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SOCIAL
PROTECTION

Employment Injury Protection in Serbia

Issues and options



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Foreword

Improving the effectiveness of the social protection system is identified as one of the three priorities¹ of the Decent Work Country Programme (DWCP) of the Republic of Serbia, which was agreed by the Government, social partners and the ILO for the period 2008–2011. This goal is to be achieved through the development of national policy on social security reform, with the close involvement of the social partners.

Following a number of activities in the area of pensions, culminating in a Conference on Pension Reform in Serbia held in Belgrade in September 2009, the Government requested further assistance from the ILO on social security, in this case employment injury insurance. This was linked to another outcome of the DWCP—reinforcing the implementation of the National Strategy on Occupational Safety and Health (OSH), in particular with regard to reducing accidents at work and occupational diseases.

This report was prepared by Ms. Lynn Villacorta, Consultant, former Manager of the Social Protection Programme at the International Training Centre of the ILO in Turin, Italy. Comments on the earlier draft were provided by Mr. Kenichi Hirose, Senior Specialist in Social Security of the ILO Decent Work Technical Support Team for Central and Eastern Europe (ILO DWT/CO–Budapest). A joint mission by the Consultant and the Senior Social Security Specialist was undertaken in July 2011 to gather data and consult with the Government and social partners on the issues. The draft report was presented at the Tripartite Meeting on Employment Injury Protection in Serbia held on 20 December 2011 in Belgrade. The comments received by the government authorities and representatives of the social partners at the meeting have been reflected in this final report. Mr. Jovan Protic, ILO National Coordinator for Serbia, provided valuable guidance and assistance throughout the preparation of this report.

The report is organized in three chapters. Chapter 1 describes the current system in Serbia in light of the principles of employment injury protection and looks at occupational safety and health issues in the context of current economic conditions and challenges. Chapter 2 reviews the relevant international labour standards on employment injury protection. Chapter 3 discusses options that Serbia might consider in seeking to reform the system, summarizes the issues and identifies future areas of cooperation with the ILO.

We trust that this technical report is useful for those concerned with the development of a better employment injury protection system in Serbia.

Budapest, March 2012

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1 The other two priorities are 1) strengthening the capacity of government institutions and the social partners to improve the governance of the labour market, and 2) improving the formulation and implementation of employment policy as well as measures targeting disadvantaged youth.

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Abbreviations

CEACR	Committee of Experts on the Application of Conventions and Recommendations
CoP	Code of Practice
DWCP	Decent Work Country Programme
EU	European Union
GDP	Gross Domestic Product
HIF	Republic Health Insurance Fund
ILC	International Labour Conference
ILO	International Labour Organization/Office
ILS	International Labour Standards
IMF	International Monetary Fund
ISSA	International Social Security Association
MLSP	Ministry of Labour and Social Policy
MoH	Ministry of Health
OSH	Occupational Safety and Health
PIO	Republic Fund for Pension and Disability Insurance
ToR	Terms of Reference

Executive summary

Serbia has a comprehensive social security system covering all the nine benefits listed in ILO Convention No. 102: old-age, invalidity, survivors, sickness, maternity, employment injury, unemployment, medical care and family benefits. Most benefits are provided on the basis of social insurance, but elements of direct employer liability still remain, in particular in the case of employment injury protection. In many countries, benefits for work-related accidents and diseases are provided by social insurance schemes, although some countries rely on compulsory private insurance or a combination of public and private schemes.

In almost all cases employers are responsible for financing employment injury protection. The trend over time has been to expand from the basic functions of medical treatment and compensation to a wider range of benefits and broader social objectives. This enlarged vision of employment injury protection has led most European schemes to incorporate a strong emphasis on accident prevention and renewed efforts to re-integrate injured and disabled workers into the labour force through medical and vocational rehabilitation.

In Serbia, medical care for work accidents and occupational diseases is administered by the Republic Health Insurance Fund (HIF) while the Republic Pension and Disability Insurance Fund (PIO Fund) administers permanent disability and survivors' benefits. Temporary disability benefits, however, are paid directly by employers. Coverage under both schemes includes nearly all employed persons, including the self-employed and farmers. However, a growing number of workers in the informal economy are falling outside of statutory coverage.

Serbia has ratified ILO Conventions on employment injury, which require that benefits must be financed collectively on the basis of insurance or taxation. Thus reforms of the current system need to take Serbia's international commitments into account. Furthermore, the Government is actively seeking to improve occupational safety and health measures, in conformity with international labour standards, including prevention of work-related accidents and diseases.

Three options are examined for reform: i) an autonomous employment injury fund, ii) maintenance of the current institutional arrangements with improvements to the current system, and iii) an employment injury "branch" in the existing social insurance scheme. Irrespective of the reform option that is eventually chosen in Serbia, there is a need to rectify the existing system's problems with direct employer liability for the short-term disability benefits (salary benefits) and the apparent absence of the earmarked employer contribution for work-related disability pensions. The statistical bases for employment injury protection will need to be further developed as a prerequisite for any reform of the system.

Proposed reforms of employment injury protection in Serbia will take place in a difficult economic context. In addition to the problems of undeclared work, recent low economic growth and high unemployment due to the economic crisis, there are constraints on government expenditure. Nonetheless, Government policy is committed to the reform, which the ILO is supporting with technical assistance.

Chapter 1:

Issues in employment injury protection in Serbia

1.1 General principles of employment injury protection

Globally nearly all countries have some form of employment injury protection, ranging from basic requirements on employers in labour legislation to autonomous social security institutions for employment injury with a comprehensive range of benefits including medical and vocational rehabilitation and prevention services. The early legislation, dating back over 100 years in some European countries, was known as workman's (later workers') compensation, but the term "employment injury" is used by the ILO to include measures for both accidents at work and occupational diseases. This follows the terminology in the Social Security (Minimum Benefits) Convention, 1952 (No. 102) and later the Employment Injury Benefits Convention, 1964 (No. 121), which is the higher international standard for these contingencies.

Employment injury protection is characterized by a wide range of benefits, including medical care and rehabilitation, cash benefits for temporary and permanent disability (partial and total) as well as survivors' benefits. Moreover, many countries provide additional benefits such as the cost of medical transport, constant attendance allowances for severely disabled workers needing the assistance of another person and funeral grants in the case of fatalities. In recent years, increasing emphasis has been put on vocational rehabilitation and, in particular, prevention, recognizing the importance of reducing the number of accidents and diseases related to work.

The form and structure of employment injury protection systems vary widely, even among countries in the same geographical region and at similar levels of economic development. The measures taken reflect not only the historical development of employment injury protection in individual countries, but also the concepts underlying the legislation. In the early days of industrialization workers had to prove negligence on the part of the employer (or another party) and seek recourse in the civil courts, often a costly and lengthy process. Subsequently, some countries passed laws requiring the employer to compensate workers injured as a result of accidents at work. This direct liability for employers under the labour code was recognition of a concept called "occupational risk", inherent in the operation of the enterprise and therefore the responsibility of the employer, irrespective of fault². Thus a sensible business approach would be to take insurance cover for this risk.

There are some countries where direct employer liability is in effect. The disadvantages of direct employer liability – limited medical and cash benefits, lump sum payments, risk of business closure, and so on – led countries to some form of insurance, either through compulsory insurance with a private carrier or social insurance. This mix of public and private insurance characterizes the situation in employment injury protection today. In Europe, for example, most countries have social insurance schemes for employment injury.

