

COMPARATIVE CALCULATIONS. ILO, THE COUNCIL OF EUROPE VS. POLAND

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INTRODUCTION

The objective of this article is to present the results of the comparative analysis¹ of the standards contained in three fundamental ILO legal acts on social security i.e.: ILO Convention No 102 concerning Minimum Standards of Social Security of 1952, ILO Convention on Allowances in Case of Industrial Injury and Occupational Diseases of 1964, and ILO Convention on Invalidity, Old-Age and Survivors' Benefits of 1967, in terms of the compliance of Polish legislation with cash benefit levels, and also in two fundamental legal acts of the Council of Europe on social security i.e.: European Code of Social Security along with the Protocol and Addenda, and in the Revised European Code of Social Security of 1990.

When making a comparative analysis, one had to determine what is the level of benefits enjoyed by the Polish beneficiary against minimum standards set forth in the aforementioned international legal acts.

ILO CONVENTIONS

In ILO Conventions the criteria for the level of cash benefits are determined for the so called standard person with entitlement. **Therefore the method used for analysis involves the comparison of the amount of benefit received by the so called standard person with entitlement in relation to his previous earnings, and the benefit and previous earnings cover the granted family benefits for children and non-working wife.** It should be emphasised that **reference was made only to employee system**².

The comparative analysis is to a certain extent an approximation. This is due to the fact that the Polish insurance legislation and public statistics do not use all terms that are present in the Conventions. This is true for instance about the category of previous earnings of the standard person with entitlement who is typically in the Conventions man supporting wife and two children.

Generally speaking the ILO Conventions require that when analysing the level of paid benefits one should use earnings of:

1) male skilled worker:

a) fitter or turner working in the machine-building industry, excluding electrical machine-building industry, or

b) typical skilled worker selected from the group including the largest number of protected men under specified circumstances in the branches of industry covered by protection where the largest number of protected persons or breadwinners is employed, or

c) person, whose earnings account for 125% of the average earnings of all protected persons or under specified conditions, i.e. if standards are not fulfilled due to the earnings of the skilled worker;

2) male unskilled worker:

a) working in the machine-building industry, excluding electrical machine-building industry, or

b) typical skilled worker selected from the group including the largest number of protected men under specified circumstances in the branches of industry covered by protection where the largest number of protected persons or breadwinners is employed.

In the comparative calculations with reference to the skilled worker the standard person with entitlement was used with the earnings accounting for 125% of the average earnings of all protected persons, and for the average earnings statistical figure published by the Polish Central Statistical Office was taken i.e. average monthly wage in the national economy. When it was necessary to apply the earnings of unskilled worker, the estimate was used.

For this purpose the outcome of GUS survey was used on the structure of wages of people employed in the economy by occupation. Standard man with entitlement was selected, according to one of the existing options, from the branch of industry where the largest number of protected persons is employed. In Poland it is industrial processing which accounts for approximately 80% of total employment in the industry. Owing to the fact that in the Polish statistics the term "unskilled worker" *is not used wages of*

manual workers performing simple jobs were taken into account – i.e. persons defined in the classification of occupations and specialities as performing straightforward or routine jobs that typically involve using manual tools and frequently some physical effort; many occupations in this category play auxiliary role against the occupations requiring higher skills.

With regard to calculation methodology it should be noted that during the analysis the appropriate ratios of amounts of benefits to previous earnings were calculated using the amounts of earnings less compulsory social insurance contribution payable by the insured. This issue was consulted with an expert from the International Standard Department, ILO.

With regard to the comparative calculation procedure it should be mentioned that the calculation, pursuant to the provisions of the Convention, starts with the checking of the hard criteria, and if they are not fulfilled – then soft criteria are checked. In this way we proceed both with reference to the skilled worker and unskilled worker³.

It should also be noted that "standard" person with entitlement is defined in detail in the examined standards. The definition includes

not only gender, life situation, but also e.g. length of service taken for benefit calculation purposes. For instance when the Convention recommends examination of the old-age benefit for the man having wife at pensionable age and who has paid contributions for 30 years, or his length of residence is 20 years. Different conditions are mentioned for standard person with entitlement to incapacity benefit or family benefit.

