

## Kingdom of the Netherlands

### Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1966)

#### Previous comment

The Committee notes the observations of the National Federation of Christian Trade Unions (CNV), the Netherlands Trade Union Confederation (FNV), and the Trade Union Federation for Professionals (VCP), received on 28 August 2025, and the Government's reply to these observations.

*Article 14 of the Convention. Minimum degree of loss of earning capacity.* The Committee previously observed that a minimum degree of 35 per cent incapacity for entitlement to cash benefits under the Work and Income (Employment Capacity) Act 2006 (WIA) was set too high to comply with *Article 14* of the Convention.

The Government indicates in its report that when the WIA was introduced, a minimum degree of 35 per cent was set with the expectation that persons with less than 35 per cent work incapacity, known as "35-minners", could earn enough to support themselves. In this context, both employers and employees share a responsibility to enable "35-minners" to find a job. If their earnings fall short, they can turn to the protection provided by the Unemployment Act or the Participation Act (which covers social assistance benefits). The Government further indicates that, in practice, however, a large part of the "35-minners" are not working. Moreover, the Government indicates that persons with lower incomes before becoming incapacitated for work are often assessed as less than 35 per cent incapacitated compared to those with higher incomes. This is because the assessment takes into account the income lost. The Government further refers to the conclusion of the research carried out at the request of the Ministry of Social Affairs and Employment, highlighting that "35-minners" have a strong need for support. Additionally, according to the Dutch Social and Economic Council and the research undertaken by the Independent Commission on the Future of the Disability System (*Onafhankelijke Commissie Toekomst Arbeidsongeschiktheidsstelsel*, OCTAS), the minimum degree of incapacity should be below 35 per cent. The Government also indicates that while the decision has not yet been made, it will review the minimum degree of incapacity in the context of reforms to the disability scheme. At the same time, the Government acknowledges that lowering the minimum degree of incapacity will affect the affordability of the disability scheme. More specifically, if more people receive disability benefits, the costs for employers and the Government will increase. Additionally, the pressure on the Dutch Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekeringen*, UWV) will mount, as it will need to conduct more reassessments.

The Committee notes the observations of the FNV, the CNV and the VCP, indicating that, in practice, employers do not hire "35-minners" or dismiss them after two years when the dismissal period ban ends. Regarding protection under the Unemployment or Participation Act, the FNV, the CNV and the VCP indicate that "35-minners" likely receive unemployment benefits for three months to two years. Subsequently, a small percentage qualify for social assistance, while the majority do not because their partners have income or assets exceeding the prescribed limit. According to the FNV, the CNV and the VCP, between 18 and 23 per cent reportedly withdraw from the labour market after receiving unemployment benefits. The FNV, the CNV and the VCP further indicate that persons with severe disabilities and an assessed incapacity of less than 35 per cent (particularly those who have previously had low income) are neither able to find employment nor receive social assistance because of a working partner. The FNV, the CNV, and the VCP specify that just as many people from the "35-minners" group are working as from the group with incapacity of between 35 and 80 per cent. The FNV, the CNV, and the VCP also indicate that, although the Government is exploring ways to ensure that employers hire people with a low disability degree (35 per cent or less), this process is taking too long. Meanwhile, the number of people affected and ending up in poverty continues to rise.

In its reply to the observations of the FNV, the CNV and the VCP, the Government recognizes that people with an incapacity degree of less than 35 per cent can have difficulties with finding a job and/or obtaining an income that is above the subsistence level. Therefore, the Government acknowledges the importance of exploring how better support can be provided to these persons and that attention to this topic has increased over the past few years. The Government indicates that the UWV is currently exploring ways to improve its services for "35-minners", and that employers and municipalities must also play their part in supporting these people. The Government further recognizes that additional measures are needed, but this process is complex and requires time.

