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

A gateway for achieving  
rights-based universal  
social protection

- ▶ The human right to social security means that people must be protected throughout their lives, so that they can access benefits when they are sick, injured, disabled, pregnant, unemployed or retired – in other words when they are in need. Social security systems therefore must seek to ensure access to medical care and income security throughout the life cycle through benefits provided in cash or in kind.
- ▶ Social security is not only a human right but, importantly, also an investment that brings high social and economic returns. It is an essential part of the social contract and key to achieving equality, inclusion and peace – all integral elements of social justice. Social security is also a powerful enabler of many other rights, including those to health, food and an adequate standard of living, water and sanitation, and work.
- ▶ The Social Security (Minimum Standards) Convention, 1952 (No. 102) is the International Labour Organization's (ILO) landmark social security Convention. It is the first and only international treaty which frames social security in a holistic manner, setting out qualitative and quantitative minimum benchmarks for nine contingencies (or risks) that people face during their lives: medical care, maternity, family responsibilities, sickness, disability, employment injury, unemployment, old age, and loss of the family income earner. These, in other words, are the international points of reference against which national social protection systems can be evaluated by comparison. Convention No. 102 also establishes a set of core principles that provide essential rules to guide the financing and administration of social security systems. These apply to all schemes, whether financed through worker and employer contributions, taxation or a combination of both.
- ▶ Social security is a key element of the Decent Work Agenda, and thus Convention No. 102 is an essential part of the set of international labour standards which together aim to address the challenges involved in shaping a fair, inclusive and secure world of work that ensures full, productive and freely chosen employment and decent work for all.
- ▶ Like all international social security standards, Convention No. 102 was elaborated by the ILO's tripartite constituents (namely Governments and the representatives of employers and workers) and adopted by their two-thirds majority vote. It is therefore an expression of universally accepted principles which take into account the diverse cultural and historical backgrounds, legal systems and economic development levels of the ILO Member States.

# key messages

► The systemic and comprehensive approach adopted in Convention No. 102 has profoundly influenced the landscape of national social security systems worldwide, above and beyond the number of ratifications achieved over the last 70 years. Numbering 18 since 2012, new ratifications have increased apace since the adoption of the Social Protection Floors Recommendation, 2012 (No. 202), an instrument which guides the ILO and its Members towards the universal protection objective by prioritizing the establishment of nationally defined social protection floors as part of comprehensive social security systems. The added value of

both instruments in tandem continues to be fully acknowledged, including their role in guiding national social protection reforms.

► Convention No. 102 represents the “how” when it comes to giving effect to the human right to social security as set out in the Universal Declaration of Human Rights, and also in the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which 171 States are currently bound. It provides guidance for State parties’ efforts to uphold their obligations to respect, protect and fulfil the right to social security.

► Ratification of Convention No. 102 is therefore an important step in realizing the human right to social security. The ratification and application of Convention No. 102 can help to achieve several outcomes, including:

1. building rights-based universal social protection systems;
2. promoting social justice by reducing poverty, vulnerability and inequality;
3. creating a global level playing field;
4. meeting the 2030 sustainable development goals;
5. facilitating the access to healthcare services without hardship and contribute to addressing the social determinants of health equity;
6. building a road map to guide national policy and legal action;
7. preserving the social acquis, including in times of crisis;
8. ensuring the sustainable and equitable financing of social protection systems including through regular actuarial valuations;
9. improving social dialogue and increasing confidence in the State.

# key messages

The COVID-19 crisis demonstrated the importance of social protection systems in defending people's health, jobs and incomes. However, the crisis also revealed the harmful consequences of persistent coverage and adequacy gaps in many social protection systems resulting from high levels of informality and inequality, limited fiscal space, institutional fragmentation and demographic shifts. Social protection systems underpinned by sound and coherent legal frameworks and grounded in internationally defined core principles represent a guarantee of effective and efficient protection against the risks of ill health or poverty arising from inability to earn sufficient income or from old age.

As of 2020, 46.9 per cent of the global population was effectively covered by at least one social protection benefit. In other words, four billion people still lacked any social protection. A mere 30.6 per cent of the working-age population was covered by comprehensive social security systems providing protection against all nine contingencies set by Convention No. 102. Women's coverage continued to lag behind men's by a substantial eight percentage points.

