

# **COLLECTION OF TREATIES – MIGRATION**

Summaries and texts of treaties

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*Compilation des traités – migration*

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## Introduction

The presence of migrants in the member states of the Council of Europe is an important social and economic phenomenon. Migrants are an integral part of modern European society; their legal situation, however, may vary from one member state to another.

The fact that migrants cross frontiers and that their place of work and residence changes should not have a negative impact on their rights and should not lead to social or economic marginalisation. This is why equal treatment between migrant workers and nationals is the principle which the Council of Europe supports, both for migration purposes and for social protection. Access to social rights for all is in fact one of the pillars of the social cohesion strategy which the Council of Europe is committed to promoting.

According to statistics, 80% of foreigners living in Europe are originally from another member state, and it is in the interest of Council of Europe member states to ratify and sign the conventions set out hereafter, which are intended to protect migrant workers and, in general, people who move around in Europe for a variety of reasons.

The objective of this publication is to reply to the growing interest of the specialists and the general public in questions concerning the rights of migrants by making available the main texts published by the Council of Europe in this field.

This compilation does not pretend to be exhaustive, but contains the essential texts which the Council of Europe has produced on migrants' rights.

For further information concerning the activities of the Council of Europe in the area of migration, including explanatory reports for certain legal texts contained in this publication, you may consult our web site:  
[http://www.coe.int/T/E/Social\\_Cohesion/Migration](http://www.coe.int/T/E/Social_Cohesion/Migration).



## Summaries of treaties

**European Convention on the Legal Status of Migrant Workers (ETS No. 93)**, opened for signature by the member states of the Council of Europe, in Strasbourg, on 24 November 1977.

Entry into force: 1 May 1983.

### *Summary of the treaty*

This convention is concerned with the principal aspects of the legal situation of migrant workers, in particular recruitment, medical examinations, occupational tests, travel, residence permits, work permits, the reuniting of families, working conditions, the transfer of savings and social security, social and medical assistance, the expiry of work contracts, dismissal and re-employment.

A consultative committee was instituted to examine parties' reports on the application of the convention. On the basis of these documents, the consultative committee draws up reports for the attention of the Committee of Ministers.

\* \* \*

**European Convention on Establishment (ETS No. 19)**, opened for signature by the members of the Council of Europe, in Paris, on 13 December 1955.

Entry into force: 23 February 1965.

### *Summary of the treaty*

Under this convention, each party guarantees to nationals of the other parties the following advantages: facilitation of prolonged or permanent residence in its territory; guarantees against possible expulsion; treatment equal to that enjoyed by nationals in respect of the possession and exercise of private rights; legal and judicial protection; and the right to engage in gainful occupations (industrial, commercial, financial and agricultural occupations, skilled crafts and professions), under certain conditions laid down in the convention.

\* \* \*

**Convention on the Recognition of Qualifications concerning Higher Education in the European Region (ETS No. 165)**, opened for signature by the member states of the Council of Europe, the member states of the Unesco Europe Region, any other signatory, contracting state or party to the European Cultural Convention of the Council of Europe and/or to the Unesco Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher

Education in the States belonging to the Europe Region, which have been invited to the diplomatic conference entrusted with the adoption of this convention, in Lisbon, on 11 April 1997.

Entry into force: 1 February 1999.

*Summary of the treaty*

The convention has been jointly drafted by the Council of Europe and Unesco. It is designed to streamline the legal framework at European level and to replace in the long run six conventions adopted in this matter by the Council of Europe or Unesco<sup>1</sup>.

The convention aims to facilitate the recognition of qualifications granted in one party in another party. It provides that requests should be assessed in a fair manner and within a reasonable time. The recognition can only be refused if the qualification is substantially different from that of the host country – and the onus is on its educational institution to prove that it is.

Each state, the Holy See or the European Community informs either depository of the convention of the competent authorities for making different categories of decisions in recognition cases.

Two bodies, namely the Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region and the European Network of National Information Centres on Academic Mobility and Recognition (the ENIC Network) are to oversee, promote and facilitate the implementation of the convention.

The committee is responsible for promoting the application of the convention and overseeing its implementation. To this end, it can adopt, by a majority of the parties, recommendations, declarations, protocols and models of good practice to guide the competent authorities of the parties. Before making its decisions, the committee seeks the opinion of the ENIC Network. As for the ENIC Network, it upholds and assists the practical implementation of the convention by the competent national authorities.

\* \* \*

1. The following treaties are concerned:

- European Convention on the Equivalence of Diplomas leading to Admission to Universities (1953, ETS No. 15), and its Protocol (1964, ETS No. 49);
- European Convention on the Equivalence of Periods of University Study (1956, ETS No. 21);
- European Convention on the Academic Recognition of University Qualifications (1959, ETS No. 32);
- International Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European States bordering on the Mediterranean (1976),
- Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region (1979);
- European Convention on the General Equivalence of Periods of University Study (1990, ETS No. 138).



**European Agreement on “au pair” Placement (ETS No. 68)**, opened for signature by the member states of the Council of Europe, in Strasbourg, on 24 November 1969.

Entry into force: 30 May 1971.

*Summary of the treaty*

The purpose of this agreement is to avoid certain drawbacks of “au pair” placement, and to this end it contains precise provisions on the relationship between the host family and the young person placed “au pair” (who is considered to be neither a worker nor a student). Some provisions must be applied (e.g. the requirement that there be a written agreement, the rules on the obligations of the two sides in respect of working hours, free time, pocket money, etc.). The Council of Europe has drawn up a model contract for young persons placed “au pair”.

\* \* \*

**European Interim Agreement on Social Security Schemes relating to Old Age, Invalidity and Survivors (ETS No. 12)**, opened for signature by the members of the Council of Europe, in Paris, on 11 December 1953.

Entry into force: 1 July 1954.

*Summary of the treaty*

The agreement concerns social security schemes relating respectively to old age, invalidity and survivors. It provides for nationals of any one of the parties to be entitled to receive the benefit of the laws and regulations of any other party, under the same conditions as if person were a national of the latter, provided that certain conditions of residence are fulfilled.

The protocol<sup>1</sup> extends the benefit of the provisions of the agreement (ETS No. 12) to refugees.

\* \* \*

**European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors (ETS No. 13)**, opened for signature by the members of the Council of Europe, in Paris, on 11 December 1953.

Entry into force: 1 July 1954.

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1. **Protocol to European Interim Agreement on Social Security Schemes relating to Old Age, Invalidity and Survivors (ETS No. 12a)**, opened for signature by the members of the Council of Europe who have signed the principal agreement, in Strasbourg, on 11 December 1953, and entered into force on 1 October 1954.

*Summary of the treaty*

The agreement concerns social security schemes other than schemes provided by European Interim Agreement on Social Security Schemes relating to Old Age, Invalidity and Survivors (ETS No. 12). It provides for nationals of any one of the parties to be entitled to receive the benefit of the laws and regulations of any other party, under the same conditions as if the person were a national of the latter, providing that certain conditions of residence are fulfilled.

The protocol<sup>1</sup> extends the benefit of the provisions of the agreement (ETS No. 13) to refugees.

\* \* \*

**European Convention on Social Security and Supplementary Agreement for the Application of the European Convention on Social Security (ETS No. 78)**, opened for signature by the member states of the Council of Europe, in Paris, on 14 December 1972.

Entry into force: 1 March 1977.

