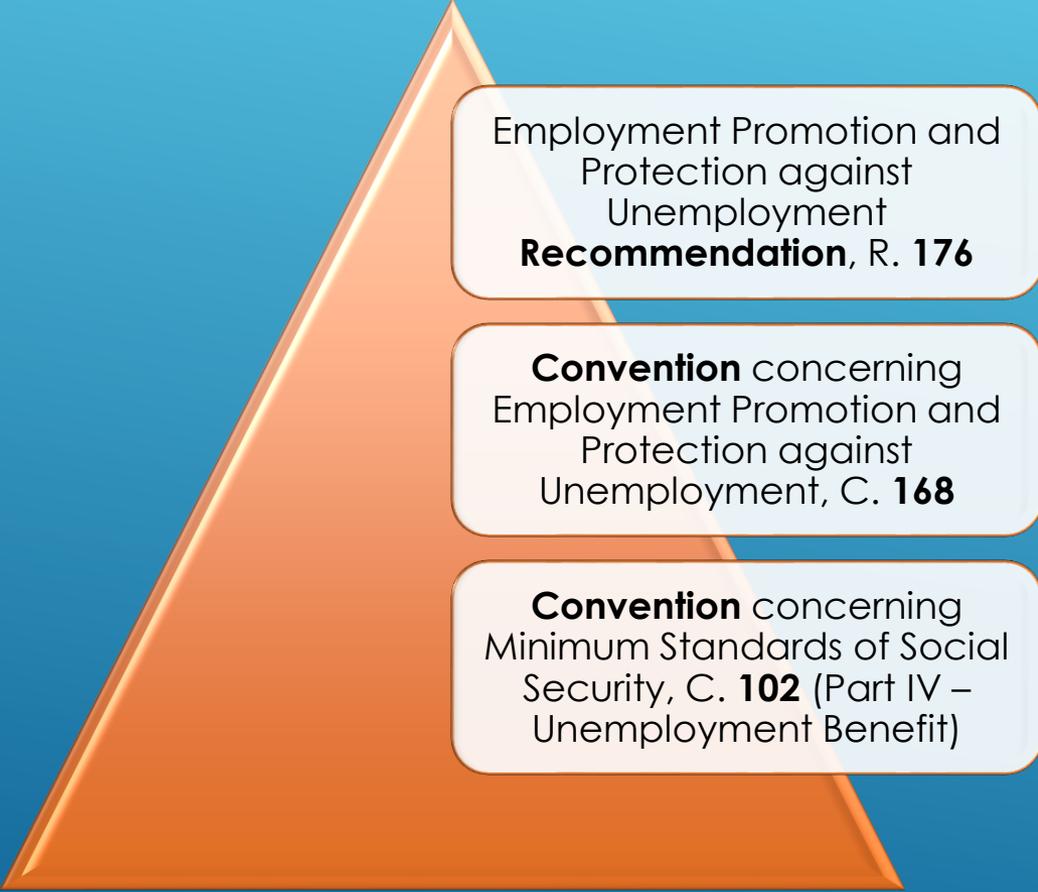


**ILO SOCIAL SECURITY STANDARDS
EMPLOYMENT PROMOTION AND PROTECTION
AGAINST UNEMPLOYMENT**

Kroum Markov
Social Protection Policy and Legal Specialist
Social Protection Department
International Labour Office, Geneva

PROTECTION AGAINST UNEMPLOYMENT IN ILO SOCIAL SECURITY STANDARDS (UP-TO-DATE)



Employment Promotion and
Protection against
Unemployment
Recommendation, R. 176

Convention concerning
Employment Promotion and
Protection against
Unemployment, C. **168**

Convention concerning
Minimum Standards of Social
Security, C. **102** (Part IV –
Unemployment Benefit)

UNEMPLOYMENT PROTECTION OBJECTIVES

Unemployment Insurance



Employment services
(vocational training, job research, etc.)

