periodic payments** ([art. 18](#))
  - At least 50% of former earnings or of wage of unskilled worker

# Cash benefits – Replacement rates in a nutshell

- Replacement rates (standard beneficiary married with 2 children) as a percentage of previous earnings or percentage of wage of unskilled worker

	<b>Convention No. 102</b>	<b>Convention No. 121</b>	<b>Recommendation No. 121</b>
Temporary incapacity for work	50%	60%	66.7%
Total loss of earning capacity	50%	60%	66.7%
Survivorship	40%	50%	66.7%

# Additional benefits

- ☑ Convention No. 121 provides broader protection than Convention No. 102. By way of illustration, injured persons requiring the constant assistance of another person have to be provided with additional benefits.
- ☑ Moreover, a funeral benefit at a rate which is not less than the normal cost of a funeral has to be envisaged by the legislation.

# Entitlement conditions

## Convention No. 102

- Prohibition to prescribe qualifying period.
- Temporary incapacity: Possibility of establishing waiting period of **maximum three days** (but workers need to be compensated as the first day)
- In case of widow, the right to benefit may be made conditional on her being incapable of self-support

## Convention No. 121

- Prohibition to prescribe a qualifying period (Art. 9(2))
- Exception: occupational diseases legislation may prescribe a period of exposure
- Temporary incapacity: Possibility of establishing a waiting period of three days (Art. 9(3))



# Duration and adjustment of benefits



## Convention No. 102

- Duration: throughout the contingency
- Adjustment: Rates of current periodic payments must be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living



## Convention No. 121

- Duration: throughout the contingency (Art. 9(3))
- Adjustment: Rates of current periodic payments must be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living (art. 21)

## Convention No. 102

### Suspension is allowed:

- Beneficiary's absent from the territory
- As the person lives at the expenses of public institution (ex: detention or long-term care/rehabilitation centre)
- When the person receives another social security benefit (but in this case, the EI benefit which exceeds the other benefit should still be paid)
- In case of a fraudulent claim
- When the contingency is caused by a criminal offence or by wilful misconduct
- If the person recovers and fully resumes his/her activity

# Summary

**Summary of employment injury benefits according to ILO conventions Nos. 102 and 121**

# Summary

	Convention No. 102	Convention No. 121
<p><b>Nature of benefits</b></p>	<ul style="list-style-type: none"> <li>▪ Medical care (a list of which is contained in the Convention).</li> <li>▪ Periodic payments, corresponding to at least 50% of the reference wage in cases of incapacity for work or invalidity.</li> <li>▪ In case of death of the breadwinner, benefits for the widow and dependent children. Periodic payments corresponding to at least 40% of the reference wage.</li> <li>▪ Except in the case of incapacity for work, obligation to revise the rates of periodic payments following substantial changes in the cost of living.</li> <li>▪ Possibility of converting periodic payments into a lump sum where:               <ol style="list-style-type: none"> <li>1) The degree of incapacity is slight; or</li> <li>2) The competent authority is satisfied that the lump sum will be properly utilized.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Idem. In addition, certain types of care at the place of work.</li> <li>▪ Periodic payments, corresponding to at least 60% of the reference wage in cases of incapacity for work or invalidity.</li> <li>▪ In case of death of the breadwinner, benefits for the widow, the disabled and dependent widower, dependent children, as well as all other persons, as recognized under national legislation. Periodic payments corresponding to at least 50% of the reference wage. In principle, a funeral benefit must be provided.</li> <li>▪ Obligation to prescribe a minimum amount for these periodic payments.</li> <li>▪ Idem.</li> <li>▪ Possibility of converting periodic payments into a lump sum (1) in the case of loss of earning capacity which is not substantial and (2) in exceptional circumstances, and with the agreement of the injured person, when the competent authority has reason to believe that such lump sum will be utilized in a manner which is particularly advantageous for the injured person.</li> <li>▪ Supplementary benefits for funerals and disabled persons requiring the constant help of a third person.</li> </ul>

# Summary

<b>Condition of entitlement to benefits</b>	<ul style="list-style-type: none"><li>▪ Prohibition to prescribing a qualifying period.</li><li>▪ In the case of a widow, the right to benefit may be made conditional on her being presumed to be incapable of self-support.</li></ul>	<ul style="list-style-type: none"><li>▪ Idem. Possibility of prescribing a period of exposure for occupational diseases.</li><li>▪ Possibility for the national authority to prescribe conditions under which a widow can claim the benefits.</li><li>▪ Widower needs to be dependent and disabled</li></ul>
<b>Duration of benefits</b>	<ul style="list-style-type: none"><li>▪ No waiting period except in the case of temporary incapacity to work (maximum 3 days)</li><li>▪ The benefit has to be granted throughout the contingency.</li></ul>	<ul style="list-style-type: none"><li>▪ Possibility of fixing a waiting period in cases of incapacity to work if the delay was provided for under legislation at the time the Convention entered into force and the reasons for this still exist.</li><li>▪ Idem.</li></ul>
<b>Facilitation of return-to-work</b>		<ul style="list-style-type: none"><li>▪ Providing vocational rehabilitation service for disabled workers' return-to-work, replacement, etc.</li></ul>