*Summary of the treaty*

The basis of the European Convention on Social Security consists of the four basic principles of international social security law, to wit: equality of treatment, single set of legislation applicable, maintenance of acquired rights and rights in the course of acquisition, and the payment of benefits abroad.

The following parts of the convention are immediately applicable :

- the general provisions, covering, in particular, the definition of the substantive and personal field of application of the convention and the fundamental principles of equality of treatment and maintenance of acquired rights;
- the provisions which determine the legislation applicable;
- the parts concerning the cumulation of periods conferring entitlement and the calculation of benefits in all branches covered by the convention;
- the special provisions governing invalidity, old age and survivors' pensions, and compensation for occupational accidents and diseases; and
- the miscellaneous, transitional and final provisions.

The application of special provisions concerning sickness and maternity, unemployment and family benefits, with the exception of the cumulation of periods,

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1. **Protocol to European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors (ETS No. 13a)**, opened for signature by the members of the Council of Europe who have signed the principal agreement, in Strasbourg, on 11 December 1953, and entered into force on 1 October 1954.

however, remains subject to the conclusion of bilateral or multilateral agreements between the parties.

The convention is applicable to all legislation relating to the branches of social security concerning:

- a. sickness and maternity benefits;
- b. invalidity benefits;
- c. old-age benefits;
- d. survivors' benefits;
- e. occupational injury and disease benefits;
- f. death grants;
- g. unemployment benefits;
- h. family benefits.

The convention applies to all persons who are nationals of a party – as well as refugees or stateless persons resident in the territory of a party – and who are or have been subject to the legislation of one or more of the parties, as well as the members of their families and their survivors. The provisions of the convention shall also be applicable to the survivors of persons who, without having been nationals of a party, were subject to the legislation of one or more of the parties, where the survivors are nationals of a party.

The supplementary agreement<sup>1</sup> contains the provisions necessary for the application of the convention norms which are immediately applicable. It covers, among other things, relations among social security institutions and procedure to be followed for settling and paying benefits that are due in conformity with the convention. It also acts as a guide for the convention provisions which will not be applicable until bilateral agreements have been concluded.

\* \* \*

**European Convention on Social and Medical Assistance (ETS No. 14)**, opened for signature by the members of the Council of Europe, in Paris, on 11 December 1953.

Entry into force: 1 July 1954.

*Summary of the treaty*

Under this convention, parties undertake to ensure that the nationals of other parties, who are lawfully present in their territory and who are without sufficient

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1. **Supplementary Agreement for the Application of the European Convention on Social Security (ETS No. 78a)**, opened for signature by the member states of the Council of Europe which have signed the convention, in Paris, on 14 December 1972, and entered into force on 1 March 1977.

resources, are entitled to the same social and medical assistance as their own nationals.

The protocol<sup>1</sup> extends the benefit of the provisions of the convention (ETS No. 14) to refugees.

\* \* \*

**Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144)**, opened for signature by the member states of the Council of Europe, in Strasbourg, on 5 February 1992.

Entry into force: 1 May 1997.

*Summary of the treaty*

The convention aims to improve integration of foreign residents into the life of the community. It applies to all persons who are not nationals of the party and who are lawfully resident on its territory.

The convention provides that the parties undertake to guarantee to foreign residents, on the same terms as to its own nationals, the “classical rights” of freedom of expression, assembly and association, including the right to form trade unions. Moreover, the parties will make efforts to involve foreign residents in processes of consultation on local matters. Under some conditions provided by law, the rights of freedom of expression and of assembly may be restricted.

The convention opens the possibility of creating consultative bodies at local level elected by the foreign residents in the local authority area or appointed by individual associations of foreign residents.

The convention provides also that the parties may undertake to grant to every foreign resident the right to vote in local elections, after five years of lawful and habitual residence in the host country, and to stand for election.

The parties are to inform foreign residents about their rights and obligations in relation to local public life. Parties to the convention must keep the Secretary General of the Council of Europe informed about developments in the participation of foreign nationals in local public life.

\* \* \*

**European Convention on Nationality (ETS No. 166)**, opened for signature by the member states of the Council of Europe and the non-member states which have participated in its elaboration, in Strasbourg, on 6 November 1997.

Entry into force: 1 March 2000.

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1. **Protocol to European Convention on Social and Medical Assistance (ETS No. 14a)**, opened for signature by the members of the Council of Europe who have signed the principal agreement, in Strasbourg, on 11 December 1953, and entered into force on 1 October 1954.

*Summary of the treaty*

The convention, which does not amend the 1963 convention, and is not incompatible with it, lays down principles and rules which the parties undertake to comply with in respect of the nationality of natural persons.

The convention is intended to facilitate the acquisition of nationality and reintegration into the nationality of origin. At the same time, it tends to limit the possibility of loss of nationality and to prevent arbitrary withdrawal of nationality. In this respect, the convention provides that each party shall guarantee that applications linked to nationality may be the subject of an administrative or judicial appeal, in accordance with its domestic legislation.

The convention fixes a legal framework for co-operation between parties on these matters. Its provisions apply to persons who risk statelessness as a result of state succession, to persons having multiple nationality and to those persons subject to military obligations.

The convention provides that each party determines, through its own legislation, which are its nationals. At the same time, it enshrines the principles of the prevention of statelessness, non-discrimination and respect for the human rights of the persons lawfully and habitually resident on its territory.

In order to facilitate co-operation, the parties undertake to communicate to the Secretary General of the Council of Europe, information about their domestic legislation relating to nationality, and to provide each other on request with information about their domestic legislation on nationality and about developments concerning the application of the convention.

\* \* \*



**European Treaty Series – No. 93**

## **European Convention on the Legal Status of Migrant Workers**

*Strasbourg, 24.XI.1977*

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress while respecting human rights and fundamental freedoms;

Considering that the legal status of migrant workers who are nationals of Council of Europe member States should be regulated so as to ensure that as far as possible they are treated no less favourably than workers who are nationals of the receiving State in all aspects of living and working conditions;

Being resolved to facilitate the social advancement of migrant workers and members of their families;

Affirming that the rights and privileges which they grant to each other's nationals are conceded by virtue of the close association uniting the member States of the Council of Europe by means of its Statute,

Have agreed as follows:

### **Chapter I**

#### *Article 1 – Definition*

1 For the purpose of this Convention, the term “migrant worker” shall mean a national of a Contracting Party who has been authorised by another Contracting Party to reside in its territory in order to take up paid employment.

2 This Convention shall not apply to:

- a frontier workers;
- b artists, other entertainers and sportsmen engaged for a short period and members of a liberal profession;
- c seamen;
- d persons undergoing training;
- e seasonal workers; seasonal migrant workers are those who, being nationals of a Contracting Party, are employed on the territory of another

Contracting Party in an activity dependent on the rhythm of the seasons, on the basis of a contract for a specified period or for specified employment;

- f workers, who are nationals of a Contracting Party, carrying out specific work in the territory of another Contracting Party on behalf of an undertaking having its registered office outside the territory of that Contracting Party.

## **Chapter II**

### *Article 2 – Forms of recruitment*

1 The recruitment of prospective migrant workers may be carried out either by named or by unnamed request and in the latter case shall be effected through the intermediary of the official authority in the State of origin if such an authority exists and, where appropriate, through the intermediary of the official authority of the receiving State.

2 The administrative costs of recruitment, introduction and placing, when these operations are carried out by an official authority, shall not be borne by the prospective migrant worker.