2 Tomio Higuchi, "Systems of employment injury protection: An international review", *Report on the Symposium on Employment Injury Protection for Developing Countries in Asia and the Pacific*, Bangkok, ILO Regional Office for Asia and the Pacific, 1986.

In a few countries, however, employers are required to purchase insurance from a private carrier. There are also examples of mixed systems, where work accidents are covered by private insurance and occupational diseases by a public social insurance scheme. According to a report by the European Agency for Safety and Health at Work, of the 27 Member States of the European Union (EU), 19 countries have public schemes, while eight (Belgium, Cyprus, Denmark, Finland, the Netherlands, Portugal, Spain, U.K.) use mainly private insurance.

Social insurance, the most common type of scheme for employment injury, follows several models. In some schemes employment injury is one branch of the general compulsory social insurance (Bulgaria, Poland). In other countries a separate institution exists for insuring against work accidents and occupational diseases (Italy). In the German system, several accident insurance funds, managed by bipartite boards, administer benefits, under the supervision of the Federal Insurance Institute. A third model is the integration of employment injury benefits into the social insurance schemes for health insurance and pensions (Hungary, Slovenia). Nonetheless, it is usually a requirement in all schemes that the injury or disease must be work-related in order to be eligible for benefits.

In almost all cases employers are responsible for financing employment injury protection. The trend over time has been to expand from the basic functions of medical treatment and compensation to a wider range of benefits and broader social objectives. This enlarged vision of employment injury protection has led most European schemes to incorporate a strong emphasis on accident prevention and renewed efforts to re-integrate injured and disabled workers into the labour force through medical and vocational rehabilitation.

1.2 Social security system in Serbia

Serbia has a comprehensive social security system covering all the nine benefits listed in Convention No. 102: old-age, invalidity, survivors, sickness, maternity, employment injury, unemployment, medical care and family benefits. Three main institutions administer social security benefits. The Republic Health Insurance Fund (HIF) finances medical care, provided mainly in the facilities of the Ministry of Health, and pays cash sickness and maternity benefits. The Republic Pension and Disability Insurance Fund (PIO Fund) administers old-age, disability and survivors' benefits. Unemployment benefits are administered by the National Employment Service under the Ministry of Economy and Regional Development. In addition, municipal governments pay family benefits on a means-tested basis to qualifying families with children.

The PIO Fund covers nearly all employees and self-employed persons on a compulsory basis under the Pension and Disability Insurance Law (Official Gazette of the RS No. 34/2003). Prior to 2008, separate pension funds existed for employees, the self-employed and farmers, but since then the funds have been merged, both administratively (in 2008) and financially (in 2011). The Government reported 2,664,395 active contributors to the pension scheme in June 2010. This compares to data from the Labour Force Survey of 2010, which estimated that 2,760,000 or 36.9 percent of the total population of Serbia (nearly 7.5 million persons) were employed.

Statutory coverage under the Health Insurance Fund is much broader, since it includes the insured under the pension scheme as well as other categories of the population such as children under 15 years of age, students up to 26 years of age, the unemployed, pensioners, the elderly and other vulnerable groups. The Government reported 3,671,635 active contributors for medical care as of December 2010 and a total number of benefit recipients of 6,800,899.

Voluntary coverage is available under both schemes for those who are not covered on a mandatory basis.

The health, pension and unemployment schemes are contributory. The current contribution rates for health insurance are 12.3 percent of insured earnings and for pensions 22.0 percent, which are shared equally by the worker and the employer. For unemployment, however, the employer share of the total contribution of 2.25 percent of insurable earnings, is twice that of the worker, 1.5 percent and 0.75 percent respectively. The responsibility for collection of contributions was taken over by the Tax Authority in 2003.

Following amendments to the law in 2005, the old-age pension is now payable at age 65 for men and 60 for women; 15 years of contributions are required. For general disability and survivor pensions the requirement is five years of contributions by the insured (this is reduced if the disability occurs before age 30). Benefits also include a funeral grant, equal to 1.5 times the average pension and a constant attendance benefit for the disabled who require additional care in meeting daily needs.

Pension benefits are calculated using the so-called “point system”. The benefit is a product of three elements: i) the personal coefficient (ratio of a worker’s insurable earnings to the average salary in a calendar year averaged over the entire contribution period), ii) the number of pensionable years, and iii) the general point. Benefits are currently indexed only to prices, following an amendment to the Pension and Disability Law in 2005 (previously it was an average of the increases in wages and in prices). The new indexation formula was to be phased in from 2005 to 2008, however, another provision of the law resulted in an exceptional increase in pensions in January 2008. Indexation was suspended entirely in 2009 and resumed only in December 2009, according to the new price index.

The generous definition of disability in the former law was restricted in the law of 2003. The former law used a definition based on the loss of working capacity in the previous job. The new definition requires a total loss of working ability, which is permanent. However, in the case of employment injury, a benefit for “bodily damage” is also paid, as explained below.

The Health Insurance Fund also finances cash sickness benefits (“salary benefit”) for inability to work because of sickness or injury. The Labour Law (Article 115) requires that the employer pay the salary benefit for up to 30 days. The benefit amount is 65 percent of average wages for the previous three months in the case of non-work related temporary disability and 100 percent if work-related. Following this period, the Health Insurance is financially responsible for non-work related illness or injury and the employer is reimbursed the amounts paid. This is not the case for work-related temporary disability, as explained below. Maternity benefits are also regulated by labour law and employers are reimbursed for the amounts paid during maternity leave according to the provisions.

1.3 Current provision of employment injury benefits in Serbia

In Serbia the provisions regarding employment injury protection are not under the administration of a single institution or branch of social insurance. Several different laws apply and both medical care and cash benefits are integrated within the respective health insurance and pension schemes.

Medical care for work-related injuries and diseases is included in the compulsory health insurance under Article 9 of the Health Insurance Law (Official Gazette of the RS No. 34/2003). Comprehensive health care is guaranteed at primary, secondary and tertiary levels. While cost-sharing is required for certain medical services for general health care, the health insurance covers 100 percent of the cost of examination, treatment and rehabilitation following work-related injuries and diseases (Article 45).

With regard to cash benefits for temporary inability to work as a result of employment injury, the employer is directly responsible for deciding on the right to benefit (Article 168 of the Health Insurance Law) and the payment of the benefit “from its own funds” (Article 102), throughout the “entire duration” of the inability to work. Nonetheless, when the person is referred to a disability commission for an evaluation concerning permanent disability, the health insurance will be responsible for the benefit for up to 60 days from when the claim is filed, the maximum time allowed for a decision by the disability commission. Moreover, for the self-employed (and for those whose employment relation has ceased during the period of receipt of salary benefit) in the case of employment injury the law states that the temporary disability benefit will be paid by the health insurance (Article 102), i.e., the same procedure as that for non-work related sickness.