# Other principles governing EI: right to complain, appeal and equality of treatment

## Convention No. 102

- Every claimant must have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity
- Equality of treatment: non-national with the same rights as national residents

## Convention No. 121

- ☑ Every claimant shall have a right of appeal in the case of refusal of the benefit or complaint as to its quality or quantity
- ☑ Equality of treatment: non-nationals have same rights as nationals with regards to benefit

# Financing and administrative principles

## Convention No. 102

- Employees should not contribute more than 50% of the overall costs for social insurance;
- Prescribed collection of contribution and payment of benefits;
- Avoid hardship situations on contributors;
- Institutions regulated by public authorities. Government department responsible to legislature;
- If not, Management representation of workers, employers or public authorities;
- State has general responsibility for proper administration of fund due provision of benefits.



## Convention No. 121

- The rules of delivery of medical care and allied benefits have to be designed to avoid hardship



# Preventive, rehabilitative and employment promotion measures (C.121)

<b>Category</b>	<b>Action Required</b>
<b>Preventive measures</b>	Members are required to take measures to prevent industrial accidents and occupational diseases
<b>Rehabilitation measures</b>	Members are to provide rehabilitation services designed to prepare victims for the resumption of previous activity, or the most suitable alternative gainful activity
<b>Employment promotion</b>	Members are required to take measures to further the placement of disabled persons in suitable employment



# Rehabilitation and reintegration



## Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159):

- Calls for a national policy on vocational rehabilitation; and
- Calls for employment of disabled persons that makes appropriate vocational rehabilitation measures available to all categories of disabled persons;
- Promotes employment opportunities for disabled persons in the open labour market, in respect of the principle of equal opportunity and treatment between disabled workers and workers generally;
- The representative organisations of employers and workers, as well as the representative organisations of and for disabled persons shall be consulted on the implementation of the policy;

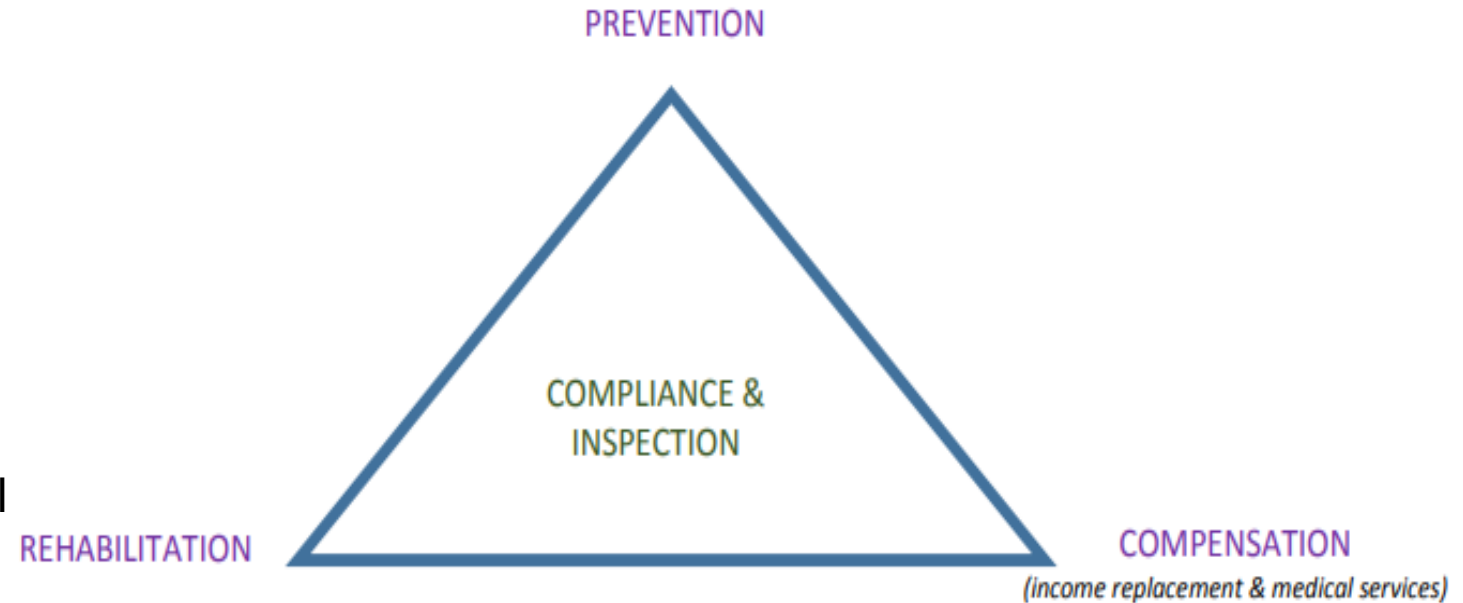


# Protection, Prevention and Rehabilitation

There are strong policy linkages between employment injury insurance and protection and ILO policy areas of:

- Labour law and social security law
- Social insurance administration
- OSH prevention
- Workplace compliance at enterprises level
- Formalization, namely for SME sector
- Social protection floor component for workplace risks, the most fundamental priority at enterprise level
- Most hazardous occupations including public sector workers engaged in fragile and emergency humanitarian assistance

Three-pillars of occupational safety, health and protection



# Additional Resources

## Additional readings

- 🌐 [ILO - Towards comprehensive national social protection systems: A compendium of international guiding instruments](#)
- 🌐 [ILO - State practice to address COVID-19 infection as a work-related injury](#)
- 🌐 [ILO - Standards and COVID-19](#)
- 🌐 [ILO - C102 - Social Security \(Minimum Standards\) Convention, 1952 \(No. 102\)](#)
- 🌐 [ILO - C121 - Employment Injury Benefits Convention, 1964 \[Schedule I amended in 1980\] \(No. 121\)](#)
- 🌐 [ILO - C017 - Workmen's Compensation \(Accidents\) Convention, 1925 \(No. 17\)](#)
- 🌐 [ILO - Workmen's Compensation \(Occupational Diseases\) Convention, 1925 \(No. 18\)](#)
- 🌐 [ILO - Workmen's Compensation \(Occupational Diseases\) Convention \(Revised\), 1934 \(No. 42\)](#)
- 🌐 [ILO - Equality of Treatment \(Accident Compensation\) Convention, 1925 \(No. 19\)](#)
- 🌐 [ILO - ILO List of Occupational Diseases \(revised 2010\)](#)
- 🌐 [Assessment Tool on the Fundamental Elements of an EII Scheme based on Technical Guidelines and ILO Standards \(Convention No. 121 inter alia\)](#)
- 🌐 [Scope of ILO Standards setting fundamental principles of OSH](#)

## Training tools

- 🌐 [Introduction to ILO, standards and supervisory bodies](#)
- 🌐 [EII Scheme Design: Coverage, entitlement and benefits according to international labour standards](#)



# THE KEY TO A SUCCESSFUL EMPLOYMENT INJURY INSURANCE SYSTEM

ITCILO E-CAMPUS / ONLINE KNOWLEDGE

Pop Ups - Module 5



International Labour Organization



International Training Centre



## International standards relevant to employment injury protection



### Universal Declaration of Human Rights, Art. 22

- Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.



### International Covenant on Economic, Social and Cultural Rights (ICESCR), Art. 9

- The State Parties to the present convention recognize the right of everyone to social security, including social insurance.



### General comment no. 19, (ICESCR Committee)



## Convention on the Elimination of All Forms of Discrimination against Women, 1979 (Art. 11.e and 14.2)

**Art. 11 (1)(e):** 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

a) The right to work as an inalienable right of all human beings;

...

e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

**Art. 14 2 (c) c):** States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

...

c) To benefit directly from social security



## Convention on the Rights of the Child, 1989 (Art. 26.1)

### **Art. 26(1):**

States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.



## Convention on the Elimination of All Forms of Racial Discrimination, 1965 (Art. 5.e.iv)

### **Art. 5:**

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

...

e) (iv): The right to public health, medical care, social security and social services;





## The International Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990 (Art. 27.1 and 61.3)

**Art. 27 (1):** With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties. The competent authorities of the State of origin and the State of employment can at any time establish the necessary arrangements to determine the modalities of application of this norm.

**Art. 61 (3):** Subject to bilateral or multilateral agreements in force for them, the States Parties concerned shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their States of origin or habitual residence during their engagement in the project. States Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplication of payments in this respect.



## Convention on Rights of Persons with Disabilities, 2006 (Art. 28)

### **Art. 28 (2)(b):**

States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:

...

- b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;



## Convention relating to the Status of Refugees, 1951 (Art. 24.1b and 24.2)

### **Article 24. - Labour legislation and social security**

1. The Contracting States shall accord to stateless persons lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:

(...)

b) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:

(...)

2. The right to compensation for the death of a stateless person resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.



## Convention relating to the status of stateless persons, 1954 (Art. 24.b)

### **Art. 24(1)(b)**

The Contracting States shall accord to stateless persons lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:

...