1. Provide security for the laid-off workers and their families

2. Facilitates the adjustment of the labour market

MAJOR IDEAS AROUND WHICH THE CONVENTION NO. 102 WAS BUILT

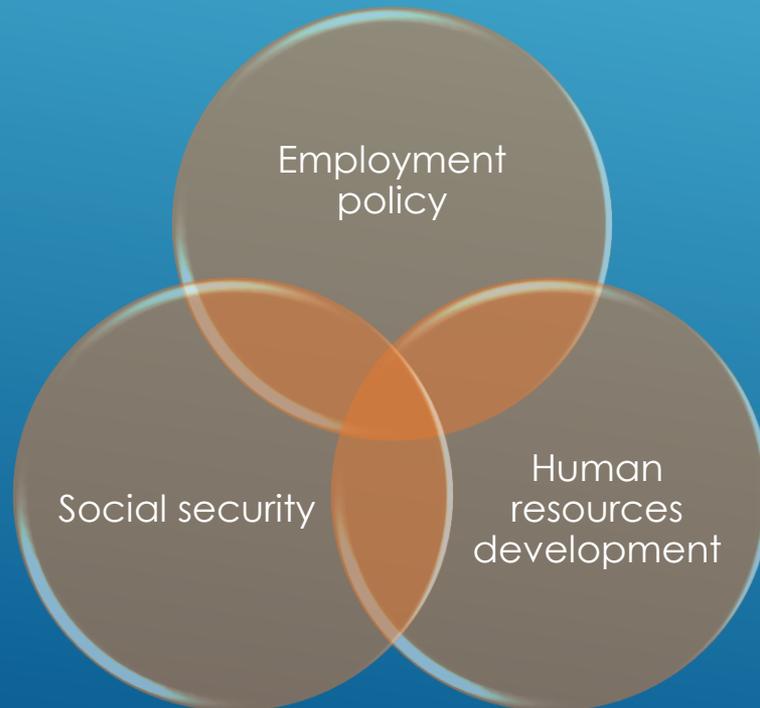
- ❑ Landmark instrument establishing a **separate branch of international law** as a system of legal rights;
- ❑ Quantitative **standards of minimum protection** and targets for social progress:
 - ❑ *Medical care benefit, sickness benefit, unemployment benefit, old-age benefit, employment injury benefits, maternity benefit, family benefit, invalidity benefit, survivors' benefit.*
- ❑ Common rules of **collective organization, financing and management** of social security;
- ❑ Principles of good governance of the system under the **general responsibility of the State** (also Art. 28, C. 168).