Given such wide coverage gaps, and having observed that States with universal, comprehensive, adequate and sustainable social protection systems, as prescribed by Convention No. 102, were better able to weather such crises, in 2021 the International Labour Conference called for a Global Ratification Campaign to accelerate the ratification and effective implementation of Convention No. 102 and the other subsequently adopted ILO social security standards. The ILO has accordingly increased its efforts to advocate the strengths and advantages of ratifying and applying Convention No. 102 and to support Member States to that end.

# context





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# Key features of Convention No. 102

- ▶ Convention No. 102 is the first and, to date, only international treaty which envisages social security in a systemic manner and establishes both core principles and minimum protection benchmarks for the nine contingencies that constitute a comprehensive social security system.
- ▶ It is the first international instrument to provide guidance on the nine contingencies for which a comprehensive social protection system should, at the minimum, provide protection. These are: 1. illness requiring medical care; 2. loss of income in case of sickness; 3. unemployment; 4. employment injury; 5. maternity; 6. disability; 7. death of the family income provider; 8. old age; and 9. responsibility for the care of children.
- ▶ For each of these risks, the Convention sets out minimum benchmarks that provide an internationally accepted framework for assessing the adequacy of social protection systems. Moreover, it defines these benchmarks in a way that embraces the variety of schemes that can make up national social protection systems, in particular contributory and tax-financed social protection mechanisms.
- ▶ Flexibility is another key feature of Convention No. 102. The Convention recognizes that comprehensive coverage, namely protection against all nine contingencies, is something that is achieved gradually. States are thus permitted to ratify the Convention by accepting at least three of the nine branches. However, in order to ensure a level playing field among the States parties to the Convention, it requires at least one of the three accepted contingencies to be either unemployment, old-age, employment injury, invalidity or survivors' benefits. States are encouraged subsequently to accept the obligations relating to other contingencies. This means that States' international commitments can evolve in parallel with the development of their national social protection systems, allowing them to work gradually towards the full commitment of all parts of the Convention.
- ▶ Convention No. 102 recognizes that some national economies and medical facilities are still developing, and it therefore allows States, as an exception, to temporarily accept more lenient requirements in respect of the number of protected persons or the minimum benchmarks and parameters set for benefits, while their national systems continue to develop.
- ▶ Convention No. 102 also establishes key principles underpinning the access to, financing and governance of social security that should be observed irrespective of the chosen mechanism, while explicitly holding the State fully responsible for the smooth functioning of the system.
- ▶ A State that becomes party to the Convention through ratification acquires legal obligations. In this regard, it must periodically demonstrate how it complies with the Convention and how it implements the quantitative and qualitative requirements in its national law and practice.

# Benefits of ratifying and implementing Convention No. 102

- ▶ The development of a comprehensive, adequate and sustainable social protection system in line with Convention No. 102 contributes to preventing and reducing poverty, vulnerability and inequality, while enhancing political stability and social cohesion. Investment in social protection has also been proven to yield returns by stimulating economic growth and improving economic performance, resulting in more equitable and cohesive economies and societies.
- ▶ Poverty, income insecurity, unemployment and job insecurity are all examples of how non-medical factors influence health outcomes. Building a comprehensive social protection system based on the guidance in Convention No. 102 can help to address the impacts of these social determinants of health, notably those on health and wellbeing.
- ▶ Ratifying and applying Convention No. 102 in law and in practice also demonstrates a commitment to realizing the human right to social security as set out in the Universal Declaration of Human Rights, 1948, the International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR) and other international and regional instruments. In this context, "States parties to the International Covenant on Economic, Social and Cultural Rights can effectively fulfil their obligations under article 9 through the implementation of Convention No. 102".
- ▶ The ratification and implementation of these standards also contribute to attaining the 2030 Agenda for Sustainable Development, in particular Sustainable Development Goal target 1.3 on implementing social protection systems and measures for all, including floors, with a view to achieving universal social protection. Social security is also an enabling instrument for achieving the SDGs concerned with ending hunger and ensuring access to safe, nutritious and sufficient food (SDG 2.1), achieving good health and wellbeing through universal health coverage (SDG 3.8), gender equality (SDG 5.4), decent work (since it is an integral component) (SDG 8.5), reducing inequalities (SDG 10.4) and promoting just, peaceful and inclusive societies (SDG 16).
- ▶ At the national level, ratification and application can provide many countries with the opportunity to further develop their social security systems and to extend legal and effective coverage, and thus to create a concrete and detailed guiding framework for operationalizing the constitutional right to social security prevalent across the globe. States at all stages of economic development are thus provided with guidelines and adapted targets for progressively building an integrated, comprehensive, adequate and economically and financially sustainable system that leaves no one behind. In short, ratification can facilitate a politically agreed road map for strengthening a national social protection system based on clearly defined rights and obligations.