The Committee recalls that according to *Article 14* of the Convention, the degrees of disability are classified as minimum, slight (not substantial), substantial and total. The Committee further recalls that the minimum degree below which no cash employment injury benefits can be provided shall be prescribed in such a manner as to avoid hardship (*Article 14(5)*). The Committee also recalls that the minimum degree should in no case be equal to or higher than a degree of disability defined as slight (not substantial). In this regard, the Committee has previously considered that a degree of disability up to 30 per cent can be considered slight (not substantial), when a lump sum can be provided instead of a periodic payment (*Article 14(4)*). The Committee also recalls that the slight (not substantial) degree of incapacity refers to cases of minor incapacity for work when the worker retains a large proportion of his or her earning capacity (see the Committee's 2025 General Survey, *Achieving comprehensive employment injury protection*, paragraphs 243–245, 249, 274).

The Committee once again notes that, under the WIA, cash employment injury benefits are not provided for incapacity below 35 per cent. It further recalls that the minimum degree of 35 per cent incapacity for entitlement to cash employment injury benefits is not in compliance with the provisions of *Article 14* of the Convention. ***The Committee therefore requests the Government to take the necessary measures in full consultation with the most representative workers' and employers' organizations to bring the national legislation in line with Article 14 of the Convention by ensuring that persons with incapacity below 35 per cent are entitled to cash benefits in case of employment injury, and to report on the measures taken for that purpose.***

*Article 14(2), in conjunction with Articles 6(c), 19 and 22(1). Total loss of earning capacity likely to be permanent.* The Committee previously observed that a person who is completely (at least 80 per cent) and permanently incapable for work shall be entitled to the benefits under the Income Provision for Persons with Full Occupational Disability Scheme (IVA benefits), as per section 47 of the WIA. The IVA benefit amounts to 75 per cent of the previous monthly wage, but it is subject to reduction if a beneficiary earns an income (sections 51–52 of the WIA).

In its reply, the Government indicates that if the recipient of an IVA benefit has additional income from work, 70 per cent of this income will be settled with the IVA benefit. The Government further indicates that in such a case, the recipient's total income, including the income from work and the reduced IVA benefit, will be higher than the original IVA benefit. According to the Government, as a result, a settlement of income from work with the IVA benefit does not endanger the minimum subsistence level.

The FNV, CNV and VCP indicate that the deduction of income from IVA benefits is not acceptable.

The Committee recalls that the Convention does not authorize any reduction of cash benefits in case a fully incapacitated person earns additional income from a gainful occupation. The Committee further recalls that the Convention requires the provision of cash employment injury benefits in respect of total loss of earning capacity at the level of at least 60 per cent of the standard wage (*Article 19* and *Schedule II*). ***The Committee therefore requests the Government to take measures to ensure that the IVA benefit would not be less than 60 per cent of the standard wage, in case a person considered completely and permanently incapable for work earns income.***

*Article 14(3), in conjunction with Articles 9 and 19. Substantial partial loss of earning capacity likely to be permanent. (i) Resumption of Work for Persons with Partial Disability Scheme (WGA) wage-related benefits.* The Committee previously noted that the WGA wage-related benefits provided to persons with incapacity for work of between 35–80 per cent do not meet several provisions of the Convention. In particular, the Committee referred to: (i) the entitlement conditions, according to which a person is obligated to register as a jobseeker, make sufficient attempts to obtain suitable work, and accept an offer of such work (section 30 of the WIA); (ii) the requirement for qualifying period of employment for at least one working hour per calendar week in at least 26 calendar weeks (section 58 of the WIA), and (iii) payment duration, according to which the benefit is paid for at least three months and at most 24 months (section 59 of the WIA).

In its reply, the Government indicates that entitlement to benefits depends on efforts to reintegrate, thereby allowing people who are partially incapable of working to re-enter the labour market more quickly. According to the Government, this promotes greater solidarity within the disability scheme and stimulates people to reintegrate according to their abilities. The Government further indicates that if a person does not receive the WGA benefit in a wage-related phase, he/she will receive the WGA benefit in the follow-up phase.

In its observations, the FNV, the CNV and the VCP indicate that while persons with partial incapacity for work do want to integrate, employers do not hire them. Furthermore, according to the FNV, the CNV and the VCP, the disability scheme does not stimulate persons to reintegrate but instead punishes them.