- b) Social security (legal provisions in respect of employment, injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme),



## African Charter on Human and Peoples' Rights, 1981 (Art.16)

### **Article 16**

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.
2. States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.



## Arab Charter on Human Rights, 2004 (Art. 30)

### **Art. 30:**

The State shall ensure every citizen the right to work which guarantees a standard of living that provides the basic life necessities and ensures the rights to a comprehensive social security.



## American Declaration of the Rights and Duties of Persons, 1948 (Art. 26)

### **Article XVI.**

Every person has the right to social security which will protect him from the consequences of unemployment, old age, and any disabilities arising from causes beyond his control that make it physically or mentally impossible for him to earn a living.



## Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 1988 (Art. 9)

1. Everyone shall have the right to social security protecting him from the consequences of old age and of disability which prevents him, physically or mentally, from securing the means for a dignified and decent existence. In the event of the death of a beneficiary, social security benefits shall be applied to his dependents.
2. In the case of persons who are employed, the right to social security shall cover at least medical care and an allowance or retirement benefit in the case of work accidents or occupational disease and, in the case of women, paid maternity leave before and after childbirth.





## Ibero-American Code of Social Security (Spanish)

### **Chapter 3.**

Occupational accident and disease benefits

#### **Article 18. Determination of the right to pensions**

The right to benefits derived from an occupational accident or disease shall be determined in accordance with the legislation of the State Party to which the worker was subject on the date of the accident or contracting the disease.



## European Social Charter, 1961 (Art. 12)

### **Article 12 – The right to social security**

With a view to ensuring the effective exercise of the right to social security, the Contracting Parties undertake:

1. to establish or maintain a system of social security;
2. to maintain the social security system at a satisfactory level at least equal to that required for ratification of International Labour Convention (No. 102) Concerning Minimum Standards of Social Security;
3. to endeavour to raise progressively the system of social security to a higher level;
4. to take steps, by the conclusion of appropriate bilateral and multilateral agreements, or by other means, and subject to the conditions laid down in such agreements, in order to ensure:
  - a) equal treatment with their own nationals of the nationals of other Contracting Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Contracting Parties;
  - b) the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Contracting Parties.



## Charter of Fundamental Rights of the European Union, 2000 (Art. 34)

### **Article 34. Social security and social assistance**

1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Union law and national laws and practices.
2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Union law and national laws and practices.
3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices.



## European Code of Social Security, 1964 (Parte 4)



[1/4]

### **Article 31**

Each Contracting Party for which this part of the Code is in force shall secure to the persons protected the provision of employment injury benefit in accordance with the following articles of this part.

### **Article 32**

The contingencies covered shall include the following where the state of affairs described is due to accident or a prescribed disease resulting from employment:

- a) a morbid condition;
- b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national laws or regulations;
- c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
- d) the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.



## European Code of Social Security, 1964 (Parte 4)



### **Article 33**

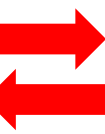
The persons protected shall comprise prescribed classes of employees, constituting not less than 50 per cent of all employees, and, for benefit in respect of death of the breadwinner, also their wives and children.

### **Article 34**

1. In respect of a morbid condition, the benefit shall be medical care as specified in paragraphs 2 and 3 of this article.
2. The medical care shall comprise:
  - a) general practitioner and specialist in-patient care and out-patient care, including domiciliary visiting;
  - b) dental care;
  - c) nursing care at home or in hospital or other medical institutions;
  - d) maintenance in hospitals, convalescent homes, sanatoria or other medical institutions;
  - e) dental, pharmaceutical and other medical or surgical supplies, including prosthetic appliances, kept in repair, and eyeglasses; and
  - f) the care furnished by members of such other professions as may at any time be legally recognised as allied to the medical profession, under the supervision of a medical or dental practitioner.
3. The medical care provided in accordance with the preceding paragraphs shall be afforded with a view to maintaining, restoring or improving the health of the person protected and his ability to work and to attend to his personal needs.



## European Code of Social Security, 1964 (Parte 4)



[3/4]

### **Article 35**

1. The institutions or government departments administering the medical care shall co-operate, wherever appropriate, with the general vocational rehabilitation services, with a view to the reestablishment of handicapped persons in suitable work.
2. National laws or regulations may authorise such institutions or departments to ensure provision for the vocational rehabilitation of handicapped persons.

### **Article 36**

1. In respect of incapacity for work, total loss of earning capacity likely to be permanent, or corresponding loss of faculty, or the death of the breadwinner, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.
2. In case of partial loss of earning capacity likely to be permanent, or corresponding loss of faculty, the benefit, where payable, shall be a periodical payment representing a suitable proportion of that specified for total loss of earning capacity or corresponding loss of faculty.
3. The periodical payment may be commuted for a lump sum:
  - a) where the degree of incapacity is slight; or
  - b) where the competent authority is satisfied that the lump sum will be properly utilised.