- ▶ Since Convention No. 102 lays down basic principles for the sound governance and proper administration of social security (governmental responsibility for due provision of benefits as stipulated by the national law; periodical actuarial review of contributions and benefit schedule; and participatory management), its ratification can provide a solid basis for improving social security governance, administration and services. This, in turn, can promote social dialogue between employers, workers and governments and increase public confidence in a country's social security system, national social security administration and political system in general – which can then contribute to “contribution compliance” and social peace and justice.
- ▶ Once ratified, Convention No. 102 can serve as a means to prevent the levelling-down of national social security systems. The minimum requirements and benchmarks help to create an equitable global level playing field for social protection. Ratifying these standards ensures that businesses and countries adhere to a common set of rules which can prevent unfair competition between players and a “race to the bottom” in which protection is lowered below the minimum internationally accepted levels set out in the Convention.
- ▶ The COVID-19 pandemic demonstrated how social security can help to mitigate the social impacts of health, financial and economic crises on workers and their families through its automatic income replacement functions and the provision of essential health care. In ratifying ILO social security Conventions, a country undertakes to implement minimum social security standards through a legal framework. These standards act as powerful tools for preserving social security guarantees and entitlements at the national level, and thus for preserving decent standards of living and health, even in times of crisis. Ratification can therefore prevent countries from backsliding on achievements and cutting benefit levels to below those required by the Convention when facing austerity measures; in this way, it mitigates the long-term social consequences of crises.
- ▶ Ratification requires a Government to report periodically to the ILO on how it is applying the Convention in law and practice and to share that report with the most representative employers’ and workers’ organizations. The latter are entitled to comment on its content, and thus have a voice when it comes to assessing the effectiveness of application of Convention No. 102.
- ▶ Convention No. 102 requires that social protection systems consider the principles of participatory management and financial sustainability; principles that are important to the representatives of employers’ and workers’ organizations.
- ▶ In addition, by applying Convention No. 102, employers benefit from higher labour productivity and competitiveness through improved worker health, lower absentee rates, higher job retention and motivation. They also benefit because their individual liability as employers to provide compensation directly to employees (or their families in case of death), in the event of employment injury, sickness or maternity, for example, is transferred to a collectively financed benefit in which they participate through the payment of contributions or taxes.
- ▶ For workers, being covered by a system established in law and placed under the overall responsibility of the State guarantees effective access to healthcare and income security and contributes to breaking the vicious cycle of vulnerability, poverty and social exclusion. Ultimately, this consolidates the social contract underpinning the society in which they live. Convention No. 102 also places particular focus on protection for vulnerable persons and middle- and low-income earners, including from excessive costs for health care.





# How to implement Convention No.102 at national level?

Convention No. 102 establishes minimum benchmarks for the quality and quantity of the benefits to be provided (type of benefit, definition of the contingency, persons to be protected, qualifying conditions; nature and scope of benefit to be provided, duration of the benefit, etc.). It also embraces a number of core principles: non-discrimination and equality of treatment for non-national residents, the overall responsibility of the State, the right of complaint and appeal, collective financing of benefits and participatory management of social security schemes, as well as identifying the cases when it is acceptable for a benefit to be suspended.

## **Persons protected under the Convention**

- ▶ Convention No. 102 gives each country the choice to determine the type of mechanism it will use to demonstrate compliance with each of the accepted contingencies, taking into account the types of schemes that make up the national system. Accordingly, it sets minimum thresholds for persons covered by schemes that protect employees, those that protect economically active persons (self-employed persons in addition to employees) or those that protect vulnerable groups of the population through means-tested social assistance.
- ▶ The Convention allows ratifying States whose economies and medical facilities are still under development to temporarily limit the scope of their national law to larger enterprises, namely “employees in industrial workplaces employing at least 20 persons”. This temporary exception matches the approaches followed by many countries which firstly apply their national legal frameworks to the bigger economic operators before progressively extending social security protection to smaller enterprises and self-employed persons.
- ▶ The Convention does not apply to seafarers or fishers, as they are covered by other standards. No other categories of workers are specifically excluded from the application of the Convention.