In addition to the statutory coverage for pensions described above, Article 17 of the Law on Pension and Disability Insurance provides that other categories of persons are entitled to receive benefits in case of disability or “bodily damage” caused by a workplace injury or an occupational disease. These include:

- Persons performing temporary and periodical activities, in compliance with the law, through youth labour organizations, prior to having completed 26 years of age provided they are full-time students,
- Persons assigned by the relevant employment authority to attend vocational training courses, additional training and retraining,
- Pupils and students during the period of compulsory productive work training, vocational practice, and practical training, in compliance with the law,
- Persons serving prison sentences, during the period of their working in the economy units of the penitentiary and correctional institutions (workshops, work sites, etc.) and other work locations, and
- Persons who, in compliance with the law, perform specific activities on the basis of voluntary work contracts.

A workplace injury is defined in the legislation as an injury “relating in space, time and causality to performing his/her work, based on which he/she is insured, caused by an immediate and momentary mechanical, physical or chemical impact/exposure, a sudden change in body position, a sudden and unexpected exertion of the body, or other changes in the physiological condition of the body” (Article 22). The definition also includes commuting accidents.

The permanent disability pension for work-related injuries is calculated in the same way as the old age and general disability pension, as explained above. However, the insurance period taken into account in the formula is 40 years (Article 69). In contrast, the general disability pension is calculated on the actual number of insured years, plus an additional amount depending on the age of the insured person at the time of disability, i.e. less than the full career period used for employment injury.

Although no partial disability pension is paid in the case of general disability, in the case of employment injury the law provides for a pension for “bodily damage”, i.e., a loss, severe damage or disability of specific organs or body parts, irrespective of whether or not this results in disability. There are eight categories of bodily damage ranging from 100 percent for Category 1, to 30 percent for Category 8, with a decline of 10 percentage point for each category. If the assessed damage is below 30 percent, no benefit is payable.

As is the usual practice in employment injury schemes, there is no minimum contributory period for eligibility for benefits. However, unlike most schemes, there is no earmarked employer contribution for employment injury benefits within the contributions for either health insurance or pensions. The current contribution rates for health insurance and for pensions are shared equally by the worker and the employer.

As shown in Table 1, in recent years disability pensions for work injuries and occupational diseases represented around 2.5 per cent of all disability pensions newly awarded each year.

Table 1 Newly-awarded disability pensions, 2008–2010			
	2008	2009	2010
Disability pensions (1)	349,925	347,082	342,000
Employment injury pensions (2)	8,730	8,710	8,411
(2) / (1) (in percent)	2.49	2.50	2.46

Source: The Ministry of Labour and Social Policy

Nevertheless, for farmers, the percentage of employment injury pensions to all disability pensions was nearly double each year, 4.0 percent in 2008, 4.98 percent in 2009 and 4.59 percent in 2010. In addition, of all pensions awarded on the basis of employment injury, there were an insignificant number of pensions awarded to farmers on the basis of occupational disease compared to around 21 percent for employees and just over 8 percent for the self employed each year.

1.4 Occupational safety and health in Serbia

The Constitution of the Republic of Serbia guarantees the right to “safe and healthy working conditions and necessary protection at work” (Article 60). The Law on Health and Safety at Work (Official Gazette of the RS No.101/05) establishes the current legislative framework for OSH in the country, along with related by-laws and other regulations. Subsequently the Government formulated the Strategy on Health and Safety and Work in the Republic of Serbia for the period 2009–2012 (Official Gazette of the RS No. 32/09), which defines the objectives and proposes the various measures to be taken to improve OSH in the country at all levels.

The Strategy is based on four principles:

- a focus on *prevention* of employment injuries (work-related injuries and illnesses and occupational diseases),
- *involvement* of all stakeholders, at the enterprise, associational and state levels,
- definition of *responsibilities*, with employers being responsible for safe and healthy workplaces, and employees for their actions in the workplace,
- *attainability*, OSH activities are based on efficient use of increased knowledge by existing human resources.

The Strategy was followed up with an Action Plan setting out the activities and time frame in which improvements to the OSH system will take place. One objective of the Action Plan is the “introduction of the special insurance against injuries at work and professional diseases”. Three activities are associated with this objective: i) a series of seminars to learn about experience in the EU countries in this area, ii) establishment of a Working Group on this topic, and iii) preparation of draft legislation. All activities involve workers’ and employers’ representatives as well as those from various government ministries (Ministry of Labour and Social Policy, MLSP, Ministry of Health, MoH) and agencies.

Data on work accidents and occupational diseases in Serbia is not easily available. According to the national OSH profile of Serbia prepared for the ILO in 2007, there were 21,924 work accidents in 2005. However, the national OSH profile report states that the significantly low incidence rates are indicative of a problem with the notification of work accidents and the collection of accident data in Serbia.

The Labour Inspectorate plays a key role in investigating work injuries and occupational diseases. The Law on Safety and Health at Work (Article 65) mandates immediate supervision by the labour inspector when the employer reports a fatal, severe or collective injury at work. Although several institutions were previously involved in collecting data on employment injuries, the Labour Inspectorate has been the only source of data on work accidents since 2006. Table 2 shows the data on various types of work injuries from the annual report of the Labour Inspectorate.

Year	Total	Death	Collective injuries	Heavy/serious injuries	Light injuries
2006	1,102	54	27	966	82
2007	1,330	28	28	1,140	162
2008	1,285	42	32	1,034	177
2009	1,286	37	22	1,004	223
2010	1,322	35	29	1,026	232

Source: The Labour Inspectorate

In the report of the Labour Inspectorate for 2007, it was noted that the number of recorded occupational diseases was much lower in Serbia than in EU countries, which led to the likely conclusion that “there is a serious problem in the concept of determining, reporting and recording professional diseases in Serbia”. The national OSH profile of Serbia stated that there was no unique occupational diseases register, nor unique criteria for the identification of occupational diseases.

With regard to occupational diseases, the MoH recorded 104 in 2007, 57 in 2008, 29 in 2009 and only 30 in 2010. More recent information from the Labour Inspectorate states that in 2008, 2009, and 2010, employers have only reported one case of occupational disease per year. Following the logic from the Inspectorate’s previous report, it appears that the notification system for reporting occupational diseases does not function effectively. Whether increased activity on the part of the Labour Inspectorate would improve notification, or whether a new system needs to be developed is something that should be taken into consideration.

1.5 Current challenges to the employment injury protection system

Proposed reforms of employment injury protection in Serbia will take place in a difficult economic context. Following the decade of the 1990s, when the economy shrunk by half, positive GDP growth rates resumed in 2000, following the lifting of UN sanctions, and continued until the global economic crisis in 2008. Serbia was hit hard by the crisis, in particular with regard to employment. The MLSP, citing data from the trade unions, stated that an estimated 300,000 jobs have been lost in the last decade. Both the formal and informal economy felt the impact of the crisis. GDP growth was a negative 3.12 percent in 2009. Nonetheless, the

economy is starting to recover slowly, growing at 1.76 percent in 2010. The World Bank estimates that the figure for 2011 will be only slightly higher, 2.0 percent.

A continuing trend of negative population growth has led to a slow decline of the total population in recent years. According to the Statistical Office, the population of the Republic of Serbia was estimated at nearly 7.3 million persons in 2011. The Labour Force Survey in April 2011 estimated the employment rate, the percentage of the employed in the total population aged 15 and over, as 36.2 percent, a decline from 38.1 percent in 2010. The informal employment rate, defined as the share of persons employed in the “non-observed” economy out of the total number of the employed, increased slightly from 19.8 to 19.9 percent. The “non-observed” or informal economy includes those employees in non-registered companies, employees in registered companies but without any legal working contract and without social insurance, and unpaid family workers.