## European Code of Social Security, 1964 (Parte 4)



[4/4]

### **Article 37**

The benefit specified in Articles 34 and 36 shall, in a contingency covered, be secured at least to a person protected who was employed on the territory of the Contracting Party concerned at the time of the accident if the injury is due to accident or at the time of contracting the disease if the injury is due to a disease and, for periodical payments in respect of death of the breadwinner, to the widow and children of such person.

### **Article 38**

The benefit specified in Articles 34 and 36 shall be granted throughout the contingency, except that, in respect of incapacity for work, the benefit need not be paid for the first three days in each case of suspension of earnings.



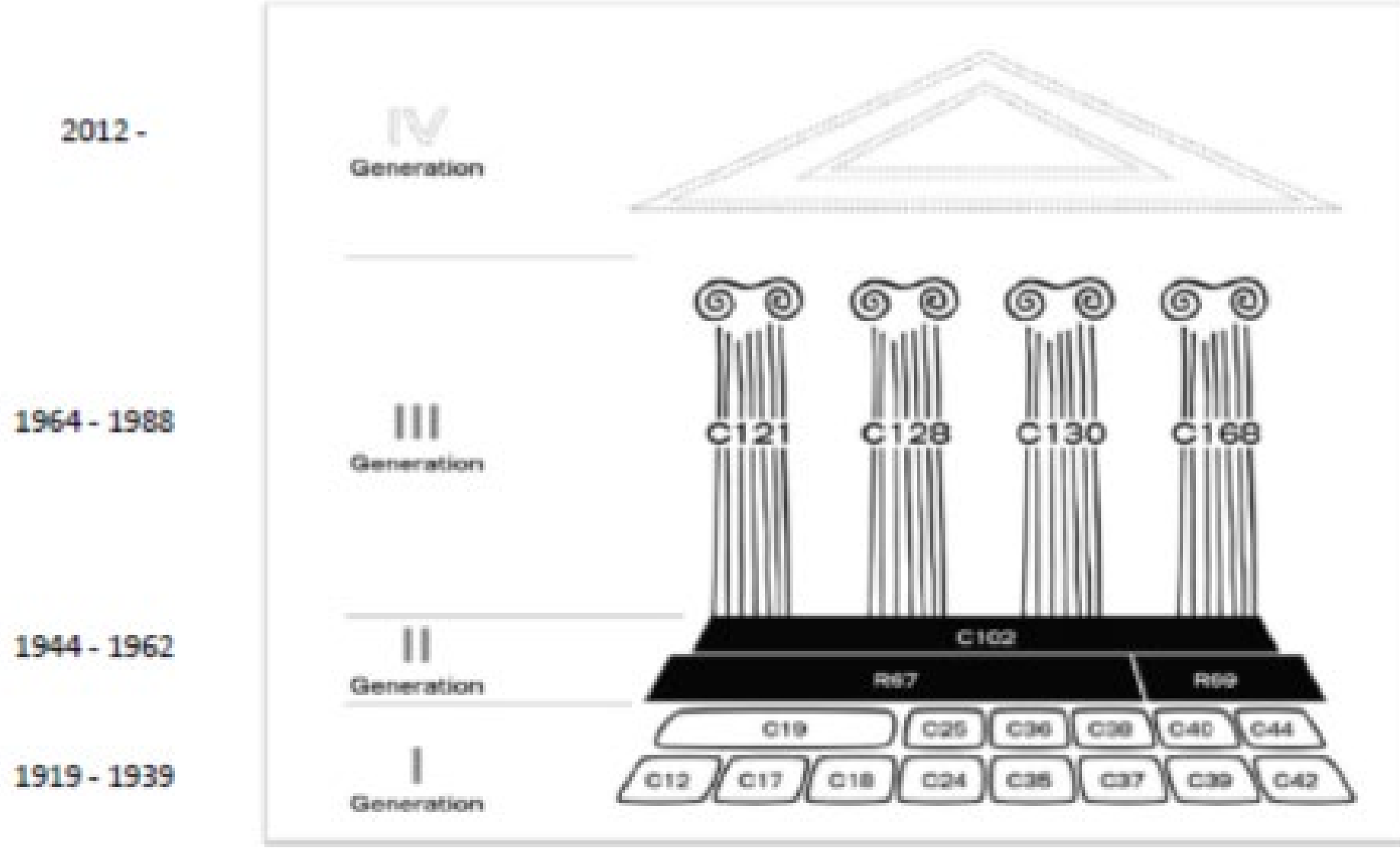
## Commonwealth of Independent States – Convention on Human Rights and Fundamental Freedoms, 1995 (Art.16)

### **Art. 16 (1):**

Everyone shall have the right to social security, including social insurance, according to his age, in cases of illness, invalidity, loss of bread-winner and upbringing of children as well as in other cases provided for in national legislation.