The comparative calculations regarding cash benefit levels under the Polish social insurance system against ILO Convention standards have been made in Poland for a couple of years now. The relations obtained are very close to each other, though crucial here is the moment of calculations. The timing of calculations may imply getting a slightly different result. This is driven by the fact that the calculated relations depend on the change of average wage, base amount, the level of family benefits etc., that vary with time.

The results of minimum benefit level defined in the discussed ILO Conventions compared with the calculated benefit level in the Polish legislation by individual insurance risk (in 4th Quarter 2002) are presented in Tables 1, 2 and 3.

Table 1. Comparison of standard cash benefit levels for the standard persons with entitlement in the ILO Convention No 102 and the level of Polish benefits (4th Quarter 2002)

Section of Convention No 102	Protected cases	Standard person with entitlement	Interest rate of benefit level according to Convention No 102	Calculation results	
				Art. 65	Art. 66
III	Disease	Man with wife and two children	45%	71%	x
IV	Unemployment	Man with wife and two children	45%	24% – not compliant	43% – not compliant
V	Old age	Man with wife at pensionable age	40%	55%	x
VI	Industrial injuries and occupational diseases				
	Incapacity to work	Man with wife and two children	50%	100%	x
	Disability	Man with wife and two children	50%	77% – total 59% – partial	x x
	Death of breadwinner	Widow with two children	40%	73%	x
VIII	Maternity	Woman	45%	100%	x
IX	Disability	Man with wife and two children	40%	44% – total	46% – partial
X	Death of breadwinner	Widow with two children	40%	42%	x

Source: H. Markowska, H. Zalewska, G. Uścińska (ed.), *Addendum. Obliczenia porównawcze. Standardy zabezpieczenia społecznego (Addendum. Comparative Calculations. Social Security Standards)*, IPISS, Warsaw 2005.

Table 2. Comparison of standard cash benefit levels for the standard persons with entitlement in the ILO Convention No 121 and the level of Polish benefits (4th Quarter 2002)

Protected cases	Standard person with entitlement	Interest rate of benefit level according to Convention No 121	Calculation results	
			Art. 19	Art. 20
1. Temporary incapacity to work	Man with wife and two children	60%	100%	x
2. Total loss of earning capacity or decline of physical capacity	Man with wife and two children	60%	77% – total	60% – partial
3. Death of breadwinner	Widow with two children	50%	73%	x

Source: *ibid* Table 1.

The calculations made for ILO Convention No 102 show that **Polish legislation meets minimum standards for the level of cash benefits for all risk categories (except for unemployment)**.

The calculations made for 4th Quarter 2002 showed that in order to meet Convention requirements and according to Art. 66 (i.e. for unskilled worker) the amount benefit would have to be raised by 6.2%.

The level of other social insurance benefits comply with the required level when Art. 65 has been applied except in one case: this is the case of benefit for partial incapacity to work, the level of which is compliant when Art. 66 has been applied i.e. calculation was made for unskilled worker.

At this point it should be noted that under the Polish system the enjoyment of benefit for partial incapacity to work does not preclude opportunities to enter into gainful employment by the beneficiary and in practice this is done by most of pensioners from this category work. Thus in many cases the partial incapacity benefit does not represent the sole source of income, but an additional source of income. For this reason the compliance of the Polish legislation with the required level of this benefit should be examined also from this angle.

When examining the individual insurance risks, the requirements of the Convention No 102 on the benefit level against Polish legislation are as follows.

Table 3. Comparison of standard cash benefit levels for the standard persons with entitlement in the ILO Convention No 128 and the level of Polish benefits (4th Quarter 2002)

Section of Convention No 128	Protected cases	Standard person with entitlement	Interest rate of the benefit level according to Convention No 128	Calculation results	
				Art. 26 (skilled worker– manual)	Art. 27 (unskilled worker)
II	Disability	Man with wife and two children	50%		
	total incapacity to work			not fulfilled	fulfilled – 59%
	partial incapacity to work			not fulfilled	fulfilled with standard reduced by 10 units – 42%
III	Old age	Man with wife at pensionable age	45%	fulfilled – 55%	x
IV	Death of breadwinner	Widow with two children	45%	fulfilled with standard reduced by 10 units – 37%	x

Source: ibid Table 1.

1. Disease

The Convention recommend testing the level of sickness benefit for standard beneficiary, assuming that it is a man with a wife and two children.