### *Article 3 – Medical examinations and vocational test*

1 Recruitment of prospective migrant workers may be preceded by a medical examination and a vocational test.

2 The medical examination and the vocational test are intended to establish whether the prospective migrant worker is physically and mentally fit and technically qualified for the job offered to him and to make certain that his state of health does not endanger public health.

3 Arrangements for the reimbursement of expenses connected with medical examination and vocational test shall be laid down when appropriate by bilateral agreements, so as to ensure that such expenses do not fall upon the prospective migrant worker.

4 A migrant worker to whom an individual offer of employment is made shall not be required, otherwise than on grounds of fraud, to undergo a vocational test except at the employer's request.

### *Article 4 – Right of exit – Right to admission – Administrative formalities*

- 1 Each Contracting Party shall guarantee the following rights to migrant workers:
- the right to leave the territory of the Contracting Party of which they are nationals;



- the right to admission to the territory of a Contracting Party in order to take up paid employment after being authorised to do so and obtaining the necessary papers.

2 These rights shall be subject to such limitations as are prescribed by legislation and are necessary for the protection of national security, public order, public health or morals.

3 The papers required of the migrant worker for emigration and immigration shall be issued as expeditiously as possible free of charge or on payment of an amount not exceeding their administrative cost.

#### *Article 5 – Formalities and procedure relating to the work contract*

Every migrant worker accepted for employment shall be provided prior to departure for the receiving State with a contract of employment or a definite offer of employment, either of which may be drawn up in one or more of the languages in use in the State of origin and in one or more of the languages in use in the receiving State. The use of at least one language of the State of origin and one language of the receiving State shall be compulsory in the case of recruitment by an official authority or an officially recognised employment bureau.

#### *Article 6 – Information*

1 The Contracting Parties shall exchange and provide for prospective migrants appropriate information on their residence, conditions of and opportunities for family reunion, the nature of the job, the possibility of a new work contract being concluded after the first has lapsed, the qualifications required, working and living conditions (including the cost of living), remuneration, social security, housing, food, the transfer of savings, travel, and on deductions made from wages in respect of contributions for social protection and social security, taxes and other charges. Information may also be provided on the cultural and religious conditions in the receiving State.

2 In the case of recruitment through an official authority of the receiving State, such information shall be provided, before his departure, in a language which the prospective migrant worker can understand, to enable him to take a decision in full knowledge of the facts. The translation, where necessary, of such information into a language that the prospective migrant worker can understand shall be provided as a general rule by the State of origin.

3 Each Contracting Party undertakes to adopt the appropriate steps to prevent misleading propaganda relating to emigration and immigration.

#### *Article 7 – Travel*

1 Each Contracting Party undertakes to ensure, in the case of official collective recruitment, that the cost of travel to the receiving State shall never be borne by the migrant worker. The arrangements for payment shall be determined under

bilateral agreements, which may also extend these measures to families and to workers recruited individually.

2 In the case of migrant workers and their families in transit through the territory of one Contracting Party en route to the receiving State, or on their return journey to the State of origin, all steps shall be taken by the competent authorities of the transit State to expedite their journey and prevent administrative delays and difficulties.

3 Each Contracting Party shall exempt from import duties and taxes at the time of entry into the receiving State and of the final return to the State of origin and in transit:

- a the personal effects and movable property of migrant workers and members of their family belonging to their household;
- b a reasonable quantity of hand-tools and portable equipment necessary for the occupation to be engaged in.

The exemptions referred to above shall be granted in accordance with the laws or regulations in force in the States concerned.

### **Chapter III**

#### *Article 8 – Work permit*

1 Each Contracting Party which allows a migrant worker to enter its territory to take up paid employment shall issue or renew a work permit for him (unless he is exempt from this requirement), subject to the conditions laid down in its legislation.

2 However, a work permit issued for the first time may not as a rule bind the worker to the same employer or the same locality for a period longer than one year.

3 In case of renewal of the migrant worker's work permit, this should as a general rule be for a period of at least one year, in so far as the current state and development of the employment situation permits.

#### *Article 9 – Residence permit*

1 Where required by national legislation, each Contracting Party shall issue residence permits to migrant workers who have been authorised to take up paid employment on their territory under conditions laid down in this Convention.

2 The residence permit shall in accordance with the provisions of national legislation be issued and, if necessary, renewed for a period as a general rule at least as long as that of the work permit. When the work permit is valid indefinitely, the residence permit shall as a general rule be issued and, if necessary, renewed for a period of at least one year. It shall be issued and renewed free of charge or for a sum covering administrative costs only.

3 The provisions of this Article shall also apply to members of the migrant worker's family who are authorised to join him in accordance with Article 12 of this Convention.

4 If a migrant worker is no longer in employment, either because he is temporarily incapable of work as a result of illness or accident or because he is involuntarily unemployed, this being duly confirmed by the competent authorities, he shall be allowed for the purpose of the application of Article 25 of this Convention to remain on the territory of the receiving State for a period which should not be less than five months.

Nevertheless, no Contracting Party shall be bound, in the case provided for in the above sub-paragraph, to allow a migrant worker to remain for a period exceeding the period of payment of the unemployment allowance.

5 The residence permit, issued in accordance with the provisions of paragraphs 1 to 3 of this Article, may be withdrawn:

- a for reasons of national security, public policy or morals;
- b if the holder refuses, after having been duly informed of the consequences of such refusal, to comply with the measures prescribed for him by an official medical authority with a view to the protection of public health;
- c if a condition essential to its issue or validity is not fulfilled.

Each Contracting Party nevertheless undertakes to grant to migrant workers whose residence permits have been withdrawn, an effective right to appeal, in accordance with the procedure for which provision is made in its legislation, to a judicial or administrative authority.

#### *Article 10 – Reception*

1 After arrival in the receiving State, migrant workers and members of their families shall be given all appropriate information and advice as well as all necessary assistance for their settlement and adaptation.

2 For this purpose, migrant workers and members of their families shall be entitled to help and assistance from the social services of the receiving State or from bodies working in the public interest in the receiving State and to help from the consular authorities of their State or origin. Moreover, migrant workers shall be entitled, on the same basis as national workers, to help and assistance from the employment services. However, each Contracting Party shall endeavour to ensure that special social services are available, whenever the situation so demands, to facilitate or co-ordinate the reception of migrant workers and their families.

3 Each Contracting Party undertakes to ensure that migrant workers and members of their families can worship freely, in accordance with their faith; each Contracting Party shall facilitate such worship, within the limit of available means.

*Article 11 – Recovery of sums due in respect of maintenance*

1 The status of migrant workers must not interfere with the recovery of sums due in respect of maintenance to persons in the State of origin to whom they have maintenance obligations arising from a family relationship, parentage, marriage or affinity, including a maintenance obligation in respect of a child who is not legitimate.

2 Each Contracting Party shall take the steps necessary to ensure the recovery of sums due in respect of such maintenance, making use as far as possible of the form adopted by the Committee of Ministers of the Council of Europe.

3 As far as possible, each Contracting Party shall take steps to appoint a single national or regional authority to receive and despatch applications for sums due in respect of maintenance provided for in paragraph 1 above.