MAJOR IDEAS AROUND WHICH THE CONVENTION NO. 168 WAS BUILT

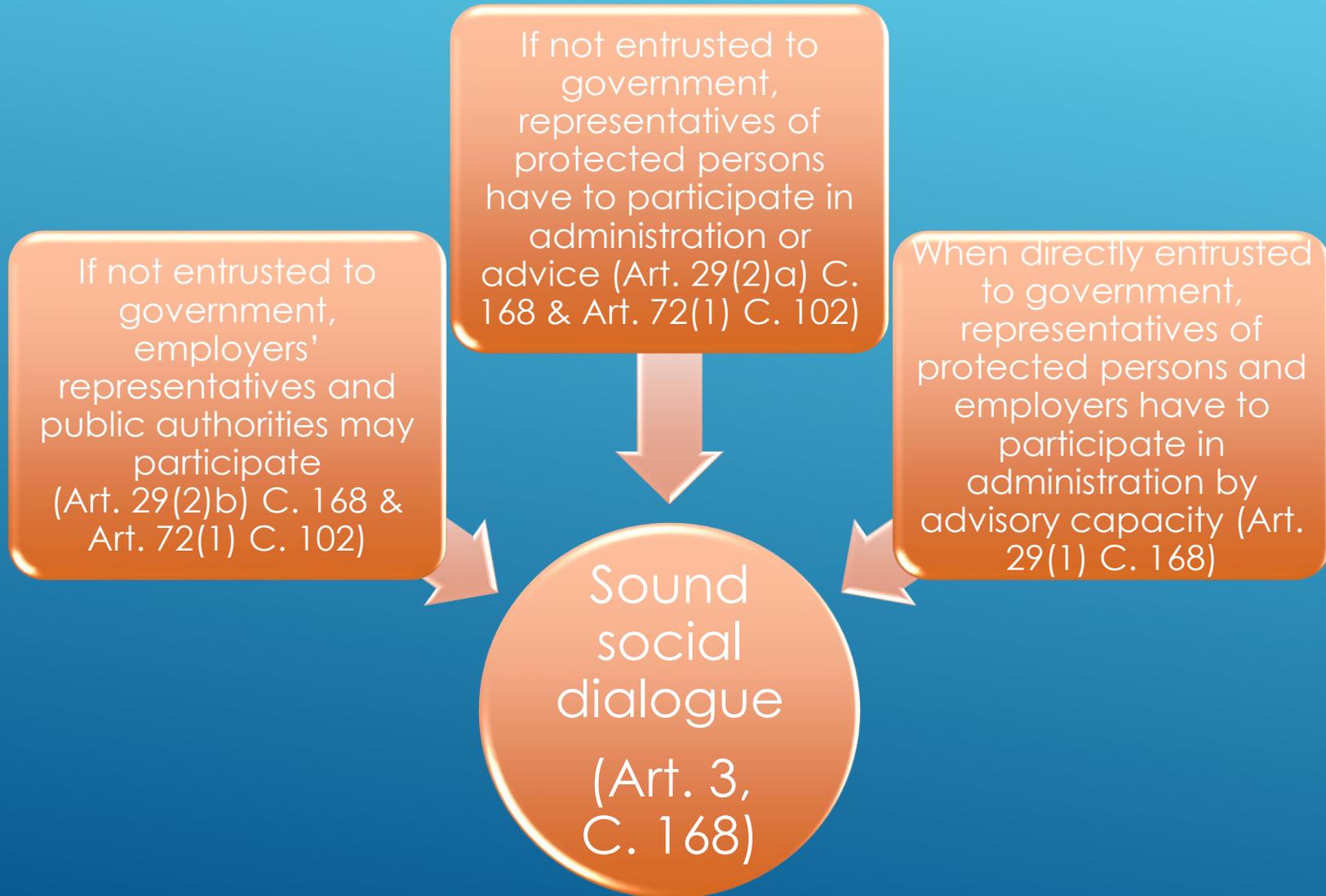
- **Economic growth :**
 - best cure against unemployment with a flexible response to change;
 - **lead** to creation and promotion of all forms of **productive and freely chosen employment** (Art. 2 C. 168) including small undertakings, cooperatives, self-employment and local initiatives for employment (e.g. paras. 7-8 R. 176);
- **Social security** should serve as a **means**, among others, for **promoting employment** and **support active labour market policies**;
- Active **coordination** of **social security benefits** with **other means** of employment and social policies serving the goal of employment promotion within the framework of a larger **concept of social protection**; and
- **Integration and consolidation** of the **different means** (employment assistance and economic support) by establishing a **national “system of protection against unemployment”**.