## Level of benefits

- Convention No. 102 outlines the minimum benefit package for medical care as well as the minimum level of periodical cash benefits payable for the nine social risks (contingencies). The levels of cash benefits should be regularly adjusted. Ratifying States can choose between three options, corresponding to three main types of income security benefits, in order to demonstrate that the national level of a benefit meets the minimum rates established by the Convention:

1. *Benefits calculated from previous earnings (e.g. typically provided through social insurance schemes):* This refers to benefits that represent a certain percentage of the previous earnings of the protected person. Convention No. 102 assesses the adequacy of such benefits according to the earnings of a person representative of a skilled worker in the country. Skilled workers and workers with lower earnings should receive a replacement rate at least at the levels set out by the Convention. A maximum limit can be imposed on the contribution or benefit rate, but it should not be lower than the earnings of a skilled worker as defined in the Convention. This guarantees that those earning up to the level of a skilled worker will receive at least the minimum replacement rates outlined in the Convention. For workers with higher earnings, benefits should bear a reasonable relation to those rates.
2. *Flat-rate benefits provided by tax or mixed-financing schemes irrespective of the level of the beneficiary's previous earnings:* Convention No. 102 assesses the level of flat-rate benefits in relation to the level of

earnings of a person representative of an unskilled worker in each country (Article 66). This method can also be applied to assess the level of the minimum benefits provided by social insurance schemes.

3. *Means-tested benefits (e.g. benefits typically provided by social assistance schemes):* Whenever a scheme conditions the payment of benefits to the means of the beneficiary's family, Convention No. 102 requires that the level of the benefit must be at least sufficient to maintain the family of the beneficiary in health and decency. The benefit, together with the family's other means, should at least reach the level set for flat-rate benefits. National rules should set out which of a family's assets can be excluded from the means test, for example, a person's home or car. The Convention does not consider the use of means-tested schemes in the case of employment injury, maternity and medical care.



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## **Core principles**

While the Convention has a significant level of built-in flexibility, it does not compromise on the observance of a number of core principles:

### **The overall and general responsibility of the State (Articles 71 and 72)**

- ▶ States are explicitly recognized as assuming general responsibility for the due provision of benefits. Accordingly, they must take all measures required to ensure that benefits can be duly provided. The State, therefore, has the duty to progressively develop a legal framework which complies with the provisions of the Convention.
- ▶ States also assume general responsibility for the proper administration of the institutions and services concerned in the implementation of the social security benefits. This implies, in particular, that where the State is not directly involved in the administration of the social security schemes (i.e. when a scheme is run jointly by workers and employers or by a private body), it still has the ultimate responsibility to ensure that the system operates in a well-governed and sustainable manner.
- ▶ The State also has overall and general responsibility to ensure that funding for the benefits set out in national law is available and that social protection schemes are financially sustainable, notably by ensuring that the necessary actuarial studies and calculations concerning the financial equilibrium take place periodically and, in any event, take place prior to any changes benefits set out in national law is available and that social protection schemes are financially sustainable, notably by ensuring that the necessary actuarial studies and calculations concerning the financial equilibrium take place periodically and, in any event, take place prior to any changes made to the level of benefits, the rate of insurance contributions, or taxes allocated to finance the benefits. Furthermore, the State should guarantee the financial equilibrium of the system, including during periods of crisis, and that provisions are made to minimize the misuse of social security funds. (See section below on the financing and administration of social security institutions).

### **Review of periodical payments (Articles 65 and 66)**

- ▶ Old age, employment injury, invalidity and survivors' pensions should be adjusted when substantial changes in the general level of earnings occur because of substantial changes in the cost of living. This ensures that beneficiaries can maintain their purchasing power, for example, in the event of inflation.

### **Equality of treatment (Article 68)**

- ▶ Non-national residents need to have the same rights as national residents, subject to the following:
  1. Where benefits are payable wholly or mainly from public funds, special qualifying rules may apply to persons who were born outside the territory;
  2. Where benefits are payable under a contributory social insurance scheme, the rights of nationals from another country can be made subject to the existence of a bilateral or multilateral agreement between the countries concerned.