The unemployment rate in April 2011 was estimated at 22.2 percent, with only slight differences between men and women (22.0 percent and 22.5 percent respectively). The unemployment rate was three percentage points higher than in 2010. The International Monetary Fund (IMF) reports that since 2008 the private sector has shed around 20 percent of its jobs. Nonetheless, employment in the public sector has remained high and restructuring and privatization of state-owned enterprises has not progressed rapidly. The austerity measures that are part of the arrangement with the IMF are likely to continue under the new stand-by arrangement that was negotiated in 2011, with continuing constraints on Government spending.

EU accession also poses a significant challenge for Serbia. Unlike in OSH, where EU regulations aim at harmonization of member States’ legislation, in the area of social security the objective is coordination of social security schemes to allow the free movement of persons while maintaining coverage and acquired rights. The most recent report from the EU on the progress that Serbia is making towards accession notes problems in registering employment injuries and lack of clarity between OSH legislation and social insurance law, as well as reports that workers have to resort to legal remedies for compensation.

Chapter 2:

International labour standards on employment injury protection

Serbia has ratified 72 conventions of the ILO, of which 70 are in force. Most of these are obligations accepted in 2000 from ratifications by the former Federal Republic of Yugoslavia. Not all of the conventions ratified by Serbia are considered “up-to-date” by the ILO, i.e., among those that are being actively promoted for ratification. Nonetheless, the obligations remain in effect, unless a newer convention specifies otherwise or the convention has been denounced by the government. Of the “up-to-date” conventions, which are binding commitments on member States, two are in the area of social security (not including maternity protection, which is a separate subject in the ILO), seven concern occupational safety and health and two cover labour inspection. Some conventions are supplemented by recommendations, which are not binding but provide more detailed guidelines for member States as to the application of a convention.

2.1 Social security

2.1.1 Applicable standards

There are several conventions and recommendations that concern employment injury protection. Foremost among the social security conventions is the Employment Injury Benefits Convention, 1964 (No. 121), which includes a list of occupational diseases (Schedule I) that was amended in 1980. The latter was updated in the List of Occupational Diseases Recommendation, 2002 (No. 194) and most recently a new list was approved by the Governing Body of the ILO during its 307th Session in March 2010.

Serbia has ratified Convention No. 121. This convention includes provisions concerning the population and contingencies covered, the range and minimum levels of benefits, eligibility conditions and measures relating to the administration of benefits. In addition it requires that member States take measures to prevent employment injuries and provide vocational rehabilitation and job placement for disabled persons. It specifies that information on the “frequency and severity of industrial accidents” be included in the government’s report under Article 22 of the ILO Constitution.

Serbia has also ratified the Social Security (Minimum Standards) Convention, 1952 (No. 102). As a consequence of ratifying Convention No. 121, Part VI (Employment Injury Benefit) of Convention No. 102 no longer applies, as it is replaced by the higher standards in Convention No. 121. Nonetheless, Article 29 of Convention No. 121 recognizes that the general provisions of Convention No. 102 continue to apply to employment injury protection. This includes Article 71 of Convention No. 102, which states that “the costs of the benefits... and administration...shall be borne collectively by way of insurance contributions or taxation or both”. Therefore, direct employer liability for the cost of benefits would not be in conformity with ILO Conventions.

In order to ratify Convention No. 102, a member State must provide benefits for a minimum of three contingencies. Serbia has accepted the parts of Convention No. 102 relating to medical care, sickness benefit, unemployment benefit, old-age benefit, maternity benefit and survivors' benefit. It is unclear why Serbia has not yet ratified Part IX of Convention No. 102 on invalidity benefit, since the legislation on disability benefits covers both general and work-related disability. In the future, Serbia may wish to ratify Part IX of Convention No. 102, with special attention to the level of the invalidity pension.

Convention No. 121 also revises older Conventions on this subject, including the

- Workmen's Compensation (Agriculture) Convention, 1921 (No. 12),
- Workmen's Compensation (Accidents) Convention, 1925 (No. 17), and
- Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18).

These three conventions, which have been ratified by Serbia, remain in effect until they are explicitly denounced, which has not occurred to date. However, they are not actively promoted by the ILO for new ratifications, although they are still subject to reporting requirements and may be the focus of requests or observations by the Committee of Experts on the Application of Conventions and Recommendations as explained below. As a further measure, Serbia eventually may wish to denounce Conventions Nos. 17 and 18, as they are no longer relevant.

Finally, Serbia is also bound by the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), which is the most widely ratified social security convention worldwide (with 121 ratifications). Convention No. 19 requires that member States "grant to the nationals of any other Member which shall have ratified the Convention, who suffer personal injury due to industrial accidents happening in its territory, or to their dependants, the same treatment in respect of workmen's compensation as it grants to its own nationals" (Article 1).

2.1.2 Comments from the Committee of Experts

The regular supervisory system of the ILO requires member States to report, in accordance with Article 22 of the ILO Constitution, on measures that are taken to implement ratified conventions. These reports are submitted every five years (every two years for the eight fundamental and four priority conventions), with exceptions for some older conventions that have been "shelved". Copies of the reports prepared by the Government must be given to employers' and workers' organizations, who may add their comments. The Committee of Experts on the Application of Conventions and Recommendations (CEACR), made up of 20 eminent international jurists appointed for three year terms by the ILO Governing Body, reviews the reports on the application of international labour standards and makes two types of comments, either observations (related to non-compliance) published in their annual report, or direct requests to member States for technical details or more information.

In its comments on the Government's report on Convention No. 121 submitted in 2005, the CEACR requested further data, in particular statistics that would allow it to assess the scope of coverage and level of benefits. The statutory coverage of the scheme, which includes all employees, is in conformity with the convention and indeed follows the guidelines of Recommendation No. 121, which suggest including the self-employed and certain categories of persons in training or working without pay as described previously. In a direct request to the Government at its 79th session in 2008, the CEACR noted that the report on Convention No. 12 stated that agricultural workers who are victims of an occupational accident do not receive temporary disability benefits under the Health Insurance Law of 2003. This illustrates not only the fact that direct employer liability is the method for providing temporary disability benefits rather than by social insurance, but also the problem that "informal workers", such as many agricultural wage earners, may fall outside statutory coverage for employment injury.

With regard to the level of benefits, Convention No. 121 establishes the minimum level of the periodical payment for both temporary and permanent disability benefits at 60 percent of previous earnings, based on the amounts that a “standard beneficiary” would receive. In the case of survivor benefits, the benefit level is 50 percent of the deceased’s pension for a “widow with two children”. Thus, even with the recent reductions in indexing, it appears that benefit levels are meeting the requirements of the convention. The permanent disability pension, in particular, is based on 40 years of insured status and thus the injured worker benefits from a full career irrespective of the age at which the employment injury occurred.

The CEACR also asked the Government to indicate whether medical care was available free of charge to those who sustained employment injuries (if not, the Convention states that rules should be designed so as to avoid hardship). The Health Insurance Law (Article 45) contains provisions for cost-sharing by insured persons for various medical services. However, the total cost of medical examinations, treatment and rehabilitation is covered in the case of work-related injuries and diseases. The Government was also asked to provide details on the benefits for “bodily damage”. It is not entirely clear from the legislation exactly how the partial disability pension is calculated.