The level of sickness benefit with the family benefits the standard beneficiary is entitled to should account for, at least, 45% of his previous earnings along with family benefits.

In the Polish legislation for the above defined standard beneficiary the sickness benefit, with the least advantageous assessment base of this benefit for the protected person, along with the family benefits paid during the enjoyment period of sickness benefit, will account in each case for above 70% of previous earnings and family benefits enjoyed in parallel.

Therefore the requirements laid down in the Convention No 102 on the level of sickness benefit are fulfilled.

2. Unemployment benefits

According to the Convention the level of unemployment benefit for the standard person with entitlement, i.e. for man with a wife and two children, along with the family benefits he is entitled to should not be lower than 45% of this previous earnings along with the family benefits he was entitled to.

The calculations made showed that the required level of unemployment benefit set in the Convention at the level of 45% of previous earnings of the beneficiary is not fulfilled by the Polish legislation, nor in the conditions in Art. 65, nor in Art. 66.

3. Old age

The Convention provides for testing the level of old-age benefit with reference to the man having a wife at pensionable age.

The level of old-age benefit for a certain beneficiary along with the family benefit he is entitled to for wife against his previous earnings and family benefit should account for, at least, 40%. The calculated amount of old-age pension, analysed pursuant to Art. 29 para 1. of the Convention i.e. given the 30-year-long contributory period, in the requirements the Art. 65 fulfils these requirements.

4. Industrial injuries and occupational diseases

a) sickness benefit

The Convention recommends testing the level of sickness benefit for standard beneficiary, assuming that it is the man with a wife and two children.

The amount of sickness benefit paid to the standard beneficiary along with family benefits should account for, at least, 50% of his previous earnings along with family benefits.

In Polish legislation the assessment base of the sickness benefits from industrial injury insurance for the standard beneficiary defined above (sickness benefit) along with family benefits paid during its enjoyment in each case will account for 100% of previous earnings along with family benefits, which means that the requirements of Convention No 102 on the level of sickness benefit have been fulfilled.

b) industrial injury benefit (incapacity benefit payable pursuant to the industrial injury or occupational disease)

Pursuant to the recommendations set forth in the Convention the level of this benefit should be tested for the standard beneficiary who is the man with a wife and two children.

Referring to the cases of incapacity to work or the total loss of earning capacity, the level of industrial injury benefit along with family benefits is set according to the Convention at the level of 50% of previous earnings of the beneficiary along with enjoyed family benefits. Meanwhile in cases of partial loss of earning capacity, if it is probable that the loss will be permanent or if the physical capacity has been reduced accordingly – this benefit, if one is entitled to it, should be proportionate to the benefit payable in case of total loss of earning capacity or relevant reduction of physical capacity.

Pursuant to the Polish legislation, the incapacity pension i.e. industrial injury benefit is determined using analogous formula as is used for incapacity pension based on general principles, however, the pension level may not be lower than for the person with total incapacity to work – minimum 80% of the pension assessment base, and for the person with partial incapacity to work – minimum 60% of the pension assessment base.

The amounts of industrial injury benefits meet the requirements of the Convention 102 and the conditions of Art. 65.

c) survivor's benefit (benefit payable due to the death of breadwinner or due to industrial injury or occupational disease)

The Convention recommends that the level of this benefit should be tested for standard beneficiary who is widow with two children.

In the Polish legislation similarly to the "ordinary" survivors' benefit, the survivors' benefit paid pursuant to industrial injury for a widow with two children accounts for 95% of the benefit that would be paid to the deceased person (due to industrial injury or occupational disease), assuming that such person showed total incapacity to work. At the same time the benefit may not be lower than 120% of the lowest benefit granted under general principles.

According to the Convention, the level of survivors' benefit paid pursuant to industrial injury for the standard beneficiary along with family allowances should account for, at least, 40% of the previous earnings of the breadwinner and the level of family allowances payable to the deceased, having the same family duties as the beneficiary.

The results of calculations show that the Polish legislation is compliant with the standard level of survivors' benefit paid after industrial injury laid down in the Convention.

5. Family benefits

Pursuant to the recommendations in the Convention the test if the set standards for family benefits have been met would be run pursuant to Art. 44 stipulating the minimum total value of family

benefits granted to the protected persons as: 3% of wage of the ordinary adult unskilled male worker determined pursuant to the principles laid down in Art. 66, multiplied by the total number of children of all persons covered by the protection, or 1.5% of the aforementioned wage multiplied by the total number of children of all inhabitants.