PARTICULARITY OF CONVENTION NO. 168

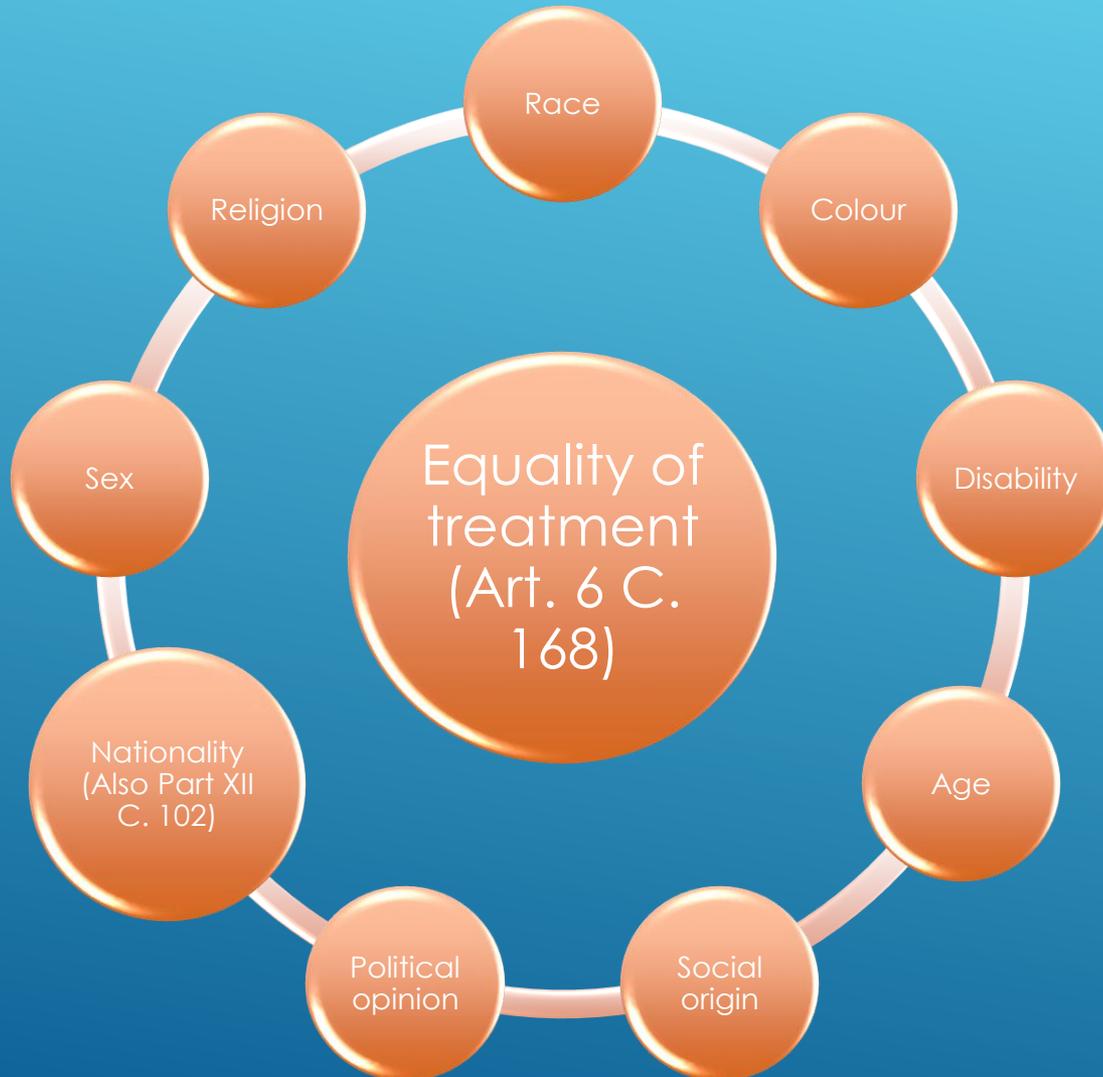
- Is the **only up-to-date Convention** that **looks** beyond the internal organization and functioning of the traditional social security system into the **external socio-economic environment** where social security interacts with the labour market, human resources development and the economy at large;



GENERAL PRINCIPLES



GENERAL PRINCIPLES



GENERAL PRINCIPLES (ART. 70, C. 102 & ART. 27, C. 168)

Complaint

- To the body administering the benefit scheme



Appeal

- To an independent body
- Right to be represented or assisted by qualified person
- Should be informed in writing of the procedures