The CEACR pointed out in its direct request of 2009 that Serbia might be in violation of Article 1 of Convention No. 19 and asked whether it included, for temporary disability benefits in case of a work accident, foreign citizens working on technical cooperation contracts in the country (for a domestic organization) as well as students and foreigners on training in the country. Moreover, the Committee expressed concern about the provisions for payment of benefits abroad in case there is no international social security agreement between Serbia and the country involved. Convention No. 19 establishes a regime of automatic reciprocity between ratifying countries. Therefore the Committee requested that, for those countries where there are substantial migration flows, a bilateral agreement should be negotiated or an internal procedure should be established that would allow the export of benefits abroad for both Serbian nationals and for nationals of the other countries that have ratified Convention No. 19.

2.2 Occupational safety and health

2.2.1 Applicable standards

Of the total number of international labour standards approved by the International Labour Conference (ILC), nearly half deal with occupational safety and health, more than any other subject. Serbia has ratified the Occupational Safety and Health Convention, 1981 (No. 155), which requires a coherent national policy to prevent accidents and injury to health (Article 4), an adequate and appropriate system of labour inspection (Article 9) and a requirement that employers are responsible for measures to deal with emergencies and accidents, in particular first-aid (Article 18). Furthermore, Convention No. 155 (Article 11) requires a system for notification of occupational accidents and diseases and annual publication of the statistics.

The ILO developed a Code of Practice (CoP) on Recording and Notification of Occupational Diseases and Accidents, published in 1996. ILO Codes of Practice are not legally binding instruments, but rather aim at providing practical guidelines for ILO constituents in various areas of OSH. The CoP on recording and notification places more emphasis on the use of data for prevention rather than the basic gathering of statistics. A Protocol to Convention No. 155 was approved in 2002 by the ILC, which further delineates the elements of the system for recording and notification of occupational accidents and diseases and related statistics. This Protocol, however, has not been ratified by Serbia, although the ILO has signalled it as a “possibility for ratification”.

In addition, Serbia ratified the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) in 2009 at the same time as it ratified the Safety and Health in Construction Convention, 1988 (No. 167). Both conventions are “newly” ratified, in the sense that they were not among the previous commitments assumed in 2000. Convention No. 187 promotes the development of a national policy, system and programme of occupational safety and health, in consultation with employers’ and workers’ organizations. The national system shall include (Article 4): (f) a mechanism for the collection and analysis of data on occupational injuries and diseases, taking into account relevant ILO instruments; and (g) provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases. The national programme should emphasize prevention, and aim at eliminating or minimizing work-related hazards and risks, and thus occupational injuries, diseases and deaths.

The last subject that is related to employment injury protection is labour inspection. Two conventions on this subject have been ratified by Serbia, the Labour Inspection Convention, 1947 (No. 81), which covers industry and commerce, and the Labour Inspection (Agriculture) Convention, 1969 (No. 129). Both conventions require that the labour inspectorate be notified in cases of work-related accidents and occupational diseases in their respective sectors, as does Convention No. 167 for the construction sector. Convention No. 129 goes further to prescribe that labour inspectors in agriculture “shall be associated with any inquiry on the spot into the causes of the most serious occupational accidents or occupational diseases, particularly of those which affect a number of workers or have fatal consequences” (Article 19). Annual reports with statistics on work-related accidents and occupational diseases are required under both conventions, with Convention No. 129 stipulating that the causes of such accidents and diseases should also be included in the reports.

2.2.2 Comments from the Committee of Experts

The observations of the CEACR with regard to ratified conventions on OSH and labour inspection as they relate to employment injury protection mainly concern requests for data, for example, on the number of workers covered by the legislation and the number, nature and causes of reported work accidents. The Committee noted that the Confederation of Autonomous Trade Unions of Serbia commented on the report as to the high number of work accidents in the construction sector. With regard to comments on Convention No. 81 on labour inspection the CEACR noted the Government’s difficulties with the current system of notification and registration of occupational accidents and diseases. The Government reported that a project to develop a registry for work accidents and for identification, reporting and registering occupational diseases is being implemented under the Ministry of Health. According to recent information from the MoH, this is not yet fully operational.

Chapter 3:

Options for reforming employment injury protection in Serbia

3.1 Problem analysis of the current system

The following section summarizes the key problems with the current employment injury protection system in Serbia. Irrespective of the reform option that is eventually chosen in Serbia for employment injury protection, these problems should be adequately addressed.

3.1.1 Financial obligations and cost sharing

In Serbia, long-term benefits for employment injury are already provided by the PIO Fund. However, it appears that there is no earmarked contribution for these benefits. The current contribution for the pension scheme is divided equally between employers and workers (a principle which is also respected in the health insurance). The usual practice in employment injury schemes is for benefits to be financed by employers only. A first step is to determine the cost of work-related disability pensions, which, as has been seen, are only a small portion of newly-awarded pensions paid by the PIO Fund in recent years. Nonetheless, as the pension scheme is in deficit, allocating a part of the current contribution rate would likely aggravate the situation, as well as to alter the equal sharing of the total contribution that has characterized the financing of both the pension and health funds until now. Moreover, Convention No. 121 prohibits making eligibility for benefits conditional on a contribution from workers (Article 9).

Serbia still relies on direct employer liability for certain aspects of its employment injury system alongside the social insurance system. International labour standards on employment injury protection mandate that cash benefits should be financed by insurance or taxation. Therefore, a reform of the current system of temporary disability benefits for work-related accidents and illness and occupational diseases should be part of any reform measures in order to be in conformity with ILO international labour standards.

In this regard, the Law on Workplace Safety and Health (Official Gazette of the RS, 101/2005) provides (Article 53) that the:

“Employer shall be liable to insure Employees for injuries at work, occupational diseases and work-related diseases, in order to ensure compensations.

The financial means for insurance (...) shall be borne by Employer, and they shall be determined subject to the level of risk from injury, professional disease or work-related disease with regard to the workplace and working environment.

The requirements and procedures concerning insurance from injuries at work, occupational diseases and work-related diseases of Employees shall be governed by the Law”.

In the absence of social insurance provision of temporary disability benefits, this could be interpreted as a requirement on employers to take out private insurance for employment injuries. Such insurance might be in conformity with ILO standards, if the terms of the insurance fulfilled the other requirements of Convention No. 121 and Convention No.102, which is not often the case with private insurance³. Moreover, it was reported by the Government that private employment injury insurance is very limited in Serbia. No data were readily available as to the number of employers who have taken out such insurance with the companies that do exist. Worker's compensation insurance, as it is called in the private market, is often part of a larger policy taken out by employers to cover other risks (fire, theft, etc.). At present, private insurance does not seem to be easily available for most companies. There are other disadvantages to private insurance as well. One of the main concerns of the Government would be the problem of enforcing compulsory insurance with a private carrier on most employers.

A more realistic solution for Serbia would therefore be to transform the short-term disability benefits (salary benefits) from direct employer liability into an insurance benefit, preferably by incorporation into the existing social insurance system. Other elements of direct employer liability, such as the provision that employers should also finance the expenses of professional rehabilitation, should also be reconsidered.