Recalling the provisions of *Article 26(c)* of the Convention, the Committee acknowledges the importance of measures to further the placement of persons with disabilities in suitable employment with a view to facilitating their integration into the labour market. The Committee, however, recalls that subjecting the entitlement to cash employment injury benefits to an obligation to make use of the remaining earning capacity is not foreseen by the Convention (*Articles 9 and 14(3)*). The Committee also recalls that under *Article 9(2)* of the Convention, eligibility for benefits may not be made subject to the length of employment, to the duration of insurance or to the payment of contributions. Furthermore, the benefit shall be granted throughout the contingency, i.e. the entire period of disability (*Article 9(3)*). In relation to the Government's reference to the availability of the WGA benefit in the follow-up phase, the Committee draws the Government's attention to the issues raised below in this respect. ***The Committee therefore requests the Government to take the necessary measures to ensure that the WGA wage-related benefits meet the requirements for entitlement conditions, qualifying period and payment duration under Articles 9 and 14(3) of the Convention, should the Government wish to consider the WGA wage-related benefits for the purpose of the application of the Convention.***

*(ii) WGA wage supplement benefit. Entitlement conditions.* The Committee previously noted that the WGA wage supplement benefit was provided after the payment of the WGA wage-related benefit, or in case a person was not entitled to the WGA wage-related benefit (section 60 of the WIA). The Committee further observed that the WGA wage supplement benefit was subject to the income requirement that a person partially capable of work must earn per calendar month an income from work which is at least equal to 50 per cent of his or her remaining earning capacity (section 60 of the WIA).

In its reply, the Government indicates that if a person does not receive the WGA wage supplement benefit, he/she will receive the WGA benefit in the follow-up phase, which does not depend on the use of residual earning capacity.

The Committee recalls once again that the requirement to use the residual earning capacity as a condition for entitlement is not in conformity with the Convention, which guarantees entitlement to benefits at the prescribed level without regard to the residual earning capacity (*Articles 9 and 14(3)*). ***The Committee requests the Government to take the necessary measures to ensure the compliance of the entitlement conditions of the WGA wage supplement benefit with Articles 9 and 14(3) of the***

***Convention, should the Government wish to consider the WGA wage supplement benefit for the purpose of the application of the Convention.***

*(iii) WGA follow-up benefit. Benefit's level.* The Committee previously observed that the WGA follow-up benefit was a benefit calculated based on the legal minimum wage, rather than as a percentage of the beneficiary's previous wage. In this regard, the Government indicates that the level of the WGA benefit in the follow-up phase is a strong incentive to use the residual earning capacity. At the same time, the Government indicates that the drop in income for some persons, especially those who want to work but are unable to for various reasons, is significant when they receive the WGA follow-up benefit and may cause hardship. As part of the reforms to the disability scheme, the Government will review the question concerning the possible abolition of this benefit. This would mean that, in the follow-up phase of the WGA, people get a wage supplement benefit.

The Committee notes the observations of the FNV, the CNV and the VCP, indicating that the WGA follow-up benefit, determined as a percentage of the minimum wage, is well below the subsistence level. According to the FNV, the CNV and the VCP, persons are punished by the system if they can't find work and receive very low follow-up benefits. The FNV, the CNV and the VCP indicate that the OCTAS development plan proposes to abolish the WGA follow-up benefit and introduce a wage supplement benefit 2.0. In particular, this benefit remains linked to the previous salary. According to the FNV, the CNV and the VCP, persons with an assessed low degree of incapacity will still fall far short of the social minimum.

In its reply to the observations of the FNV, the CNV and the VCP, the Government emphasizes that the decision on replacing the follow-up benefit with the wage supplement benefit 2.0 has not been made yet. If the follow-up benefit is abolished, the Government will consider this new situation to ensure that people do not fall below the social minimum.

The Committee recalls that according to *Article 14(3)* of the Convention, the benefit for partial incapacity shall represent a suitable proportion of the benefit for total incapacity the level of which shall be at least of 60 per cent of the standard's beneficiary earnings (*Article 19 and Schedule II*). The Committee notes that the IVA benefit which is provided in case of total incapacity is determined as 75 per cent of the previous monthly wage (section 51 of the WIA). The Committee therefore considers that the WGA follow-up benefit does not represent a suitable proportion of the IVA benefit, particularly as regards persons with income above the legal minimum wage.