4 This Article shall not affect existing or future bilateral or multilateral agreements.

*Article 12 – Family reunion*

1 The spouse of a migrant worker who is lawfully employed in the territory of a Contracting Party and the unmarried children thereof, as long as they are considered to be minors by the relevant law of the receiving State, who are dependent on the migrant worker, are authorised on conditions analogous to those which this Convention applies to the admission of migrant workers and according to the admission procedure prescribed by such law or by international agreements to join the migrant worker in the territory of a Contracting Party, provided that the latter has available for the family housing considered as normal for national workers in the region where the migrant worker is employed. Each Contracting Party may make the giving of authorisation conditional upon a waiting period which shall not exceed twelve months.

2 Any State may, at any time, by declaration addressed to the Secretary General of the Council of Europe, which shall take effect one month after the date of receipt, make the family reunion referred to in paragraph 1 above further conditional upon the migrant worker having steady resources sufficient to meet the needs of his family.

3 Any State may, at any time, by declaration addressed to the Secretary General of the Council of Europe, which shall take effect one month after the date of its receipt, derogate temporarily from the obligation to give the authorisation provided for in paragraph 1 above, for one or more parts of its territory which it shall designate in its declaration, on the condition that these measures do not conflict with obligations under other international instruments. The declarations shall state the special reasons justifying the derogation with regard to receiving capacity.

Any State availing itself of this possibility of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and shall ensure that these measures are published as soon as possible.

It shall also inform the Secretary General of the Council of Europe when such measures cease to operate and the provisions of the Convention are again being fully executed.

The derogation shall not, as a general rule, affect requests for family reunion submitted to the competent authorities, before the declaration is addressed to the Secretary General, by migrant workers already established in the part of the territory concerned.

#### *Article 13 – Housing*

1 Each Contracting Party shall accord to migrant workers, with regard to access to housing and rents, treatment not less favourable than that accorded to its own nationals, insofar as this matter is covered by domestic laws and regulations.

2 Each Contracting Party shall ensure that the competent national authorities carry out inspections in appropriate cases in collaboration with the respective consular authorities, acting within their competence, to ensure that standards of fitness of accommodation are kept up for migrant workers as for its own nationals.

3 Each Contracting Party undertakes to protect migrant workers against exploitation in respect of rents, in accordance with its laws and regulations on the matter.

4 Each Contracting Party shall ensure, by the means available to the competent national authorities, that the housing of the migrant worker shall be suitable.

#### *Article 14 – Pretraining – Schooling – Linguistic training – Vocational training and retraining*

1 Migrant workers and members of their families officially admitted to the territory of a Contracting Party shall be entitled, on the same basis and under the same conditions as national workers, to general education and vocation training and retraining and shall be granted access to higher education according to the general regulations governing admission to respective institutions in the receiving State.

2 To promote access to general and vocational schools and to vocational training centres, the receiving State shall facilitate the teaching of its language or, if there are several, one of its languages to migrant workers and members of their families.

3 For the purpose of the application of paragraphs 1 and 2 above, the granting of scholarships shall be left to the discretion of each Contracting Party which shall make efforts to grant the children of migrant workers living with their families in the receiving State – in accordance with the provisions of Article 12 of

this Convention – the same facilities in this respect as the receiving State's nationals.

4 The workers' previous attainments, as well as diplomas and vocational qualifications acquired in the State of origin, shall be recognised by each Contracting Party in accordance with arrangements laid down in bilateral and multilateral agreements.

5 The Contracting Parties concerned, acting in close co-operation shall endeavour to ensure that the vocational training and retraining schemes, within the meaning of this Article, cater as far as possible for the needs of migrant workers with a view to their return to their State of origin.

*Article 15 – Teaching of the migrant worker's mother tongue*

The Contracting Parties concerned shall take actions by common accord to arrange, so far as practicable, for the migrant worker's children, special courses for the teaching of the migrant worker's mother tongue, to facilitate, inter alia, their return to their State of origin.

*Article 16 – Conditions of work*

1 In the matter of conditions of work, migrant workers authorised to take up employment shall enjoy treatment not less favourable than that which applies to national workers by virtue of legislative or administrative provisions, collective labour agreement or custom.

2 It shall not be possible to derogate by individual contract from the principle of equal treatment referred to in the foregoing paragraph.

*Article 17 – Transfer of savings*

1 Each Contracting Party shall permit, according to the agreements laid down by its legislation, the transfer of all or such parts of the earnings and savings of migrant workers as the latter may wish to transfer.

This provision shall apply also to the transfer of sums due by migrant workers in respect of maintenance. The transfer of sums due by migrant workers in respect of maintenance shall on no account be hindered or prevented.

2 Each Contracting Party shall permit, under bilateral agreements or by other means, the transfer of such sums as remain due to migrant workers when they leave the territory of the receiving State.

*Article 18 – Social Security*

1 Each Contracting Party undertakes to grant within its territory, to migrant workers and members of their families, equality of treatment with its own nationals, in the matter of social security, subject to conditions required by

national legislation and by bilateral or multilateral agreements already concluded or to be concluded between the Contracting Parties concerned.

2 The Contracting Parties shall moreover endeavour to secure to migrant workers and members of their families the conservation of rights in course of acquisition and acquired rights, as well as provision of benefits abroad, through bilateral and multilateral agreements.

*Article 19 – Social and Medical Assistance*

Each Contracting Party undertakes to grant within its territory, to migrant workers and members of their families who are lawfully present in its territory, social and medical assistance on the same basis as nationals in accordance with the obligations it has assumed by virtue of other international agreements and in particular of the European Convention on Social and Medical Assistance of 1953.

*Article 20 – Industrial accidents and occupational diseases – Industrial hygiene*

1 With regard to the prevention of industrial accidents and occupational diseases and to industrial hygiene, migrant workers shall enjoy the same rights and protection as national workers, in application of the laws of a Contracting Party and collective agreements and having regard to their particular situation.

2 A migrant worker who is victim of an industrial accident or who has contracted an occupational disease in the territory of the receiving State shall benefit from occupational rehabilitation on the same basis as national workers.

*Article 21 – Inspection of working conditions*

Each Contracting Party shall inspect or provide for inspection of the conditions of work of migrant workers in the same manner as for national workers. Such inspection shall be carried out by the competent bodies or institutions of the receiving State and by any other authority authorised by the receiving State.

*Article 22 – Death*

Each Contracting Party shall take care, within the framework of its laws and, if need be, within the framework of bilateral agreements, that steps are taken to provide all help and assistance necessary for the transport to the State of origin of the bodies of migrant workers deceased as the result of an industrial accident.

*Article 23 – Taxation on earnings*

1 In the matter of earnings and without prejudice to the provisions on double taxation contained in agreements already concluded or which may in future be concluded between Contracting Parties, migrant workers shall not be liable, in the territory of a Contracting Party, to duties, charges, taxes or contributions of any description whatsoever either higher or more burdensome than those imposed on nationals in similar circumstances. In particular, they shall be

entitled to deductions or exemptions from taxes or charges and to all allowances, including allowance for dependants.

2 The Contracting Parties shall decide between themselves, by bilateral or multilateral agreements on double taxation, what measures might be taken to avoid double taxation on the earnings of migrant workers.

*Article 24 – Expiry of contract and discharge*

1 On the expiry of a work contract concluded for a special period at the end of the period agreed on and in the case of anticipated cancellation of such a contract or cancellation of a work contract for an unspecified period, migrant workers shall be accorded treatment not less favourable than that accorded to national workers under the provisions of national legislation or collective labour agreements.