3.1.2 Need for improved statistical data

Combined with possible under-reporting on work accidents and lack of notification of occupational diseases, the lack of reliable statistics on work accidents and occupational diseases is a particular problem with employment injury benefits. The statistical bases for employment injury protection will need to be further developed as a prerequisite for reform of the system. Information from the public sector on the amount of temporary disability benefits paid can be available. However, since employers are directly responsible for this benefit, the data will be much more difficult to collect from the private sector.

Data on employment injury benefits should be collected from both the HIF and the PIO Fund as well as employers (including Ministries and other public sector employers), in order to be able to establish the cost of benefits. Each of the social insurance funds, though a system of focal points or units, could develop specialized knowledge about employment injury benefits.

The notification and recording system, in particular with regard to occupational diseases, should be improved. It was suggested by the MoH to increase the role of medical doctors in reporting occupational diseases. In any event, a wider range of sources for reporting is needed as the evidence from the Labour Inspectorate shows.

In this regard, the Serbian Institution for Occupational Medicine and Radiology under the Ministry of Health is implementing a project on the development of a database for occupational accidents and on the identification, reporting and registration of occupational diseases.

3.1.3 Extension of coverage

Most workers in the formal employment sector are registered with the PIO Fund and the HIF. However, with the growth of the informal economy in recent years a significant number of workers are falling outside the scheme, although precise figures are not available. In addition, the lack of close collaborations in data exchange between the social security schemes and the Tax Authority (which has been responsible for

3 One of the reasons why private insurance contracts often are not in conformity with Convention No. 121 concerns Article 24, which states that "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".

collection of both taxes and social security contributions since 2003) made it difficult to have a reliable data base of the insured persons. The low participation of farmers in particular has also been observed.

Efforts to bring workers into the formal economy, including agricultural wage earners, should be reinforced through the various means available, so that all workers will be protected against employment injury. As some estimates put the number of informal workers in the Serbian economy at over one million, this represents a substantial proportion of workers who are lacking social protection.

With assistance from the World Bank, a so-called “one-stop shop” procedure for employers was established from 2010, making it easier to register new workers. A single form for pensions, health insurance and the National Employment Service, which can be submitted to either the PIO Fund or the HIF will be used. The new procedure not only reduces costs for employers, but also contributes to reducing undeclared or informal employment. Also, the Government is establishing a Central Registry of individual contribution records. Employers will report monthly, rather than annually, so that contributions can be more easily posted to each insured person’s individual record.

As part of its EU Accession Strategy and the National Strategy on Poverty Reduction, the Government is intensifying its efforts to register undeclared workplaces and move more workers into formal employment. In addition, in preparation for participation in the EU system of coordination among social security schemes, the Government is enlarging the number of countries with which it has negotiated bilateral social security agreements.

3.2 Options for reform

Based on the preceding problem analysis, three options are presented that Serbia could pursue in its efforts to reform employment injury protection.

3.2.1 Autonomous employment injury insurance fund

A first option is to establish an autonomous institution for employment injury projection. In several countries in Europe, a separate social security institution exists for employment injury protection. This is the case in Italy, which has a single national institution covering nearly all public and private employees and certain categories of self-employed (National Institute for Insurance against Employment Injuries, INAIL). Switzerland also has one main institution, the Swiss National Accident Insurance Fund (SUVA). In Belgium there is a separate public institution for occupational diseases (Fonds des Maladies Professionnelles, FMP); work accidents are covered by private insurance funds. Both the INAIL and SUVA are governed by tripartite boards, while the board of the FMP consists of representatives of employers and workers only.

A variation on the model of a specific institution for employment injury is represented by the systems in Germany and Austria, where multiple accident funds exist to cover different categories of workers. Germany has three main types of accident insurance and prevention funds, for industry and trade, agriculture and the public sector. All the various funds are represented at the national level by a federation for their respective groups. In Austria there are four accident insurance institutions for different categories of workers, but the Austrian General Accident Insurance Institute (AUVA) is the main one covering most workers, employees, miners and self-employed persons.

The advantages of an autonomous institution for employment injury projection include uniform coverage and application of the legislation and highly specialized staff for the complex administrative tasks involved. This would also have the advantage of having the largest possible risk pool. The contributions are clearly

identified and earmarked for the scheme. They can also be differentiated to provide incentives for employers to reduce risks in the enterprise and promote prevention.⁴ The schemes mentioned above are financed from employer contributions (although in Germany and Austria the funds for farmers receive a government subsidy), which are then used for a wide range of prevention and rehabilitation services.

With regard to this option in Serbia, it should be noted that the Directorate of Occupational Safety and Health indicated that the Government wanted to work within the existing institutional structure. Furthermore, the Serbian Association of Employers stated that it is opposed to any additional contribution burden on employers. The start-up costs of a new institution would not be negligible, and therefore might pose a particular problem in a period of fiscal austerity.

3.2.2 Improvements within the current system

A second option is to continue with the present system and build on the legislative harmonization and administrative improvements that are already underway. In a number of countries, for example, Greece, Hungary and Estonia, the short-term benefits are paid by the health insurance and long-term benefits by the pensions branch. The choice may be that employment injury protection remains with the PIO Fund and the HIF. In this case, nonetheless, the temporary disability benefit (salary benefit) in the case of employment injury should be put on an insurance basis. If the choice is made to transform this benefit from a direct employer liability into the social insurance system, it could be administered by the health insurance or the pension fund, with only slight amendments to current legislation.

3.2.3 A new social security branch for employment injury

Another possibility would be to create an employment injury "branch" within the existing social security system. There are many national examples of this institutional arrangement. In France the employment injury branch is part of the main health insurance fund (Caisse nationale d'assurance maladie, CNAM), covering around 80 percent of the workforce). In Poland and Bulgaria, employment injury is a branch of the general social insurance scheme. In most cases, the employment injury branch finances medical care, short- and long-term cash benefits, and rehabilitation and prevention services.

In the case of Serbia, the new employment injury branch could be created under the auspices of the PIO Fund or the HIF. It is a prerequisite for this reform that the temporary disability benefit (salary benefit) should be shifted from a direct employer liability to a social insurance system. A further alternative is that the employment injury benefits continue to be paid from two funds, but the newly established employment injury branch can allocate its contributions to the payment institutions.

The advantages of a specialized branch of social security for employment injury are similar to the establishment of an autonomous employment injury insurance fund, with some potential savings on administrative costs if some functions are shared among other branches of the scheme.

3.2.4 Remarks on the implementation

None of the three options mentioned above are mutually exclusive. Rather, they can be seen as a progression. If a step-by-step reform of employment injury protection is undertaken, the starting point would be the reform of the temporary disability benefit and the earmarked employer contribution for employment injury. The statistical base for such a reform could be built from Government institutions and state-owned enterprises. This then would bring the Serbian system into conformity with international labour standards.

⁴ For a detailed discussion of the financing of employment injury schemes, see Annex.

At that stage, all elements needed for an employment injury branch of the social security system would be in place. In the implementation process careful consideration has to be given to transition issues, such as whether current employment injury pensions in payment would be transferred to a new branch or scheme, and so on. After its successful operation for some years, an employment injury branch might eventually lead to a specialized employment injury fund.