To check if the Convention requirements on the paid family benefits have been met the condition b) was assumed.

It should be noted that in the comparative analysis the family benefit category was used in global terms i.e. benefits paid out on a nation-wide basis, since the comparison was made for children of total population.

The checking of Convention requirements (given that the family benefits are limited only to family allowances) brought positive results.

6. Maternity benefits

In this case the Convention assumes woman as the standard beneficiary, setting the minimum level of maternity benefit along with family allowances at the level of 45% of the previous earnings along with family allowances.

Pursuant to the Polish legislation the level of maternity benefit accounts for 100% of the benefit assessment base. The benefit assessment base is determined pursuant to the previous earnings and meets the conditions of previous earnings determined pursuant to Art. 65 para 2 of the Convention, and consequently the requirements of the Convention No 102 are fulfilled in this area.

7. Invalidity benefits

Pursuant to the recommendations of the Convention the level of this benefit should be tested for the standard beneficiary who is man supporting wife and two children.

It was assumed that typical situation in Poland is that in case of disability pensioner and former employee his wife will not be entitled to family allowance. Therefore the standard beneficiary and employee defined above will be only entitled to family allowances for children.

According to Convention criteria the minimum level of benefit along with family allowances should account for, at least, 40% of previous earnings along with family allowances.

The application of Art. 65 criteria to the calculation allowed meeting the Convention requirements with reference to pensions paid due to total incapacity to work, meanwhile Art. 66 – was applied to the pension paid due to partial incapacity to work⁶.

8. Survivors' benefits

According to the Convention the level of survivors' benefit should be tested for the standard beneficiary who is widow with two children. The criterion setting the threshold value of the benefit along with family allowances with reference to the previous earnings of the breadwinner along with family allowances, similarly to the incapacity pension, accounts for at least 40%.

Pursuant to the Polish legislation, the survivors' benefit for the widow with two children (i.e. 3 entitled persons) accounts for 95% of the benefit that would be paid to the deceased, given that this person was showed total incapacity to work.

The calculations showed that when Art. 65 criteria have been applied, then the level of survivors' benefit in the Polish legislation is at the level compliant with Convention No 102 requirements.

A very important provision of the Convention No 102 is in the Art. 71, stipulating that the cost of extended benefits and the managing costs of such benefits will be borne collectively through contributions or taxes, or both at the same time, in such manner that the persons with limited income would not carry their excessive burden.

According to the Convention the total contributions burdening the hired labour should not exceed 50% of the total amount of funds allocated to the protection of hired labour, their wives and children. To determine whether this condition has been fulfilled, all benefits granted under the Convention will be considered as a whole, except

for family benefits and industrial injury and occupational disease benefits, if the latter represent a separate branch of the security.

In the Polish legislation the benefits paid due to industrial injuries and occupational diseases represent an integral part of the social insurance, therefore to test if this Convention requirement has been fulfilled, one has to consider all benefits paid out to people protected within the scope of social insurance as set forth in the Convention.

In the Polish system the level of interest rates of social insurance contributions is stipulated by the Act on Social Insurance System of 13th December 1998. Under the system a part of the social insurance contribution is covered by the employee and the other part by the employer. With regard to the old-age and other pensions the contribution is paid in 50% by the employer, and in 50% by the employee, whereas the contribution to sickness insurance is paid fully by the employee, while for the industrial injury insurance – employer. The interest rates of the contribution for individual types of insurance are as follows:

- a) old age pension insurance – 19.52%,
- b) pension insurance – 13.0%,
- c) sickness insurance – 2.45%,
- d) industrial insurance – 1.62%.

The calculated ratio of the amount of contributions to the expenditures from the Social Insurance Fund was at the level of approximately 45% in 2002.

It should be also emphasised that in addition to expenditures finances from Social Insurance Fund, the hired labour protection is financed from the employers' funds i.e. from payment of wages for the initial 33 days of sickness absenteeism within a calendar year (provisions effective in 2002). Due to this fact the calculated ratio would be lower i.e. employee burdening with the contribution would be lower.