CONTINGENCY COVERED

Convention No. 102 (Art. 20)

Suspension of earnings, as defined by national laws or regulations, due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for, work

Convention No. 168 (Art. 10)

Full unemployment (loss of earnings due to inability to obtain suitable employment) in the case of a person capable of working, available for work and actually seeking work

Endeavour where possible, to cover:

- partial unemployment (defined as a temporary reduction in the normal or statutory hours of work);
- suspension or reduction of earnings due to a temporary suspension of work, without any break in the employment relationship;
- to pay benefits to part-time workers who are actually seeking full-time work

SUITABLE EMPLOYMENT

- ❑ Should not include employment (Para. 14(1), R. 176):
 - ❑ Involving a change of occupation which does not take account of the abilities, qualifications, skills, work experience or retraining potential of person;
 - ❑ Involving a change of residence to a place which suitable accommodation is not available;
 - ❑ In which the conditions and remuneration are appreciably less favourable than those which are generally granted;
 - ❑ Vacant as a direct result of a stoppage due to an ongoing labour dispute;
 - ❑ Such that, including family responsibilities, refusal of employment is not unreasonable.
- ❑ In assessing the suitability of employment, account shall be taken of the age, their length of service, their acquired experience, the length of unemployment period, labour market situation and impact on their personal or family situation (Art. 21(2), C. 168 & Para. 14(2), R. 176).

PERSONS PROTECTED

Convention No.
102
(Art. 21)

- At least 50% of all employees;
or
- All residents of small means

Convention No.
168
(Art. 11)

85% of all employees including public employees and apprentices

Possible exclusion:
public employees whose employment up to normal retiring age is guaranteed by national law or regulations

Recommendation
No. 176 (Para. 16)

Endeavour to extend progressively the application of their legislation concerning unemployment benefit to **cover all employees**

CONTINGENCY COVERED IN PRACTICE

-  Bahrain
 - All employees
 - Exclusions: less than 20 scheduled working hours per week and self-employed workers
-  South Korea
 - All workers with a few exceptions (persons working less than 60 hours a month)
-  Vietnam
 - Vietnamese citizens with employment contracts of 1 to 3 years or permanent contracts who are employed by private- and public-sector organizations with 10 or more workers
 - Exclusions: self-employed persons
-  Bahrain
 - Salaried workers
-  Bahrain
 - Salaried workers (regardless of nationality), and first-time job seekers (Bahraini citizens only)
-  Canada
 - All employees (85% of workforce)
-  Denmark
 - Voluntary employees, self-employed and graduates (83 % covered in 2005)
-  France
 - Salaried workers
-  Thailand
 - All regular workers with a few exceptions

PUBLIC SERVICE COVERED IN PRACTICE

 Japan	<ul style="list-style-type: none">• Yes
 South Korea	<ul style="list-style-type: none">• No
 Vietnam	<ul style="list-style-type: none">• Yes for contracted civil servants;• No for government officials and civil servants with indefinite contracts
 Brazil	<ul style="list-style-type: none">• No
 Ukraine	<ul style="list-style-type: none">• Yes, but not armed forces
 Canada	<ul style="list-style-type: none">• Yes including armed forces, but not elected officials
 Denmark	<ul style="list-style-type: none">• Yes including elected officials
 France	<ul style="list-style-type: none">• Yes, public employers must self-insure or option in
 Thailand	<ul style="list-style-type: none">• No

TYPE AND RATE OF BENEFITS : CONVENTION NO. 102

Periodical
payments of
the amount
(Art. 22)

In earnings-related
schemes: at least
45% of previous
earnings (Art. 65)

In flat-rate
schemes: at least
45% of the wage of
the ordinary male
labourer
(Art. 66)

In means tested
schemes:
prescribed amount
which together with
other means should
not be less than in
art. 66 (Art. 67)