No reform can be effectively implemented unless it is supported by an efficient administrative mechanism. The Government has already taken measures aimed at improving the current employment injury system, which should have a positive impact on the operations of the existing schemes with a resulting improvement in the protection of covered workers.

3.3 Prevention and employment injury insurance

3.3.1 Coordination between employment injury system and OSH

The essential objective of an employment injury system is to provide adequate compensation and services to those who suffer a work accident or occupational disease. However, it can also contribute to reducing the incidence of employment injuries through prevention. There are many examples of good practice that go beyond the traditional method of OSH legislation, inspection and enforcement. In fact, in the EU countries, the most recent studies done by the European Agency for Safety and Health at Work⁵ promote a “proactive approach” using economic incentives as well as the traditional “command and control” strategy.

The XIX World Congress on Safety and Health at Work in September 2011 adopted a declaration, which was signed by the Minister of Labour of Serbia, stating that

“The building and promotion of a national sustainable preventative safety and health culture should be ensured through a system of defined rights, responsibilities and duties where the highest priority is accorded to the principle of prevention and where governments, employers and workers are actively involved in securing a safe and healthy working environment at all levels”.

A report of an ISSA research study⁶ based on a methodology developed by the German Social Accident Insurance (DGUV) demonstrated that investments in prevention could bring significant economic benefits to enterprises. Compared to the costs of working days lost and the costs of compensation and rehabilitation of injured workers, which represent a growing financial burden for social security systems in many regions, the cost of prevention measures are only a fraction of these costs, yet have a considerable impact on both enterprises and social security schemes⁷.

5 European Agency for Safety and Health at Work. 2010. *Economic incentives to improve occupational safety and health: A review from the European perspective*, Luxembourg, Publications Office of the European Union.

6 Bräunig, D. and Kohstall, T. (eds). 2011. *The return on prevention: Calculating the costs and benefits of investments in occupational safety and health in companies*, Research report (Geneva, ISSA).

7 According to this study, prevention measures have 1) the cost savings effects through prevention of disruptions, and prevention of wastage and reduction of time spent for catching up after disruptions, and 2) the added value generated by increased employee motivation and satisfaction, sustained focus on quality and better quality of products, product innovations, and better corporate image. An indirect estimation based on interviews of companies suggest that the benefits associated with prevention are on average 2.2 times larger than its costs.

Serbia's Strategy on Health and Safety at Work for 2009–2012 clearly states the overall objective of preventing work-related injuries and illnesses and occupational diseases. It was reported by the OSH Directorate in the MLSP that considerable progress has already been made on risk assessment activities as a step towards minimizing risks of occupational injuries and diseases at the enterprise level⁸.

In Serbia, prevention efforts are undertaken by many different actors. A more coordinated policy on prevention would undoubtedly increase the benefits of such measures. In view of the above cost-benefit analysis, part of resources that could be earmarked to employment injury benefits through a specific social insurance branch or fund could be used for prevention.

3.3.2 Experience rating and incentives

In June 2003, the International Labour Conference held its discussions of ILO's standards-related activities in the area of occupational safety and health and concluded that national OSH programmes should include certain key aspects including occupational injury and disease compensation and rehabilitation systems that use experience rating and incentives.

Under the experience rating system (also referred as the merit rating or "bonus-malus" premium system), the contribution rate is adjusted within a certain range according to an enterprise's claims experience. Supporters of experience rating maintain that this system provides an incentive for employers to reduce the number of employment injuries and to reduce lost time due to work injuries by implementing safety and prevention measures and by assisting injured workers to return to work.

Opponents argue that experience rating compromises the collective solidarity in social security financing. If the experience rating system is applied in its extreme, the insurance element (pooling of risk) would disappear and each establishment would pay its own accident costs, although in practice there are limits to the adjustments. In addition, without proper monitoring and enforcement, the experience rating system encourages employers to control costs after an injury has occurred through under-reporting and diverts attention away from accident prevention to claims cost control.

Generally, the experience rating system requires reliable databases pertaining to each employer and more sophisticated tools for the billing of individual employers. It also requires higher administrative expenses as there is a need for more or better-trained staff.

In theory, the more developed a system is, the better will be the incentives for prevention and the return to work of injured workers, although the costs of administering the system will be higher. However, if higher administrative costs can be offset by a reduction in the total cost of injuries, then the experience rating system can be considered appropriate. This trade-off is not automatic and in order to achieve the desired result, the policy and its implementing strategy need to be carefully designed in view of the country's administrative capacity.

8 At the Tripartite Meeting on Employment Injury Protection in Serbia, a representative of the Serbian Association of Employers mentioned the importance of the Government support to the employers, for instance, through tax exemption of the personal protective equipments.

3.4 Conclusion and the way forward

Serbia has a long-established and comprehensive social security system, most of which is based on social insurance. However, in the case of work-related injuries and occupational diseases some aspects of the system rely on the direct financial liability of the employer, which is inconsistent with Serbia's international commitments. In addition, the employers' financial responsibility for employment injury benefits is not clear under the equal sharing of the total contributions for pensions and health insurance. The involvement and active participation of all stakeholders, including representatives of employers' and workers' organizations, will be essential if a broader reform, leading to a specialized employment injury branch or fund, is the long-term goal.

At the Tripartite Meeting on Employment Injury Protection in Serbia conducted on 20 December 2011 in Belgrade, various challenges facing Serbia were discussed from different perspectives. All the tripartite stakeholders generally agreed the need for improvement in employment injury protection and supported the proactive approach focusing on the prevention of work accidents and occupational diseases.

As of February 2012, the Working Group concerning the insurance against work accidents and occupational diseases has not been established yet. However, the ILO stands ready to provide further technical assistance. In particular, it would be prepared, subject to financial resources being available, to organize a tripartite seminar to discuss the proposed reform and to provide technical assistance for determining contribution rates based on actuarial principles.

Annex:

Financing of employment injury benefit schemes⁹

Employment injury schemes, which provide medical care and temporary incapacity cash benefits as well as permanent incapacity and survivors' pensions, include both short- and long-term benefits. Employment injury benefits are generally financed only by employers, and are usually treated as a separate branch of social security.

The principle of financing employment injury benefit schemes is to fund all benefits which are payable in respect of work accidents and occupational diseases which occur in a year by contributions made by employers in the year. In any year, contributions must be sufficient to cover all current and future costs related to claims occurring in the year. Therefore, "today's employers pay the full cost of today's claims".

Setting contribution rates

In the employment injury insurance branch there are several systems for fixing the contribution rates. This fact is, to a certain extent, determined by the historical evolution of this branch from schemes based on employers' individual liability to schemes based on the principles of social insurance. The question of the system for fixing contribution rates is raised particularly in countries which are transforming their schemes from employers' liability to social insurance schemes.

In general, three different systems for fixing contribution rates under employment injury insurance schemes can be distinguished: uniform rates, differential rates by industry or by class or risk, and merit or experience rates.

(i) Uniform rates

Under the system of uniform rates, the contribution rates are fixed without taking into account the risks or hazards in the establishment or undertaking or in the industry to which it belongs or the activities which the establishment carries out.

The system of uniform rates has the advantage of being simple to apply. Once the contribution rate is fixed, the assessment of contributions may be made in the same way as for the other social security branches. It has also the advantage that the collection of contributions can be coordinated or combined with the collection of contributions for other social security branches, which represents a substantial saving in administration. It also provides for a substantial simplification of the work of employers.