To sum up, **the requirements in Art. 71 para 2 of the Convention No 102 are met in the area of social insurance of hired workers⁷.**

The standards set at a higher level in the Convention No 121 are also fulfilled. These standards apply to the benefits related to industrial injuries and occupational diseases (and this is true in most cases under Art. 19 of the Convention, and only in case of the pension due to partial inability to work caused by industrial injury it was necessary to apply Art. 20 of the Convention)⁸.

We also comply with the requirements of the Convention No 128 on the old-age benefits, invalidity benefits and survivors' benefit. However, in case of some protection scenarios the compliance is achieved when Art. 27 is applied, i.e. when the level of benefit is tested for the unskilled worker⁹.

COUNCIL OF EUROPE LEGAL ACTS

The studied legal acts of the Council of Europe included the European Code of Social Security along with the Protocol and Addenda, and also Revised European Code of Social Security. It should be emphasised that the Code along with Addenda sets social security standards with regard to the right to benefits at the level higher than the basic standard in this area, which is the ILO Convention No 102, whereas the Protocol to the Code along with Addenda raises further the level of requirements set in the Code. This applies to the entity-related scope, objective scope and the level scope.

The purpose of accepting the Revised Code of Social Security by the Council of Europe was to incorporate new standards into it, to raise them, to eliminate differentiation by gender of beneficiary, and also differentiation due to life situation of the beneficiary or survivors¹⁰.

European Code of Social Security

The principle of comparative analysis applied to the level of cash benefits covered by the Code is analogous to that in ILO legal acts: at a certain point in time according to the Polish legislation the

level of benefit is determined for the standard beneficiary along with family allowances enjoyed by him and then they are referred to the previous earnings of the beneficiary (also including allowances). Thus obtained ratio is compared against the standard, set in the Code as the minimum standard.

Thus analysing the standards set in the Code, when applying Art. 65 for the calculation purposes – similarly to the Convention No 102 – an option was assumed to check the level of benefit for the person with the earnings accounting for 125% of the average wage of all protected persons.

Thus the assumed statistical category, the closest to the average wage of all protected persons, was the average monthly wage in the national economy, less the compulsory contribution paid by the insured.

Similarly to the Convention, when applying Art. 66 the category of male unskilled workers' wage was used, estimated by GUS based on its research, i.e. – using definitions used in this study – "worker hired to perform simple jobs", performing simple manual assembly of subassemblies or disassembling various machinery and equipment and sorting of products, loading, packing, moving, transporting".

With regard to the calculation methodology, similarly to ILO Conventions, the amounts of benefits compared to previous earnings were calculated using the amount of earnings less compulsory social insurance contribution paid by the insured.

The analytical procedure is analogous to that used for Convention. The calculation results concerning the Code – for a set point in time, i.e. 4th Quarter 2002 – are presented in Table 4.

Table 4. Comparison of the standard cash benefit levels for standard person with entitlement under the Code of the Council of Europe and the level of Polish benefits (4th Quarter 2002)

Code Section	Protected cases	Standard person with entitlement	Interest rate of benefit level according to the Code	Calculation results	
				Art. 65	Art. 66
III	Disease	Man with a wife and two children	45%	71%	x
IV	Unemployment	Man with a wife and two children	45%	24% – not fulfilled	43% – not fulfilled
V	Old age	Man with a wife at pensionable age	40%	55%	x
VI	Industrial injuries and occupational diseases				
	Incapacity to work	Man with a wife and two children	50%	100%	x
	Total loss of earning capacity	Man with a wife and two children	50%	total – 77% partial – 59%	x x
	Death of breadwinner	Widow with two children	40%	73%	x
VIII	Maternity	Woman	45%	100%	x

Source: ibid Table 1.

It should be noted that due to comparison methodology, point in time and the same level of set standards analogous to the previously discussed Conventions, the calculated relations for the Code are the same as for the ILO Convention No 102.

The calculation made for the Code show that **Polish legislation meets minimum standard levels of cash benefits for all risk categories (except for unemployment)**. The compliance was achieved with the application of Art. 65, except for one case, viz. the exception here is the pension paid due to partial incapacity to work, the level of which is compliant with Art. 66 has been applied, which means that it was calculated for the unskilled worker.

Additionally it should be noted that the requirements of Art. 70 of the Code are also fulfilled. According to these requirements the total insurance contributions burdening the protected hired workers should not exceed 50% of the total amount of funds earmarked for the protection of hired workers, their wives and children.