2 In the event of individual or collective dismissal, migrant workers shall receive the treatment applicable to national workers under national legislation or collective labour agreements, as regards the form and period of notice, the compensation provided for in legislation or agreements or such as may be due in cases of unwarranted cancellation of their work contracts.

*Article 25 – Re-employment*

1 If a migrant worker loses his job for reasons beyond his control, such as redundancy or prolonged illness, the competent authority of the receiving State shall facilitate his re-employment in accordance with the laws and regulations of that State.

2 To this end the receiving State shall promote the measures necessary to ensure, as far as possible, the vocational retraining and occupational rehabilitation of the migrant worker in question, provided that he intends to continue in employment in the State concerned afterwards.

*Article 26 – Right of access to the courts and administrative authorities in the receiving State*

1 Each Contracting Party shall secure to migrant workers treatment not less favourable than that of its own nationals in respect of legal proceedings. Migrant workers shall be entitled, under the same conditions as nationals, to full legal and judicial protection of their persons and property and of their rights and interests; in particular, they shall have, in the same manner as nationals, the right of access to the competent courts and administrative authorities, in accordance with the law of the receiving State, and the right to obtain the assistance of any person of their choice who is qualified by the law of that State, for instance in disputes with employers, members of their families or third parties. The rules of private international law of the receiving State shall not be affected by this Article.



2 Each Contracting Party shall provide migrant workers with legal assistance on the same conditions as for their own nationals and, in the case of civil or criminal proceedings, the possibility of obtaining the assistance of an interpreter where they cannot understand or speak the language used in court.

*Article 27 – Use of employment services*

Each Contracting Party recognises the right of migrant workers and of the members of their families officially admitted to its territory to make use of employment services under the same conditions as national workers subject to the legal provisions and regulations and administrative practice, including conditions of access, in force in that State.

*Article 28 – Exercise of the right to organise*

Each Contracting Party shall allow to migrant workers the right to organise for the protection of their economic and social interests on the conditions provided for by national legislation for its own nationals.

*Article 29 – Participation in the affairs of the undertaking*

Each Contracting Party shall facilitate as far as possible the participation of migrant workers in the affairs of the undertaking on the same conditions as national workers.

**Chapter IV**

*Article 30 – Return home*

1 Each Contracting Party shall, as far as possible, take appropriate measures to assist migrant workers and their families on the occasion of their final return to their State of origin, and in particular the steps referred to in paragraphs 2 and 3 of Article 7 of this Convention. The provision of financial assistance shall be left to the discretion of each Contracting Party.

2 To enable migrant workers to know, before they set out on their return journey, the conditions on which they will be able to resettle in their State of origin, this State shall communicate to the receiving State, which shall keep available for those who request it, information regarding in particular:

- possibilities and conditions of employment in the State of origin;
- financial aid granted for economic reintegration;
- the maintenance of social security rights acquired abroad;
- steps to be taken to facilitate the finding of accommodation;
- equivalence accorded to occupational qualifications obtained abroad and any tests to be passed to secure their official recognition;
- equivalence accorded to educational qualifications, so that migrant workers' children can be admitted to schools without down-grading.

## **Chapter V**

### *Article 31 – Conservation of acquired rights*

No provision of this Convention may be interpreted as justifying less favourable treatment than that enjoyed by migrant workers under the national legislation of the receiving State or under bilateral and multilateral agreements to which that State is a Contracting Party.

### *Article 32 – Relations between this Convention and the laws of the Contracting Parties or international agreements*

The provisions of this Convention shall not prejudice the provisions of the laws of the Contracting Parties or of any bilateral or multilateral treaties, conventions, agreements or arrangements, as well as the steps taken to implement them, which are already in force, or may come into force, and under which more favourable treatment has been, or would be, accorded to the persons protected by the Convention.

### *Article 33 – Application of the Convention*

- 1 A Consultative Committee shall be set up within a year of the entry into force of this Convention.
- 2 Each Contracting Party shall appoint a representative to the Consultative Committee. Any other member State of the Council of Europe may be represented by an observer with the right to speak.
- 3 The Consultative Committee shall examine any proposals submitted to it by one of the Contracting Parties with a view to facilitating or improving the application of the Convention, as well as any proposal to amend it.
- 4 The opinions and recommendations of the Consultative Committee shall be adopted by a majority of the members of the Committee; however, proposals to amend the Convention shall be adopted unanimously by the members of the Committee.
- 5 The opinions, recommendations and proposals of the Consultative Committee referred to above shall be addressed to the Committee of Ministers of the Council of Europe, which shall decide on the action to be taken.
- 6 The Consultative Committee shall be convened by the Secretary General of the Council of Europe and shall meet, as a general rule, at least once every two years and, in addition, whenever at least two Contracting Parties or the Committee of Ministers so requests. The committee shall also meet at the request of one Contracting Party whenever the provisions of paragraph 3 of Article 12 are applied.
- 7 The Consultative Committee shall draw up periodically, for the attention of the Committee of Ministers, a report containing information regarding the laws

and regulations in force in the territory of the Contracting Parties in respect of matters provided for in this Convention.

## **Chapter VI**

### *Article 34 – Signature, ratification and entry into force*

1 This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2 This Convention shall enter into force on the first day of the third month following the date of the deposit of the fifth instrument of ratification, acceptance or approval.

3 In respect of a signatory State ratifying, approving or accepting subsequently, the Convention shall enter into force on the first day of the third month following the date of the deposit of its instrument of ratification, acceptance or approval.

### *Article 35 – Territorial scope*

1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval or at any later date, by declaration to the Secretary General of the Council of Europe, extend the application of this Convention to all or any of the territories for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

2 Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn. Such withdrawal shall take effect six months after receipt by the Secretary General of the Council of Europe of the declaration of withdrawal.

### *Article 36 – Reservations*

1 Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, make one or more reservations which may relate to no more than nine articles of Chapters II to IV inclusive, other than Articles 4, 8, 9, 12, 16, 17, 20, 25, 26.

2 Any Contracting Party may, at any time, wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary General of the Council of Europe, which shall become effective as from the date of its receipt.

*Article 37 – Denunciation of the Convention*

1 Each Contracting Party may denounce this Convention by notification addressed to the Secretary General of the Council of Europe, which shall take effect six months after the date of its receipt.

2 No denunciation may be made within five years of the date of the entry into force of the Convention in respect of the Contracting Party concerned.

3 Each Contracting Party which ceases to be a member of the Council of Europe shall cease to be a Party to this Convention six months after the date on which it loses its quality as a member of the Council of Europe.

*Article 38 – Notifications*

The Secretary General of the Council of Europe shall notify the member States of the Council of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance or approval;
- c any notification received in respect of paragraphs 2 and 3 of Article 12;
- d any date of entry into force of this Convention in accordance with Article 34 thereof;
- e any declaration received in pursuance of the provisions of Article 35;
- f any reservation made in pursuance of the provisions of paragraph 1 of Article 36;
- g withdrawal of any reservation carried out in pursuance of the provisions of paragraph 2 of Article 36;
- h any notification received in pursuance of the provisions of Article 37 and the date on which denunciation takes place.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this 24th day of November 1977, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory States.