TYPE AND RATE OF BENEFITS : CONVENTION NO. 168

Periodical
payments of
the amount
(Art. 14)

In earnings-related
schemes: at least
50% of previous
earnings

In flat-rate schemes: 50% of the statutory minimum wage or of the wage of an ordinary labourer, or at a level which provides the minimum essential for basic living expenses, whichever is the highest (Art. 15)

Endeavour to ensure,
under prescribed
conditions, provision of
medical care to persons
in receipt of
unemployment benefit
and to their dependants
(Art. 23)

Beyond the initial period,
possibility of applying special
rules of calculation (in the light
of the resources of the
beneficiary and his or her
family). Nevertheless, the total
of benefits to which the
unemployed may be entitled
must guarantee them healthy
and reasonable living
conditions in accordance with
national standards (Art. 16)

Additional assistance
in finding
employment to long-
term unemployed
(Art. 19(5))

If possible, also to those who are not in receipt of unemployment benefit, and to their dependants (Para. 20, R. 176)

RATE IN PRACTICE



• 50% to 80% of the insured's average daily wage in the previous 6 months, min. of 1,600 yen and max. of 7,505 yen



• 50%, min. is 90% of min. daily benefit (24,800 won) and max. 40,000 won daily benefit



• 60%



• 50% for the first 4 months, lower afterwards, min. monthly is 250 pesos, max. monthly 400 pesos



• 60% / flat amount for first-time jobseekers, min. of 150 dinars and max. of 500 dinars