As mentioned above, the integral part of the Code are Annexes and Addenda 1 and 2, provided for higher standard levels for some benefits. The analysis of additional requirements incorporated in the Addendum 2 to the Code on individual benefits brought the following findings.

1. Sickness benefits

The level of sickness benefit is analogous to that in the Code – the required benefit level has been fulfilled.

2. Unemployment benefits

The level of unemployment benefit is analogous to that in the Code – the required benefit level has been fulfilled.

3. Old-age benefits

Additional benefits were envisaged for the person with 15-year-long contributory period and were determined at least at the level of 50% of the old-age benefit for the person with 30-year-long contributory period (according to Art. 28 of the Code).

In Poland the granting of old-age pension to the person at retirement age with the 15-year-long contributory period is only possible for a woman, the man must have 20-year-long contributory period. For persons born after December 31, 1948 the old-age pensions will be granted in the future according to modified principles and will not be conditioned by the minimum length of employment.

According to the old-age pension calculation algorithm used in the Polish system the level of old-age pension for the person with 15-year-long contributory period will exceed 50% of the old-age pension for the same person with 30-year-long contributory period. Therefore the requirement from Addendum 2 to the Code on the level of additional old-age benefit contained in the Addendum 2 to the Code has been fulfilled.

4. Family and maternity benefits

The Addendum does not implement the enhanced level of these benefits, therefore the required level of these benefits is fulfilled in the Polish legislation.

5. Invalidity benefits

Additional benefits are envisaged for the person with 5-year-long contributory period and were determined as, at least, 50% of the benefit set forth pursuant to Art. 56 of the Code i.e. persons with the 15-year-long contributory period. The calculations pursuant to Art. 65 showed that the level of additional pension in

the event of pension related to the total incapacity to work meets the requirements of the Addendum: such pension for the person with 5-year-long contributory period accounts for 88% of the pension determined for the person with 15-year-long contributory period.

Also the standard level of additional pension related to the partial incapacity to work is fulfilled – also at the level of 88% (however, it should be remembered that the level of pension for the partial incapacity to work is calculated pursuant to Art. 65 for 15-year-long contributory period fails to meet the Code requirements and only the application of the reduced criterion of the benefit level for the 5-year-long contributory period allowed to achieve compliance with the Code requirements).

6. Survivors' benefits

The additional benefit in the Addendum determined as, at least, 50% of the benefit calculated pursuant to Art. 62 of the Code (i.e. for the person with 15-year-long contributory period), after whose death the survivors' benefit was granted to the person with 5-year-long contributory period.

The calculation of additional survivors' benefits according to Art. 65 gave positive result i.e. at the level of 87%.

7. Funeral allowance

According to the Polish legislation the funeral allowance is granted at the level of 200% of the average wage effective at the date of death of the person whose funeral costs were borne.

The funeral allowance in the Polish legislation is higher than the required benefit in the Addendum 2 to the Code, which stipulated twenty times the daily rate of the previous earnings of the protected person. Consequently the required level of funeral allowance has been fulfilled.

8. Family benefits

Pursuant to the recommendations of the Code the test if the certain standards are met in this area should be carried out pursuant to Art. 44, setting forth the minimum total value of family benefits extended to the protected persons, at the level of 1.5% of the wage of adult male unskilled worker (pursuant to Art. 66) multiplied by the total number of children of all inhabitants.

According to the Code definitions the term "child" stands for a child that has not reached the age at which school attendance is not mandatory any longer or a child below 15 years of age. Given that in Poland the school attendance is mandatory until 18 years of age a decision was made to define children as population below 18 years of age. Testing of Code requirements (given that the scope of family benefits is limited only to family allowances) brought positive result.

Now let us take a closer look at the outcome of comparative analysis of the standard benefit levels contained in the Table to the Protocol to the Code. The results of comparison are in Table 5.