# ✘ The development of ILO social security standards





## The 2030 Agenda for Sustainable Development

- Target 1.3: Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable.
- Target 8.5: By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value
- Target 16.6: Develop effective, accountable and transparent institutions at all levels



## Social security frameworks act as social and economic stabilizers in times of crisis



[ILO Standards and COVID-19 \(coronavirus\) - Key provisions of international labour standards relevant to the evolving COVID-19 outbreak](#)



[GEIP ILO database on national regulations on COVID-19](#)



# Convention 102 - Social Security (Minimum Standards), 1952

## PART VI. EMPLOYMENT INJURY BENEFIT

### Article 33

The persons protected shall comprise—

(a) prescribed classes of employees, constituting not less than 50 per cent of all employees, and, for benefit in respect of death of the breadwinner, also their wives and children;

or

(a) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more, and, for benefit in respect of death of the breadwinner, also their wives and children.



## Convention 102 - Social Security (Minimum Standards), 1952

Convention 102 does not apply to seafarers or fishers covered by specific instruments (Art. 77)

## ✘ Convention 121 - Beneficiaries

### Article 4

1. Employees, including apprentices, in the public and private sectors, including co-operatives, and, in respect of the death of the breadwinner, prescribed categories of beneficiaries.
2. Any Member may make such exceptions as it deems necessary in respect of—
  - a) persons whose employment is of a casual nature and who are employed otherwise than for the purpose of the employer's trade or business;
  - b) out-workers;
  - c) members of the employer's family living in his house, in respect of their work for him;
  - d) other categories of employees, which shall not exceed in number 10 per cent of all employees other than those excluded under clauses (a) to (c).

## Recommendation No. 121 (Para. 3)

### **Para. 3:**

Members of co-operatives who are engaged in the production of goods or the provision of services; prescribed categories of self-employed persons, in particular persons owning and actively engaged in the operation of small-scale businesses or farms; certain categories of persons working without pay, which should include: persons in training, undergoing an occupational or trade test or otherwise preparing for their future employment, including pupils and students, members of volunteer bodies charged with combating natural disasters, with saving lives and property or with maintaining law and order, other categories of persons not otherwise covered who are active in the public interest or engaged in civic or benevolent pursuits, such as persons volunteering their services for public office, social service or hospitals, prisoners and other detained persons doing work which has been required or approved by the competent authorities.

Special schemes applicable to seafarers, including seafishermen, and to public servants should provide benefits not less favourable than those provided for in C.121.



# Convention 102 - Social Security (Minimum Standards), 1952

## PART VI. EMPLOYMENT INJURY BENEFIT

### Article 33

The persons protected shall comprise—

- a) prescribed classes of employees, constituting not less than 50 per cent of all employees, and, for benefit in respect of death of the breadwinner, also their wives and children; or
- b) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more, and, for benefit in respect of death of the breadwinner, also their wives and children.





## Recommendation 121 - Industrial accidents



### Article 5

Each Member should, under prescribed conditions, treat the following as industrial accidents:

- a) accidents, regardless of their cause, sustained during working hours at or near the place of work or at any place where the worker would not have been except for his employment;
- b) (b) hours in connection with transporting, cleaning, preparing, securing, conserving, storing and packing work tools or clothes;
- c) accidents sustained while on the direct way between the place of work and—
  - i. (i) the employee's principal or secondary residence; or
  - ii. (ii) the place where the employee usually takes his meals; or
  - iii. (iii) the place where he usually receives his remuneration.



# Recommendation 121 - Occupational diseases



[2/2]

## Article 6

1. Each Member should, under prescribed conditions, regard diseases known to arise out of the exposure to substances or dangerous conditions in processes, trades or occupations as occupational diseases.
2. Unless proof to the contrary is brought, there should be a presumption of the occupational origin of such diseases where the employee-
  - a) was exposed for at least a specified period; and
  - b) has developed symptoms of the disease within a specified period following termination of the last employment involving exposure.
3. When prescribing and bringing up to date national lists of occupational diseases, Members should give special consideration to any list of occupational diseases which may from time to time be approved by the Governing Body of the International Labour Office.



# Convention 121 Employment Injury Benefits Convention, 1964

## Article 34

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.



# Convention 121 Employment Injury Benefits Convention, 1964 (Art. 9-10)

[1/2]

## Article 9

1. Each Member shall secure to the persons protected, subject to prescribed conditions, the provision of the following benefits:
  - a) medical care and allied benefits in respect of a morbid condition;
  - b) cash benefits in respect of the contingencies specified in Article 6, clauses (b), (c) and (d).
2. Eligibility for benefits may not be made subject to the length of employment, to the duration of insurance or to the payment of contributions: Provided that a period of exposure may be prescribed for occupational diseases.
3. The benefits shall be granted throughout the contingency: Provided that in respect of incapacity for work the cash benefit need not be paid for the first three days-
  - a) where the legislation of a Member provides for a waiting period at the date on which this Convention comes into force, on condition that the Member includes in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation a statement that its reason for availing itself of this provision subsists; or
  - b) where a declaration provided for in Article 2 is in force.