• 55%, maximum weekly benefit is C\$447



• 90% of average earnings in the previous 12 weeks, up to 3,760 kroner a week

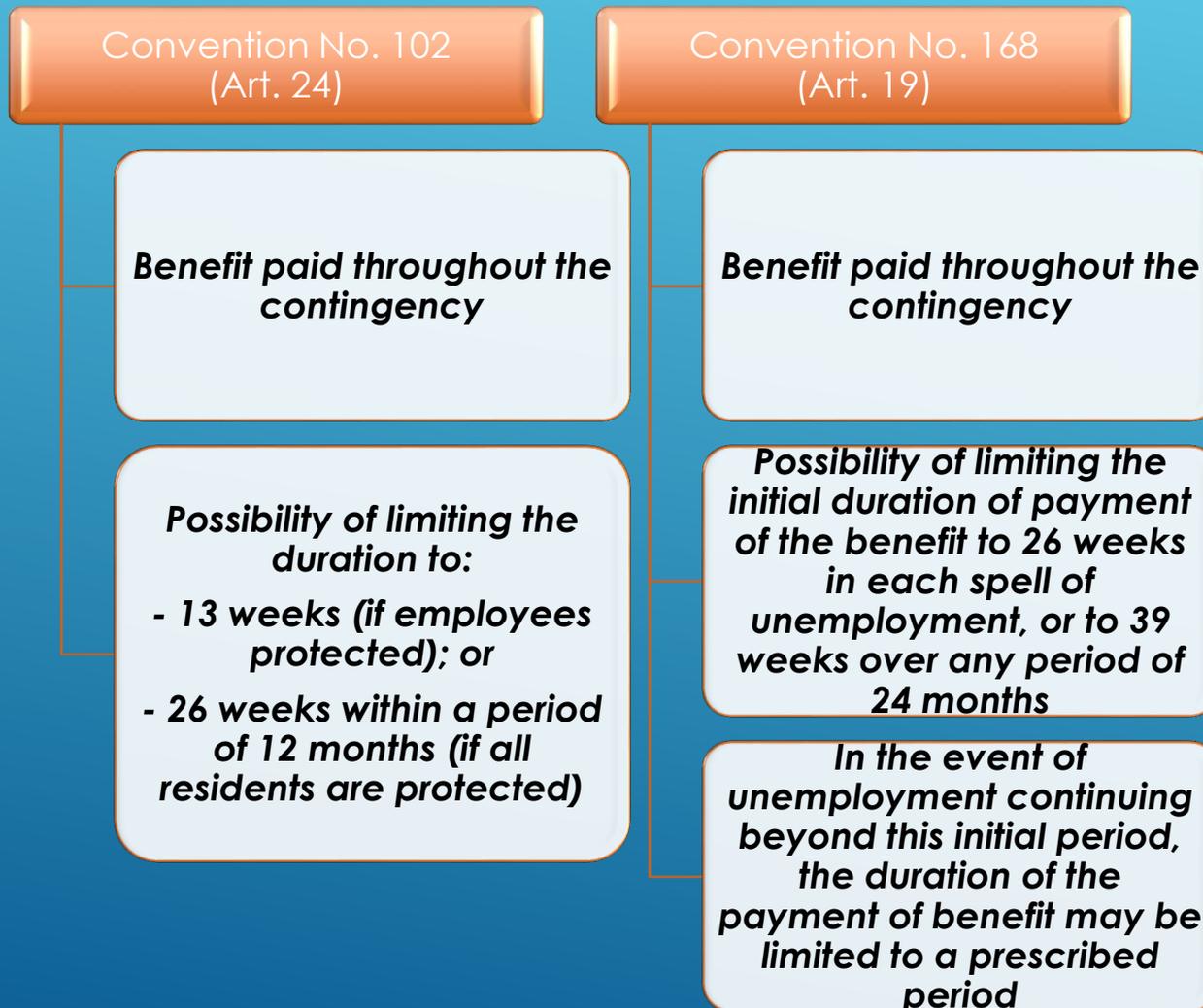


• 75% at low income, grading down to 57% at high income, maximum monthly earning used to calculate benefits are €11,092



• 50%, max. daily benefit is 250 baht

DURATION OF BENEFITS



DURATION OF BENEFITS IN PRACTICE

 Japan	• 90 days to 330 days, according to the length of coverage, age and reasons for unemployment
 South Korea	• 3 to 8 months
 Vietnam	• 3 to 12 months
 Brazil	• 4 to 12 months (older workers + 6 months)
 Ukraine	• 6 months
 Canada	• 14 to 45 weeks
 Denmark	• 24 months
 France	• 4 to 24 months
 Thailand	• 6 months (8 months during 2009)

CONDITIONS OF BENEFITS

A waiting period of 7 days may be prescribed

- Art. 24(3), C. 102
- Art. 18(1), C. 168

A qualifying period may be prescribed to preclude abuse

- Art. 23, C. 102
- Art. 17(1), C. 168

WAITING PERIOD IN PRACTICE

 Japan	<ul style="list-style-type: none">• 7 days
 South Korea	<ul style="list-style-type: none">• 7 days
 Vietnam	<ul style="list-style-type: none">• Found no job within 15 days
 Philippines	<ul style="list-style-type: none">• ---
 Ukraine	<ul style="list-style-type: none">• 7 days
 Canada	<ul style="list-style-type: none">• 2 weeks + duration of severance pay
 Denmark	<ul style="list-style-type: none">• 3 weeks if self-employed
 France	<ul style="list-style-type: none">• 1 week + duration of severance pay
 Thailand	<ul style="list-style-type: none">• 7 days

QUALIFYING PERIOD IN PRACTICE



• 12 months of coverage during the last 24 months



• 180 days of coverage during the last 18 months



• 12 months of coverage during the last 24 months



• 12 months of coverage during the last 36 months



• 12 months of coverage or first-time jobseeker



• 420-700 hours (12 to 20 weeks)