Table 5. Comparison of the standard cash benefit levels for standard person with entitlement under the Protocol to the Code of the Council of Europe and the level of Polish benefits (4th Quarter 2002)

Code Section	Protected cases	Standard person with entitlement	Interest rate of benefit level according to the Code	Calculation results	
				Art. 65	Art. 66
III	Disease	Man with a wife and two children	50%	71%	x
IV	Unemployment	Man with a wife and two children	50%	24% – not fulfilled	43% – not fulfilled
V	Old age	Man with a wife at pensionable age	45%	55%	x
VI	Industrial injuries and occupational diseases				
	Incapacity to work	Man with a wife and two children	50%	100%	x
	Total loss of earning capacity – general	Man with a wife and two children	50%	total – 77% partial – 59%	x x
	– if the disabled needs constant care		66% and 2/3	total – 83%	x
	Death of breadwinner	Widow with two children	45%	73%	x
VIII	Maternity	Woman	45%	100%	x
IX	Disability	Man with a wife and two children	50%	total – not fulfilled partial – not fulfilled	total – 59% partial – 46% – not fulfilled
X	Death of breadwinner	Widow with two children	45%	37% under Art. 63 para. 3 (i.e. below standard by 10%)	x

Source: *ibid* Table 1.

As mentioned before, the standards in the Protocol are higher than in the Code, more detailed is the classification of protected cases in the area of incapacity benefits and industrial injury benefits. The standards in this case define the level of benefits for partial and total incapacity to work. Such detailed standard did not exist neither in ILO Conventions, nor in the Code.

The juxtaposition of the calculation results for the levels of Polish benefits for the standard person with entitlement, which is in most cases man with a wife and two children, with the standards from the Protocol for the unemployment benefit and "ordinary" pension related to incapacity to work and the survivors' benefit gave negative result in most cases when Art. 65 was applied. Polish legislation meets the standards in the area of discussed pensions, but with the rates levels reduced under Art. 66 and the results are close to the limits of the standards.

Meanwhile the analysis of the level of benefits listed in the Addendum 2 to the Protocol showed that the additional

requirements set forth there are fulfilled in the Polish legislation, however, also here relatively low level of Polish benefits against the standards set forth in the Protocol should be noted.

Revised European Code of Social Security

The Revised European Code of Social Security introduced regulations that abolish differentiation of the beneficiary on the grounds of gender and consequently the term of the standard person with entitlement who is man is not used here – **it is simply "Person"**.

The adoption of such definition for the standard person with entitlement in case of the unskilled worker (defined in Art. 72) causes the **previous earnings of the eligible person to have lower value**. Let us remind that in the ILO Conventions and in the Code it was man's wage that in the Polish realities is higher than woman's wage.

Additionally the Revised Code additionally introduced a single beneficiary as the eligible person. This implies that the analysis of benefit amounts fails to consider the family allowances for children and the spouse.

The principles described above have a clear impact on the calculated relations, that vary from the relations calculated under previously discussed legal acts.

The calculation methodology is analogous to the Code, however, the introduction of a single person category necessitates the widening of the analysis to include also these cases¹¹. The results of analysis for 4th Quarter 2002 are presented in Table 6.

It should be noted here that the Revised Code raised the standard benefits for the beneficiary supporting other people. The standards for a single person were also set at a relatively high level.

Table 6. Comparison of the standard cash benefit levels for standard person with entitlement under the Revised Code of the Council of Europe and the level of Polish benefits (4th Quarter 2002)

Section of Revised Code	Protected cases	Single beneficiary			Beneficiary supporting other persons			
		Interest rate of benefit level according to Revised Code	Calculation results		Definition of standard person with entitlement	Interest rate of benefit level according to Revised Code	Calculation results	
			Art. 71	Art. 72			Art. 71	Art. 72
III	Disease	50%	70%	x	Person with a spouse and two children	65%	71%	x
IV	Unemployment	50%	not compliant (21%)	not compliant (41%)	Person with a spouse and two children	65%	not compliant (24%)	not compliant (44%)
V	Old age	50%	68%	x	Person with a spouse at set age	65%	68%	x
VI	Industrial injuries and occupational diseases							
	Temporary and initial incapacity to work	50%	100%	x	Person with a spouse and two children	65%	100%	x
	Total and permanent loss of earning capacity or appropriate reduction of physical capacity – general	50%	total – 76% partial – 57%	x	Person with a spouse and two children	65%	total – 77% partial-not compliant (59%)	x partial-not compliant (60%)
	– if the disabled needs constant care	70%	total – 82%	x		80%	total – 83%	x
	Death of breadwinner				Surviving spouse with two children			
	– surviving spouse	50%	65%	x		65%	73%	x
	– child	20%	76%	x				
VII	Maternity	50%	100%	x	Woman with a spouse and two children	65%	100%	x
IX	Disability	50%	total – 55% under Art. 60 para 5b) partial-not compliant (31%)	x partial – 54% under Art. 60 para 5b)	Person with a spouse and two children	65%	total – not compliant (44%) partial-not compliant (33%)	total – 74% under Art. 60 para 5b) partial-not compliant (38% – under Art. 60 para 7 i.e. with the threshold reduced by 10 units)
X	Death of breadwinner				Surviving spouse with two children			
	– surviving spouse	50%	not compliant (36%)	50% under Art. 66 para. 5a)		65%	not compliant (42%)	71% under Art. 66 para 5b)
	– child	20%	47% under Art. 66 para 5a)					