# Convention 121 Employment Injury Benefits Convention, 1964 (Art. 9-10)

[2/2]

## Article 10

1. Medical care and allied benefits in respect of a morbid condition shall comprise-
  - a) general practitioner and specialist in-patient and out-patient care, including domiciliary visiting;
  - b) dental care;
  - c) nursing care at home or in hospital or other medical institutions;
  - d) maintenance in hospitals, convalescent homes, sanatoria or other medical institutions;
  - e) dental, pharmaceutical and other medical or surgical supplies, including prosthetic appliances kept in repair and renewed as necessary, and eyeglasses;
  - f) the care furnished by members of such other professions as may at any time be legally recognized as allied to the medical profession, under the supervision of a medical or dental practitioner; and
  - g) the following treatment at the place of work, wherever possible:
    - i. emergency treatment of persons sustaining a serious accident;
    - ii. follow-up treatment of those whose injury is slight and does not entail discontinuance of work.
2. The benefits provided in accordance with paragraph 1 of this Article shall be afforded, using all suitable means, with a view to maintaining, restoring or, where this is not possible, improving the health of the injured person and his ability to work and to attend to his personal needs.



# Convention 121 Employment Injury Benefits Convention, 1964 (art. 13, 19 and 20)



## Article 13

The cash benefit in respect of temporary or initial incapacity for work shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 19 or with the requirements of Article 20.

## Article 19

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in Schedule II to this Convention, at least the percentage indicated therein of the total of the previous earnings of the beneficiary or his breadwinner and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.
2. The previous earnings of the beneficiary or his breadwinner shall be calculated according to prescribed rules, and, where the persons protected or their breadwinners are arranged in classes according to their earnings, their previous earnings may be calculated from the basic earnings of the classes to which they belonged.
3. A maximum limit may be prescribed for the rate of the benefit or for the earnings taken into account for the calculation of the benefit, provided that the maximum limit is fixed in such a way that the provisions of paragraph 1 of this Article are complied with where the previous earnings of the beneficiary or his breadwinner are equal to or lower than the wage of a skilled manual male employee.
4. The previous earnings of the beneficiary or his breadwinner, the wage of the skilled manual male employee, the benefit and any family allowances shall be calculated on the same time basis.
5. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.



# Convention 121 Employment Injury Benefits Convention, 1964 (art. 13, 19 and 20)

## Article 19 cont'

6. For the purpose of this Article, a skilled manual male employee shall be—
  - a) a fitter or turner in the manufacture of machinery other than electrical machinery; or
  - b) a person deemed typical of skilled labour selected in accordance with the provisions of the following paragraph; or
  - c) a person whose earnings are such as to be equal to or greater than the earnings of 75 per cent of all the persons protected, such earnings to be determined on the basis of annual or shorter periods as may be prescribed; or
  - d) a person whose earnings are equal to 125 per cent of the average earnings of all the persons protected.
7. The person deemed typical of skilled labour for the purpose of clause (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, as amended and reproduced in the Annex to this Convention, or such classification as at any time further amended, shall be used.
8. Where the rate of benefit varies by region, the skilled manual male employee may be determined for each region in accordance with paragraphs 6 and 7 of this Article.
9. The wage of the skilled manual male employee shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances, if any; where such rates differ by region but paragraph 8 of this Article is not applied, the median rate shall be taken.
10. No periodical payment shall be less than a prescribed minimum amount.





# Convention 121 Employment Injury Benefits Convention, 1964 (art. 13, 19 and 20)

## Article 20

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in Schedule II to this Convention, at least the percentage indicated therein of the total of the wage of an ordinary adult male labourer and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.
2. The wage of the ordinary adult male labourer, the benefit and any family allowances shall be calculated on the same time basis.
3. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.
4. For the purpose of this Article, the ordinary adult male labourer shall be-
  - a) a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery; or
  - b) a person deemed typical of unskilled labour selected in accordance with the provisions of the following paragraph.





# Convention 121 Employment Injury Benefits Convention, 1964 (art. 13, 19 and 20)

## Article 20 cont'

5. The person deemed typical of unskilled labour for the purpose of clause (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, as amended and reproduced in the Annex to this Convention, or such classification as at any time further amended, shall be used.
6. Where the rate of benefit varies by region, the ordinary adult male labourer may be determined for each region in accordance with paragraphs 4 and 5 of this Article.
7. The wage of the ordinary adult male labourer shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 6 of this Article is not applied, the median rate shall be taken.
8. No periodical payment shall be less than a prescribed minimum amount.