***The Committee requests the Government to take the necessary measures, to ensure that the level of the WGA follow-up benefit or any other benefits provided in respect of substantial partial incapacity due to employment injury represent a suitable proportion of the benefit provided in respect of total incapacity, in line with the requirements of Articles 14(3) and 19 of the Convention.***

*Reform of the disability scheme.* The Committee notes the Government's indication that it is currently exploring ways to adjust the Dutch disability scheme to ensure its improvement and simplification. The Government particularly refers to the research on the Dutch disability scheme conducted by the OCTAS in 2023-2024, which concluded that the disability scheme is too complex both for those who depend on it and for those who implement it. In particular, the Government indicates that while for many people, the disability scheme works as it should, for too many others, it causes problems. Moreover, according to the Government, the implementation of the system is under pressure. More specifically, the UWV, which executes the WIA, is dealing with extensive waiting times for social and medical assessments. Additionally, there are issues with the quality of these assessments, leading to some people receiving benefits that are either too high or too low. Addressing these problems increases the pressure on the UWV. The Government further indicates that the initial measures to reform the disability scheme will focus on improving its functioning, while more structural changes are planned for the longer term. The Government emphasizes that this is a long-term process.

In its observations, the FNV, the CNV, and the VCP indicate the developments that have been made in relation to the WIA, including the conduct of the OCTAS research, organization by the Commission on Social Affairs and Employment of a round table meeting on issues concerning the WIA system taken place in Parliament on 8 April 2025, as well as a report elaborated by the Ministry of Social Affairs and Employment to analyse the Dutch disability scheme and the requirements of the Convention. The FNV, the CNV and the VCP emphasize that, despite all the meetings and discussions, little has improved in practice, meaning that their observations and critical remarks about the Dutch disability scheme remain highly relevant. In relation to the Government's indication concerning the complexity of the disability scheme, the FNV, the CNV, and the VCP emphasize that it is more a matter of many hardships within the scheme than merely its complexity. The FNV, the CNV, and the VCP further highlight that the responsibility for the execution of the WIA primarily lies with the Government.

While taking due note of the Government's stated intention to reform the disability scheme and the measures undertaken in this respect, the Committee notes once again that the cash benefits provided under the WIA do not ensure the level of protection set out in the Convention on a range of issues. ***The Committee trusts that the Government will ensure, in full consultation with the most representative workers' and employers' organizations, that the Dutch disability scheme complies with the requirements of the Convention in the context of the ongoing reforms. It further requests the Government to provide information on the measures taken and the results achieved in this respect. The Committee also reminds the Government of the possibility to avail itself of ILO technical assistance in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

## Nicaragua

**Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)** (ratification: 1934)

**Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (ratification: 1934)

**Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)**  
(ratification: 1934)

**Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)**  
(ratification: 1934)

**Sickness Insurance (Industry) Convention, 1927 (No. 24)** (ratification: 1934)

**Sickness Insurance (Agriculture) Convention, 1927 (No. 25)** (ratification: 1934)

The Committee notes that the Government's reports have not been received. It is therefore bound to repeat its previous comments.

In order to provide an overview of matters relating to the application of the ratified Conventions on social security, the Committee considers it appropriate to examine the application of Conventions Nos 12, 17, 18, 19, 24 and 25 in a single comment.

*Article 1 of Conventions Nos 12, 17, 18, 19, 24 and 25.* In its previous comments, the Committee emphasized the need to extend the coverage of the social security system and requested the Government to provide information on the progress made in this regard. As the Government's report does not contain specific information on this subject, the Committee notes the information contained in the Statistical Yearbook 2020, published in February 2021 by the Nicaraguan Social Security Institute (INSS), which shows that the numbers of persons registered with the social security system have fallen constantly since 2016, with a reduction of 27 per cent in the number of insured persons as a proportion of the economically active population and 35 per cent as a proportion of the population that is actually employed. The total number of insured persons fell from 914,196 in 2017 to 714,465 in 2020 (p. 328). The Committee also observes that the proportion of the population covered by sickness insurance has decreased, as has the number of newly