## **European Treaty Series – No. 19**

# **European Convention on Establishment**

*Paris, 13.XII.1995*

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is to safeguard and to realise the ideals and principles which are the common heritage of its members and to facilitate their economic and social progress;

Recognising the special character of the links between the member countries of the Council of Europe as affirmed in conventions and agreements already concluded within the framework of the Council such as the Convention for the Protection of Human Rights and Fundamental Freedoms signed on 4th November 1950, the Protocol to this Convention signed on 20th March 1952, the European Convention on Social and Medical Assistance and the two European Interim Agreements on Social Security signed on 11th December 1953;

Being convinced that, by the conclusion of a regional convention, the establishment of common rules for the treatment accorded to nationals of each member State in the territory of the others may further the achievement of greater unity;

Affirming that the rights and privileges which they grant to each other's nationals are conceded solely by virtue of the close association uniting the member countries of the Council of Europe by means of its Statute;

Noting that the general plan of the Convention fits into the framework of the organisation of the Council of Europe,

Have agreed as follows:

### **Chapter I – Entry, residence and expulsion**

#### *Article 1*

Each Contracting Party shall facilitate the entry into its territory by nationals of the other Parties for the purpose of temporary visits and shall permit them to travel freely within its territory except when this would be contrary to ordre public, national security, public health or morality.

#### *Article 2*

Subject to the conditions set out in Article 1 of this Convention, each Contracting Party shall, to the extent permitted by its economic and social con-

ditions, facilitate the prolonged or permanent residence in its territory of nationals of the other Parties.

*Article 3*

1 Nationals of any Contracting Party lawfully residing in the territory of another Party may be expelled only if they endanger national security or offend against ordre public or morality.

2 Except where imperative considerations of national security otherwise require, a national of any Contracting Party who has been so lawfully residing for more than two years in the territory of any other Party shall not be expelled without first being allowed to submit reasons against his expulsion and to appeal to, and be represented for the purpose before, a competent authority or a person or persons specially designated by the competent authority.

3 Nationals of any Contracting Party who have been lawfully residing for more than ten years in the territory of any other Party may only be expelled for reasons of national security or if the other reasons mentioned in paragraph 1 of this article are of a particularly serious nature.

**Chapter II – Exercise of private rights**

*Article 4*

Nationals of any Contracting Party shall enjoy in the territory of any other Party treatment equal to that enjoyed by nationals of the latter Party in respect of the possession and exercise of private rights whether personal rights or rights relating to property.

*Article 5*

Notwithstanding Article 4 of this Convention, any Contracting Party may, for reasons of national security or defence, reserve the acquisition, possession or use of any categories of property for its own nationals or subject nationals of other Parties to special conditions applicable to aliens in respect of such property.

*Article 6*

- 1 Apart from cases relating to national security or defence,
  - a any Contracting Party which has reserved for its nationals or, in the case of aliens including those who are nationals of other Parties, made subject to regulations the acquisition, possession or use of certain categories of property, or has made the acquisition, possession or use of such property conditional upon reciprocity, shall, at the time of the signature of this Convention, transmit a list of these restrictions to the Secretary General of the Council of Europe indicating which provisions of its municipal law are

the basis of such restrictions. The Secretary General shall forward these lists to the other signatories;

- b after this Convention has entered into force in respect of any Contracting Party, that Contracting Party shall not introduce any further restrictions as to the acquisition, possession or use of any categories of property by nationals of the other Parties, unless it finds itself compelled to do so for imperative reasons of an economic or social character or in order to prevent monopolisation of the vital resources of the country. It shall in this event keep the Secretary General fully informed of the measures taken, the relevant provisions of municipal law and the reasons for such measures. The Secretary General shall communicate this information to the other Parties.

2 Each Contracting Party shall endeavour to reduce its list of restrictions for the benefit of nationals of the other Parties. It shall notify the Secretary General of any such changes and he shall communicate them to the other Parties. Each Party shall also endeavour to grant to nationals of other Parties such exemptions from the general regulations concerning aliens as are provided for in its own legislation.

### **Chapter III – Judicial and administrative guarantees**

#### *Article 7*

Nationals of any Contracting Party shall enjoy in the territory of any other Party, under the same conditions as nationals of the latter Party, full legal and judicial protection of their persons and property and of their rights and interests. In particular they shall have, in the same manner as the nationals of the latter Party, the right of access to the competent judicial and administrative authorities and the right to obtain the assistance of any person of their choice who is qualified by the laws of the country.

#### *Article 8*

1 Nationals of any Contracting Party shall be entitled in the territory of any other Party to obtain free legal assistance under the same conditions as nationals of the latter Party.

2 Indigent nationals of a Contracting Party shall be entitled to have copies of actes de l'état civil issued to them free of charge in the territory of another Contracting Party in so far as these are so issued to indigent nationals of the latter Contracting Party.

#### *Article 9*

1 No security or deposit of any kind may be required, by reason of their status as aliens or of lack of domicile or residence in the country, from nationals of any

Contracting Party, having their domicile or normal residence in the territory of a Party, who may be plaintiffs or third parties before the Courts of any other Party.

2 The same rule shall apply to the payment which may be required of plaintiffs or third parties to guarantee legal costs.

3 Orders to pay the costs and expenses of a trial imposed upon a plaintiff or third party who is exempted from such security, deposit or payment in pursuance either of the preceding paragraphs of this article or of the law of the country in which the proceedings are taken, shall without charge, upon a request made through the diplomatic channel, be rendered enforceable by the competent authority in the territory of any other Contracting Party.

#### **Chapter IV – Gainful occupations**

##### *Article 10*

Each Contracting Party shall authorise nationals of the other Parties to engage in its territory in any gainful occupation on an equal footing with its own nationals, unless the said Contracting Party has cogent economic or social reasons for withholding the authorisation. This provision shall apply, but not be limited, to industrial, commercial, financial and agricultural occupations, skilled crafts and the professions, whether the person concerned is self-employed or is in the service of an employer.

##### *Article 11*

Nationals of any Contracting Party who have been allowed by another Party to engage in a gainful occupation for a certain period may not, during that period, be subjected to restrictions not provided for at the time the authorisation was granted to them unless such restrictions are equally applicable to nationals of the latter Party in similar circumstances.

##### *Article 12*

1 Nationals of any Contracting Party lawfully residing in the territory of any other Party shall be authorised, without being made subject to the restrictions referred to in Article 10 of this Convention, to engage in any gainful occupation on an equal footing with nationals of the latter Party, provided they comply with one of the following conditions:

- a they have been lawfully engaged in a gainful occupation in that territory for an uninterrupted period of five years;
- b they have lawfully resided in that territory for an uninterrupted period of ten years;
- c they have been admitted to permanent residence.



Any Contracting Party may, at the time of signature or of deposit of its instrument of ratification of this Convention, declare that it does not accept one or two of the conditions mentioned above.

2 Such Party may also, in accordance with the same procedure, increase the period laid down in paragraph 1.a of this article to a maximum of ten years, provided that after the first period of five years renewal of an authorisation may in no case be refused in respect of the occupation pursued up to that time nor may such renewal be conditional upon any change in that occupation. It may also declare that it will not in all cases automatically grant the right to change from a wage-earning occupation to an independent occupation.

#### *Article 13*

Any Contracting Party may reserve for its own nationals the exercise of public functions or of occupations connected with national security or defence, or make the exercise of these occupations by aliens subject to special conditions.