9 This annex is technically based on the following references:

- International Labour Office (ILO)/The International Social Security Association (ISSA). 1997. "Social Security Financing" in *Training manual on Social Security*, Vol. 3 (Geneva, ILO);
- Plamondon, P. et al. 2002. "Actuarial practice in social security" *Quantitative Methods in Social Protection* (Geneva, ILO).

One objection to the system of uniform rates is that it does not encourage employers to observe safety measures and regulations as do other systems, particularly the system of merit or experience rating. However, in most countries which apply the system of uniform rates the legislation contains provisions under which the insurance institution can impose increases in the contributions or claim reimbursement of benefits from employers who have infringed safety rules or failed to introduce safety measures. Accident insurance institutions can also be made responsible for the promotion and enforcement of accident prevention.

(ii) Differential rates

There are great variations in the incidence of employment injuries among industries and establishments. Under the system of differential rates each establishment is assigned to a class according to the activity which it carries out, or according to the branch of industry to which it belongs. Then the contribution rates are fixed for each risk class or industry. The contribution rates do not reflect the accident experience of the individual establishment or any measures taken for accident prevention. When the criteria for classification of an establishment change, for example due to a change in activity or production, the establishment is assigned to the class to which it belongs under the new conditions and the contribution rate for the new class will be payable.

Under the system of differential rates each class is usually considered as an autonomous financial unit, and statistics and accounting data are compiled separately for each class which permits the fixing of the contribution rate which will be sufficient to assure the financial equilibrium of the class. The contribution rates under this system are subject to periodic reviews.

Supporters of differential rates argue that the system of uniform rates does not provide for an equitable distribution of charges among the various industries and establishments. This raises the basic principle of the extent of collective solidarity in social security. For other branches of social security such as, for example, sickness and unemployment, the incidence of the contingency varies quite substantially from one group of insured persons to another. The incidence of sickness varies by age, sex, occupation, geographical region, etc., and in some schemes, particularly those based on voluntary or private insurance, the contribution rate may vary according to these factors. However, in most compulsory social insurance schemes, the principle of collective solidarity is observed, and uniform rates, independent of any risk factors, are applied.

Compared to the system of uniform rates, the application of differential rates requires more complex administrative machinery. Statistical and accounting data must be available by risk class in order to enable reviews of the contribution rate fixed for each class. The system requires qualified and experienced staff for classification of the establishments, as it is often difficult to draw a clear-cut line between the different classes. The question of classification becomes more difficult as the number of classes increases.

(iii) Merit or experience rates

The merit or experience rating system, sometimes referred as the "bonus/malus" premium system, is an extension of differential rating. Merit or experience rates are fixed or adjusted according to the accident experience in an individual establishment and/or on the basis of the accident prevention measures taken by the establishment.

The system is usually based on a schedule or classification of industries or occupations by risk which indicates a "normal" or "average" rate of contribution for each class. This normal rate can then be modified upwards or downwards within certain limits according to an individual establishment's accident experience, safety measures undertaken and/or the general safety conditions in the establishment. The elements which are taken into account and the way in which this system is applied vary greatly. For example, the limits within

which the contributions can be reduced or increased in relation to the normal rate are usually of the order of 20–50 per cent of the normal rate.

The merit or experience rating system may be restricted to establishments over a certain size. The system is applied to small establishments mainly when the merit rating is made according to prevention measures taken or to safety conditions in the individual establishment. When the rating is made according to experience, the application is usually limited to establishments over a certain size so that chance variations in the incidence of accidents play a lesser role and statistical data are more significant.

The administration of a system based on merit or experience rating is elaborate. All establishments have to be classified individually, all records and statistics have to be kept individually and highly qualified and specialized personnel are required to assess the various factors affecting the fixing of the contribution rate for each establishment. Decisions in this respect may be a source of dispute. This is especially the case for new schemes where the necessary experience has not yet been accumulated. When the system is not yet well established and the rules are not clear, personnel responsible for the application may also be subject to undue pressure from the interested parties. In view of the complicated administrative machinery, the merit or experience rating system will involve much higher administrative costs than the system of uniform rates. In addition, without strong enforcement, the merit or experience rating can lead to under-reporting of work accidents and occupational diseases.

Arguments in favour of a merit or experience rating system are similar to those for the system of differential rates. It is contended that merit or experience rates promote accident prevention since there can be a direct benefit to the employer from successful prevention activities undertaken in an enterprise. The rates should provide for a more equitable distribution of the charges among the various establishments and branches of industry. This raises the issue of collective solidarity in social security financing which was mentioned in connection with differential rates. It may be noted that if the experience rating system is applied in its extreme, the insurance element (pooling of risk) would disappear and each establishment would “self-insure” (i.e., pay its own accident costs). In practice, there are limits to the adjustments below and above the “normal” rate.

Contingency reserve

While the average incidence of work injuries or deaths normally varies little from year to year, deviations from the average occur. In a relatively small scheme these deviations can have significant financial implications. In order to avoid the financial impact of unusual and unexpected experience (excessive incidence of injuries and/or deaths), a contingency reserve should be set up. The purpose of the contingency reserve is to pay benefits in the event of adverse experience and thereby maintain the stability of the contribution rates to the scheme. Investment of funds in the contingency reserve should be made for short terms so that they can be readily liquidated to meet unexpected excess expenditure.

Box 1**An experience-based rating system of the Workers' Accident Compensation Insurance of Japan**

In Japan, the contribution rate of the Workers' Accident Compensation Insurance is set by industry. Currently, the contribution rate varies from 0.3% to 10.3% in 54 industry categories. The contribution rates are reviewed every 3 years based on the performance during the preceding 3-year period.

To provide employers with incentives for accident prevention, an experience-based system (called the merit system) is implemented. Under this system, the contribution rate of an individual establishment can be adjusted upwards/downwards within the range of 40%. Those qualified for the merit system are medium and large sized enterprises (e.g. establishments with more than 100 workers, establishments with 20–99 workers meeting certain conditions, or construction projects whose value is more than JPY 120 million – about 1.1 million euro).

Specifically, for each establishment, the ratio of the total benefit payment to the contributions over the last 3 years (called the “balance ratio”) is calculated. If this balance ratio is less than 0.75, then the contribution rate (set by industry) is gradually reduced by up to 40%. However, if this ratio is more than 0.85, then the contribution rate is increased by up to 40%. This adjustment is applied to the contribution rate in respect of work-related benefits (In addition, a uniform contribution rate is applied in respect of the commuting accidents, welfare schemes and administrative costs). The adjusted contribution rate is applied for the next fiscal year (e.g. if the period of balance ratio is 2009–2011, then the adjusted premium is applied for 2013). Moreover, small and medium sized enterprises which take certain occupational safety and health measures can apply for the special merit system, which can adjust the contribution rate within the range of 45%.

In practice, only a limited number of enterprises apply for the merit system. Statistics in 2002 show that 87,428 (or 4.4%) of 1,992,101 establishments applied for the merit system. Of these, 72,698 establishments (83.2%) had the premiums reduced, 12,949 (14.8%) had their premiums increased, and 1,781 (2.0%) had their premiums unchanged. In both cases where the premiums changed, about half attained the maximum adjustment rate of 40%.

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