Source: ibid Table 1.

The Table with standards contains a novelty i.e. in case of the survivors' benefit for the single person a distinction has been made for the benefit level depending whether the spouse or child has survived. This standard in the latter case is much lower. Additionally in case of industrial injury benefits related to incapacity to work an additional standard was added when the beneficiary requires constant assistance.

The comparison of obtained results with the standards presented in the table gives grounds to claim that similarly to the Convention and the Code Poland fails to meet the required level of unemployment benefit. Additionally the required benefit level for the beneficiary supporting other persons is not met in the case of "general" industrial injury pension related to the incapacity to work within the area of the pension due to partial incapacity to work

effective in the Polish system. The same situation occurs with reference to the "ordinary" pension i.e. pension for incapacity to work not caused by industrial injury.

In most of the remaining cases the criteria of benefit level are fulfilled once one of the possible options in Art. 71 has been applied i.e. for the longer contributory period.

The above analysis showed that the standard benefits levels in the ILO Conventions and legal acts of the Council of Europe are complied with in most cases by the benefit levels stipulated in the Polish legislation in 4th Quarter 2002, and many of them are even compliant when more ambitious option is applied i.e. when the wage of skilled worker is used for calculations.

Another picture is shown in the category of family benefits (the analysis only covers paid family allowances). Pursuant to the recommendations of Revised Code the test whether we are compliant with certain standards in this area should be carried out pursuant to Art. 49, defining the minimum total value of family benefits extended to the protected persons as:

a) 1.5% of the GDP, or

b) 3% of the minimum statutory or minimum interoccupational wage, or the wage of ordinary worker (as defined in Art. 72), multiplied by the total number of all persons protected.

Poland fails to meet the requirement of the Revised Code, letter a). Meanwhile the requirements in letter b), i.e. referring to the minimum statutory wage, given that children of all inhabitants are covered by protection (pursuant to Art. 46 para 1c) is fulfilled. Poland also fails to meet the requirement of the Revised Code on the level of paid family benefits referred to the wage of ordinary worker.

It should be noted that the relations presented in this Article pertain to a certain point in time and legal status prevailing then,

and additionally the calculations were made using sometimes estimated values.

Additionally, meeting of the benefit level requirement is only one of many requirements that have to be met by national systems to ratify the sections of the aforementioned legal acts. Other requirements include but are not limited to the entity-related scope of protection by individual insurance risk categories, entitlement to benefits, arrangements concerning the policy of setting the level of benefits – and consequently indexation. As it can be seen it is very wide and complex problem¹².

¹ For more details see H. Markowska, H. Zalewska, G. Uścińska (red.), *Addendum. Obliczenia porównawcze. Standardy zabezpieczenia społecznego (Addendum. Comparative Calculations. Social Security Standards)*, IPISS, Warsaw 2005.

² The insurance system for individual farmers was omitted as well as the insurance system for the uniform services i.e. benefits paid to former military, police officers, workers of penitentiary service, border guards and firemen.

³ H. Markowska, H. Zalewska, G. Uścińska (red.), *Addendum. Obliczenia porównawcze (Addendum. Comparative Calculations)*, op. cit.

⁴ *Ibid.*

⁵ Effective until the end of 2002.

⁶ See more details in *Addendum. Obliczenia porównawcze (Addendum. Comparative Calculations)*, op. cit.

⁷ One has to remember also about healthcare contribution that in 2005 was set at the level of 8.5%, of which 7.25% can be deducted from personal income tax.

⁸ See more details in *Addendum. Obliczenia porównawcze (Addendum. Comparative Calculations)*, op. cit.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*