#### *Article 14*

1 Apart from the functions or occupations mentioned in Article 13 of this Convention,

- a any Contracting Party which has reserved certain occupations for its own nationals or made the exercise of them by aliens, including nationals of the other Parties, subject to regulations or reciprocity, shall at the time of signature of this Convention transmit a list of these restrictions to the Secretary General of the Council of Europe, indicating which provisions of its municipal law are the basis of such restrictions. The Secretary General shall forward these lists to the other signatories;
- b after this Convention has entered into force in respect of any Contracting Party, that Party shall not introduce any further restrictions as to the exercise of gainful occupations by the nationals of other Parties unless it finds itself compelled to do so for imperative reasons of an economic or social character. It shall in this event keep the Secretary General fully informed of the measures taken, the relevant provisions of municipal law and the reasons for such measures. The Secretary General shall communicate this information to the other Parties.

2 Each Contracting Party shall endeavour for the benefit of nationals of the other Parties:

- to reduce the list of occupations which are reserved for its own nationals or the exercise of which by aliens is subject to regulations or reciprocity; it shall notify the Secretary General of any such changes, and he shall communicate them to the other Parties;
- in so far as its laws permit, to allow individual exemptions from the provisions in force.

*Article 15*

The exercise by nationals of one Contracting Party in the territory of another Party of an occupation in respect of which nationals of the latter Party are required to possess professional or technical qualifications or to furnish guarantees shall be made subject to the production of the same guarantees or to the possession of the same qualifications or of others recognised as their equivalent by the competent national authority;

Provided that nationals of the Contracting Parties engaged in the lawful pursuit of their profession in the territory of any Party may be called into the territory of any other Party by one of their colleagues for the purpose of lending assistance in a particular case.

*Article 16*

Commercial travellers who are nationals of a Contracting Party and are employed by an undertaking whose principal place of business is situated in the territory of a Contracting Party shall not need any authorisation in order to exercise their occupation in the territory of any other Party, provided that they do not reside therein for more than two months during any half-year.

*Article 17*

1 Nationals of any Contracting Party shall, in the territory of another Party, enjoy treatment no less favourable than nationals of the latter Party in respect of any statutory regulation by a public authority concerning wages and working conditions in general.

2 The provisions of this chapter shall not be understood as requiring a Contracting Party to accord in its territory more favourable treatment as regards the exercise of a gainful occupation to the nationals of any other Party than that accorded to its own nationals.

**Chapter V – Individual rights**

*Article 18*

No Contracting Party may forbid nationals of another Party who have been lawfully engaged for at least five years in an appropriate occupation in the territory of the former Party from taking part on an equal footing with its own nationals as electors in elections held by bodies or organisations of an economic or professional nature such as Chambers of Commerce or of Agricultural or Trade Associations, subject to the decisions which such bodies or organisations may take in this respect within the limits of their competence.

*Article 19*

Nationals of any Contracting Party in the territory of any other Party shall be permitted, without any restrictions other than those applicable to nationals of the latter Party, to act as arbitrators in arbitral proceedings in which the choice of arbitrators is left entirely to the parties concerned.

*Article 20*

In so far as access to education is under State control, nationals of school age of any Contracting Party lawfully residing in the territory of any other Party shall be admitted, on an equal footing with the nationals of the latter Party, to institutions for primary and secondary education and technical and vocational training. The application of this provision to the grant of scholarships shall be left to the discretion of individual Parties. School attendance shall be compulsory for nationals of school age residing in the territory of another Contracting Party if it is compulsory for the nationals of the latter Party.

**Chapter VI – Taxation, compulsory civilian services, expropriation, nationalisation**

*Article 21*

1 Subject to the provisions concerning double taxation contained in agreements already concluded or to be concluded, nationals of any Contracting Party shall not be liable in the territory of any other Party to duties, charges, taxes or contributions, of any description whatsoever, other, higher or more burdensome than those imposed on nationals of the latter Party in similar circumstances; in particular, they shall be entitled to deductions or exemptions from taxes or charges and to all allowances, including allowances for dependants.

2 A Contracting Party shall not impose on nationals of any other Party any residence charge not required of its own nationals. This provision shall not prevent the imposition in appropriate cases of charges connected with administrative formalities such as the issue of permits and authorisations which aliens are required to have, provided that the amount levied is not more than the expenditure incurred by such formalities.

*Article 22*

Nationals of a Contracting Party may in no case be obliged to perform in the territory of another Party any civilian services, whether of a personal nature or relating to property, other or more burdensome than those required of nationals of the latter Party.

*Article 23*

Without prejudice to the provisions of Article 1 of the Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms,

nationals of any Contracting Party shall be entitled, in the event of expropriation or nationalisation of their property by any other Party, to be treated at least as favourably as nationals of the latter Party.

## **Chapter VII – Standing Committee**

### *Article 24*

1 A Standing Committee shall be set up within a year of the entry into force of this Convention. This Committee may formulate proposals designed to improve the practical implementation of the Convention and, if necessary, to amend or supplement its provisions.

2 In the event of differences of opinion arising between the Parties over the interpretation or application of the provisions of Article 6, paragraph 1.b, and Article 14, paragraph 1.b, of this Convention, the Committee shall at the request of any Party concerned endeavour to settle such differences.

3 The Committee shall arrange for the publication of a periodical report containing all information regarding the laws and regulations in force in the territory of the Parties in respect of matters provided for in this Convention.

4 Each member of the Council of Europe which has ratified this Convention shall appoint a representative to this Committee. Any other member of the Council may be represented by an observer with the right to speak.

5 The Committee shall be convened by the Secretary General of the Council of Europe. Its first session shall take place within three months of the date of its establishment. Subsequent sessions shall be held at least once every two years. The Committee may also be convened whenever the Committee of Ministers of the Council considers it necessary. The period of two years shall run from the date of the end of the last session.

6 Opinions or recommendations of the Standing Committee shall be submitted to the Committee of Ministers.

7 The Standing Committee shall draw up its own Rules of Procedure.

## **Chapter VIII – General provisions**

### *Article 25*

The provisions of this Convention shall not prejudice the provisions of municipal law, bilateral or multilateral treaties, conventions or agreements which are already in force or may come into force under which more favourable treatment would be accorded to nationals of one or more of the other Contracting Parties.

### *Article 26*

1 Any member of the Council of Europe may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of

any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the said provision. Reservations of a general nature shall not be permitted under this article.

2 Any reservation made under this article shall contain a brief statement of the law concerned.

3 Any member of the Council which makes a reservation under this article shall withdraw the said reservation as soon as circumstances permit. Such withdrawal shall be made by notification addressed to the Secretary General of the Council and shall take effect from the date of the receipt of such notification. The Secretary General shall transmit the text of this notification to all the signatories of the Convention.

#### *Article 27*

A Contracting Party which has made a reservation in respect of a particular provision of the Convention in accordance with Article 26 of this Convention may not claim application of the said provision by another Party save in so far as it has itself accepted the provision.

#### *Article 28*

1 In time of war or other public emergency threatening the life of the nation, any Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation and provided that such measures are not inconsistent with its other obligations under international law.

2 Any Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

### **Chapter IX – Field of application of the Convention**

#### *Article 29*

1 This Convention shall apply to the metropolitan territories of the Contracting Parties.

2 Any member of the Council may, at the time of the signature or ratification of this Convention or at any later date, declare by notice addressed to the Secretary General of the Council of Europe that this Convention shall apply to the territory or territories mentioned in the said declaration and for whose international relations it is responsible.

3 Any declaration made in accordance with the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 33 of this Convention.

4 The Secretary General shall communicate to the other members of the Council any declaration transmitted to him in accordance with paragraph 2 or paragraph 3 of this article.