### **Suspension of benefits (Article 69)**

- ▶ The Convention establishes a list of cases in which a benefit can be partially or fully suspended. This list is exhaustive, and therefore no other case of suspension is acceptable. These cases may be grouped according to three types of situations:
  1. The absence of the person concerned from the State in which the benefit is granted (i.e. there is no obligation to "export" benefits to other countries unless bilateral or multilateral agreements have been signed to this effect);
  2. Situations in which the person is maintained at publicly funded institutions such as hospitals, prisons and rehabilitation centres at the expense of a social security institution, or is in receipt of another cash benefit (other than a family benefit), or is being compensated by a third party;

3. A number of cases related to the personal conduct of the beneficiary, such as fraudulent claims, criminal offences, the wilful misconduct of the person concerned, and certain circumstances surrounding the loss of employment.

#### **Right of complaint and appeal (Article 70)**

- ▶ The Convention stipulates that every claimant has the right of appeal in case of refusal of a benefit, or of complaint as to its quality or quantity.
- ▶ This right, however, is restricted when it comes to medical care if the administration of that care is entrusted to a government department responsible to a parliament. In such a case, this right of appeal may be replaced by entitlement to have a complaint concerning the refusal or quality of medical care investigated by the appropriate authority.

#### **Proper financing and administration of social security institutions (Article 71)**

- ▶ Convention No. 102 allows ratifying States great leeway in organizing their social security system to ensure an overall level of protection that meets its minimum benchmarks. These schemes should, however, be financed collectively through either contributions, taxation or a combination of both. Collective financing excludes direct employer liability arrangements whereby the burden of securing the worker's income security falls directly on the employer.
- ▶ Convention No.102 also requires that the level of benefits be established by legal provisions, and thus predictable. Benefits should not be determined by the date of occurrence of a contingency linked, for example, to stock market performance or changes in GDP.
- ▶ Any mechanism used to finance social protection benefits should ensure that persons with low incomes do not endure hardship as a result of participating in the

cost of social security. Some countries achieve this through the full or partial subsidization of contributions for workers with low earnings. Others include a ceiling on contributions that can be paid, or adapt contribution payments to income levels.

- ▶ Where social protection benefits are financed through social insurance contributions, the total share of contributions borne by employees for all schemes (with the exception of benefits for child responsibilities and in the case of employment injury) must not exceed 50 per cent of all the financial resources allocated for the protection of the scheme's beneficiaries.
- ▶ Protected persons participate in the management of social security institutions mainly through their representative organizations (such as workers' organizations), if the scheme is not administered by an institution regulated by the public authorities or by a government department responsible to the parliament. The participation of employers' representatives and public authorities in the administration can also be regulated.

#### **Voluntary social insurance mechanisms (Article 6)**

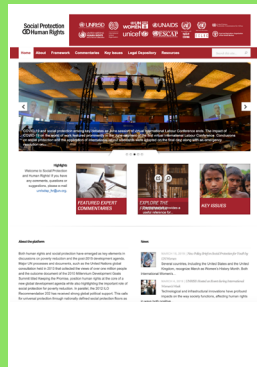
- ▶ While the principal focus of the Convention is mandatory insurance, voluntary insurance may be considered, subject to the following conditions:
  1. The voluntary insurance scheme is supervised by public authorities or administered by social partners according to rules set out in national laws and regulations;
  2. The voluntary insurance scheme covers a substantial number of persons who earn as much or below the earnings of a person undertaking skilled manual labour, as defined in the Convention;
  3. The benchmarks and principles set out in the Convention are met (e.g. the minimum level and duration of the benefit).

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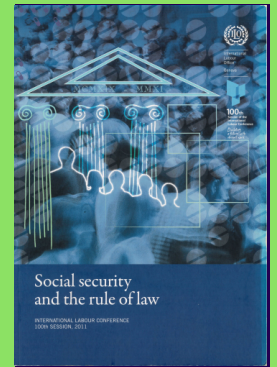
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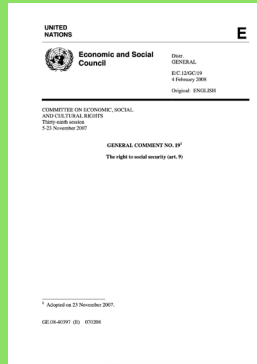
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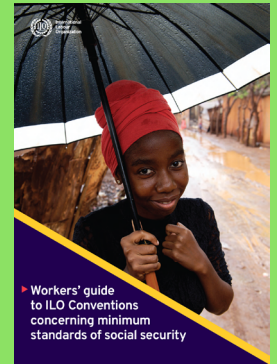
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