• 12 months of coverage during the last 36 months



• 4 in last 28 months if younger than 50, or 4 in last 36 months if older



• 6 months of coverage during the last 15 months

SUSPENSION OF BENEFITS: ART. 69, C. 102 AND ART. 21 & 22, C. 168

- ❑ Benefit may be **refused, withdrawn, suspended or reduced** to the extent prescribed if the person concerned:
 - ❑ *is absent from the territory;*
 - ❑ *had deliberately contributed to his or her own dismissal;*
 - ❑ *has left employment voluntarily without just cause;*
 - ❑ *has stopped work to take part in a labour dispute or when he or she is prevented from working as a direct result of a stoppage of work due to this labour dispute;*
 - ❑ *has attempted to obtain benefits fraudulently;*
 - ❑ *has failed without just cause to use the facilities available for placement, vocational guidance, training, retraining or redeployment in suitable work;*
 - ❑ *is in receipt of another income maintenance benefit;*
 - ❑ *has received severance pay.*

REDUCTION OR REFUSAL OF BENEFITS FOR VOLUNTARY QUITTING OR FIRED PERSONS IN PRACTICE



• YES – Benefit limited to 1 to 3 months



• YES – Only in involuntary situations can receive benefits



• NO REDUCTION



• YES – Only in involuntary situations can receive benefits



• YES – Only in involuntary situations can receive benefits



• YES – Quits and fired persons are disqualified from benefits



• YES – 5 weeks disqualification



• YES – Only in involuntary situations can receive benefits



• YES – Voluntary quitters only get 30% benefit rate for 3 months

PROMOTION OF PRODUCTIVE EMPLOYMENT IN CONVENTION NO. 168

- ❑ Declare as a priority objective a policy designed to promote full, productive and freely chosen employment by all appropriate means including (Art. 7, C. 168):
 - ❑ *Employment services;*
 - ❑ *Vocational training; and*
 - ❑ *Vocational guidance.*

PROMOTION OF PRODUCTIVE EMPLOYMENT IN CONVENTION NO. 168

- Establishment of special **programmes to promote additional job opportunities and employment assistance**, especially for identified categories of disadvantaged persons (Art. 8, C. 168):
 - *Women;*
 - *Young workers;*
 - *Disabled persons;*
 - *Older workers;*
 - *Long-term unemployed;*
 - *Migrant workers lawfully resident in the country; and*
 - *Workers affected by structural change.*

COMPUTATION OF PERIODS OF UI BENEFITS IN CALCULATION OF OTHER BENEFITS

- Endeavour to guarantee that periods during which benefits are paid take into consideration (Art. 24(1), C. 168 & Para. 21, R. 176):
 - *Acquisition of the right to calculation of disability, old-age and survivor's benefit; and*
 - *Acquisition of the right to medical care and sickness maternity and family benefit after the end of employment.*

ASSISTANCE TO FIRST-TIME JOBSEEKERS

- ❑ Social benefits for new applicants for employment, such as (Art. 26(1), C. 168):
 - ❑ **young persons who have completed:**
 - ❑ their vocational training;
 - ❑ studies; or
 - ❑ compulsory military service.
 - ❑ **persons after a period devoted to:**
 - ❑ bringing up a child; or
 - ❑ caring for someone who is sick, disabled or elderly.
 - ❑ **divorced or separated persons;**
 - ❑ **released prisoners;**
- ❑ Endeavour to extend protection progressively to a greater number of categories (Art. 26(3), C. 168).

GUIDELINES ON THE DEVELOPMENT AND IMPROVEMENT OF SYSTEMS OF PROTECTION

- ❑ Variety of approaches may legitimately be taken in assisting the unemployed;
- ❑ High priority to a full and frank exchange of information on programmes of assistance for the unemployed;
- ❑ In order to give non-discretionary payment of benefits:
 - ❑ *Introduction and satisfactory operation of a free public employment service:*
 - ❑ *containing a network of employment offices;*
 - ❑ *having acquired sufficient administrative capacity to collect and analyse information on the employment market, to register job offers and jobseekers and to verify objectively that persons are involuntarily unemployed.*
 - ❑ *a reasonable level of coverage by and extensive experience in the **administration of other branches of social security deemed to have priority on social and economic grounds.***