# Convention 121 Employment Injury Benefits Convention, 1964 (art. 18)

## Article 18

1. The cash benefit in respect of death of the breadwinner shall be a periodical payment to a widow as prescribed, a disabled and dependent widower, dependent children of the deceased and other persons as may be prescribed; this payment shall be calculated in such a manner as to comply either with the requirements of Article 19 or with the requirement of Article 20: Provided that it shall not be necessary to make provision for a benefit to a disabled and dependent widower where the cash benefits to other survivors are appreciably in excess of those required by this Convention and where social security schemes other than employment injury schemes provide to such widower benefits which are appreciably in excess of those in respect of invalidity required under the Social Security (Minimum Standards) Convention, 1952.
2. In addition, a funeral benefit shall be provided at a prescribed rate which shall not be less than the normal cost of a funeral: Provided that where cash benefits to survivors are appreciably in excess of those required by this Convention the right to funeral benefit may be made subject to prescribed conditions.
3. here a declaration provided for in Article 2 is in force and the Member concerned considers that it lacks the necessary administrative facilities for periodical payments, the periodical payment provided for in paragraph 1 of this Article may be converted into a lump sum corresponding to the actuarial equivalent thereof, as computed on the basis of available data.



## Convention 121 Employment Injury Benefits Convention, 1964

### Article 16

Increments in periodical payments or other supplementary or special benefits, as prescribed, shall be provided for disabled persons requiring the constant help or attendance of another person.

## Convention 121 Employment Injury Benefits Convention, 1964 (Article 18.2)

### **Article 18.2**

In addition, a funeral benefit shall be provided at a prescribed rate which shall not be less than the normal cost of a funeral: Provided that where cash benefits to survivors are appreciably in excess of those required by this Convention the right to funeral benefit may be made subject to prescribed conditions.

## Duration and adjustment of benefits

### **Convention 102 - Social Security (Minimum Standards), 1952**

#### **Article 65**

10. The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

## Duration and adjustment of benefits

### **Convention 121 Employment Injury Benefits Convention, 1964**

#### **Article 9**

The benefits shall be granted throughout the contingency: Provided that in respect of incapacity for work the cash benefit need not be paid for the first three days--(a) where the legislation of a Member provides for a waiting period at the date on which this Convention comes into force, on condition that the Member includes in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation a statement that its reason for availing itself of this provision subsists;

#### **Article 21**

1. The rates of cash benefits currently payable pursuant to paragraphs 2 and 3 of Article 14 and paragraph 1 of Article 18 shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.
2. Each Member shall include the findings of such reviews in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation, and shall specify any action taken.

### **Recommendation No. 121**

#### **Article. 15**

Rates of current periodical payments should be periodically adjusted, taking account of changes in the general level of earnings or the cost of living



## Other principles governing EI: right to complain, appeal and equality of treatment

### Convention 121 Employment Injury Benefits Convention, 1964

#### Article 9

1. Every claimant shall have a right of appeal in the case of refusal of the benefit or complaint as to its quality or quantity.
2. Where in the application of this Convention a government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this Article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.
3. Where a claim is settled by a special tribunal established to deal with employment injury benefit questions or with social security questions in general and on which the persons protected are represented, no right of appeal shall be required.



## Other principles governing EI: right to complain, appeal and equality of treatment

### **Convention 121 Employment Injury Benefits Convention, 1964 Article 27**

Each Member shall within its territory assure to non-nationals equality of treatment with its own nationals as regards employment injury benefits.



## Financing and administrative principles

### **Convention 121 Employment Injury Benefits Convention, 1964**

#### **Article 24**

1. Where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible to a legislature, representatives of the persons protected shall participate in the management, or be associated therewith in a consultative capacity, under prescribed conditions; national legislation may likewise decide as to the participation of representatives of employers and of the public authorities.
2. The Member shall accept general responsibility for the proper administration of the institutions or services concerned in the application of this Convention.

#### **Article 25**

Each Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention and shall take all measures required for this purpose.

## ✘ Preventive, rehabilitative and employment promotion measures (C. No 121)

### Convention 121 Employment Injury Benefits Convention, 1964

26. Each Member shall, under prescribed conditions—

- a) take measures to prevent industrial accidents and occupational diseases;
- b) provide rehabilitation services which are designed to prepare a disabled person wherever possible for the resumption of his previous activity, or, if this is not possible, the most suitable alternative gainful activity, having regard to his aptitudes and capacity;  
and
- c) take measures to further the placement of disabled persons in suitable employment.

# ✘ ILO Country Intervention Model

On Compensation, Prevention and Compliance  
*From National to Workplace Levels*