#### *Article 30*

1 For the purpose of this Convention, “nationals” means physical persons possessing the nationality of one of the Contracting Parties.

2 No Contracting Party shall be obliged to grant the benefits of this Convention to nationals of another Contracting Party ordinarily resident in a non-metropolitan territory of the latter Party to which the Convention does not apply.

### **Chapter X – Settlement of disputes**

#### *Article 31*

1 Any disputes which may arise between the Contracting Parties concerning the interpretation or the application of this Convention shall be submitted to the International Court of Justice by special agreement or by application by one of the parties to the dispute, unless the parties agree on a different method of peaceful settlement.

2 After the entry into force of the European Convention for the Peaceful Settlement of Disputes, the Parties to that Convention shall apply those of its provisions which are binding upon them to all disputes which may arise between them concerning the present Convention.

3 Any dispute subjected to a procedure referred to in the preceding paragraphs shall be immediately reported by the parties concerned to the Secretary General of the Council of Europe, who shall inform the other Contracting Parties without delay.

4 If one of the parties to a dispute fails to carry out its obligations laid down in a decision of the International Court of Justice or the award of an arbitral tribunal, the other party may appeal to the Committee of Ministers of the Council of Europe. The latter may, if it deems necessary, make recommendations by a majority of two-thirds of the representatives entitled to sit on the Committee with a view to ensuring the execution of the said decision or award.

### **Chapter XI – Final provisions**

#### *Article 32*

The Protocol attached to this Convention shall form an integral part of it.

*Article 33*

1 A Contracting Party may denounce this Convention only at the end of five years from the date on which it became a Party to it, having previously given six months' notice by notification addressed to the Secretary General of the Council of Europe, who shall inform the other Parties. A Party which does not so exercise the right of denunciation will remain bound for further successive periods of two years and may denounce this Convention only at the end any such period, having given notice six months previously.

2 Denunciation shall not have the effect of releasing the Contracting Party concerned from its obligations under this Convention in respect of any act which may have been performed by it before the date upon which the denunciation became effective.

3 Any Contracting Party which ceases to be a member of the Council of Europe shall under the same conditions cease to be a Party to this Convention.

*Article 34*

1 This Convention shall be open for signature by the members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary General of the Council of Europe.

2 This Convention shall come into force on the date of deposit of the fifth instrument of ratification.

3 As regards any signatory ratifying subsequently, the Convention shall come into force on the date of deposit of its instrument of ratification.

4 The Secretary General shall notify all the members of the Council of the entry into force of the Convention, the names of the Contracting Parties which have ratified it, any reservations made and the subsequent deposit of any instruments of ratification.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Convention.

Done at Paris, this 13th day of December 1955, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified true copies to each of the signatories.

## Protocol to the European Convention on Establishment

### Section I – Articles 1, 2, 3, 5, 6, paragraph 1.b, 10, 13 and 14, paragraph 1.b

- a Each Contracting Party shall have the right to judge by national criteria:
- 1 the reasons of “*ordre public*, national security, public health or morality” which may provide grounds for the exclusion from its territory of nationals of other Parties;
  - 2 “the economic and social conditions” which may prevent the admission of nationals of other Parties to prolonged or permanent residence or the exercise of gainful occupations in its territory;
  - 3 the circumstances which constitute a threat to national security or an offence against *ordre public* or morality;
  - 4 the reasons specified in the Convention for which a Contracting Party may reserve for its own nationals the acquisition, possession or use of any categories of property or the exercise of certain rights and occupations or may make the exercise thereof by nationals of the other Parties subject to special conditions.
- b Each Contracting Party shall determine whether the reasons for expulsion are of a “particularly serious nature”. In this connection account shall be taken of the behaviour of the individual concerned during his whole period of residence.
- c A Contracting Party may only restrict the rights of nationals of other Parties for the reasons set forth in this Convention and to the extent compatible with the obligations assumed by the Parties.

### Section II – Articles 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 17 and 20

- a Regulations governing the admission, residence and movement of aliens and also their right to engage in gainful occupations shall be unaffected by this Convention in so far as they are not inconsistent with it.
- b Nationals of a Contracting Party shall be considered as lawfully residing in the territory of another Party if they have conformed to the said regulations.

### Section III – Articles 1, 2 and 3

- a The concept of “*ordre public*” is to be understood in the wide sense generally accepted in continental countries. A Contracting Party may, for instance, exclude a national of another Party for political reasons, or if there are grounds for believing that he is unable to pay the expenses of his stay or that he intends to engage in a gainful occupation without the necessary permits.
- b The Contracting Parties undertake, in the exercise of their established rights, to pay due regard to family ties.



c The right of expulsion may be exercised only in individual cases. The Contracting Parties shall, in exercising their right of expulsion, act with consideration, having regard to the particular relations which exist between the members of the Council of Europe. They shall in particular take due account of family ties and the period of residence in their territory of the person concerned.

#### **Section IV – Articles 8 and 9**

Articles 8 and 9 of this Convention in no way affect obligations contracted under The Hague Convention on Civil Procedure.

#### **Section V – Articles 10, 11, 12, 13, 14, 15, 16 and 17**

a The provisions of Articles 10, 11, 12, 13, 14, 15, 16 and 17 of this Convention shall be subject to the conditions governing entry and residence laid down in Articles 1 and 2.

b The husband or wife and dependent children of nationals of any Contracting Party lawfully residing in the territory of another Party who have been authorised to accompany or rejoin them shall as far as possible be allowed to take up employment in that territory in accordance with the conditions laid down in this Convention.

c The provisions of Article 12 of this Convention shall not apply to nationals of a Contracting Party residing in the territory of another Party in pursuance of special regulations or engaged in a gainful occupation therein in pursuance of special rules or agreements, including such persons as members, or staff not locally recruited, of diplomatic or consular missions; members of the staff of international organisations; student employees, apprentices, students and persons employed for the purpose of completing their vocational training; crews of ships and aircraft.

d For the purpose of Article 16 of this Convention, the Contracting Parties shall not, in their municipal legislation or regulations, treat the occupation of commercial traveller as an itinerant trade or form of hawking.

e It is understood that Article 16 applies only to commercial travellers acting under the orders of an undertaking situated outside the receiving country and remunerated solely by such undertaking.

f Article 17, paragraph 1, of this Convention shall not apply to the special case of student employees in respect of their remuneration.

#### **Section VI – Articles 2, 11, 12, 13, 14, 15, 16, 17 and 25**

a It is understood that this Convention shall not apply to industrial, literary and artistic property and new vegetable products, as these subjects are reserved for international conventions or other international agreements relating thereto which are already in force or will come into force.

b Those Contracting Parties to this Convention which are now or will be bound by the decisions of the Organisation for European Economic Co-operation governing the employment of nationals of its member countries shall, in their mutual relations and in respect of the exercise of wage-earning occupations, apply the provisions of this Convention or of the said decisions, whichever grant the more favourable treatment to wage-earners. In applying the provisions of Articles 2, 10, 11, 12, 13, 14, 15, 16 and 17 of this Convention and judging the economic or social reasons mentioned in Articles 10 and 14, they shall conform to the spirit and the letter of the said decisions in so far as the latter are more favourable to wage-earners than the provisions of this Convention.

#### **Section VII – Article 26, paragraph 1**

The Contracting Parties shall exercise their right to make reservations only in so far as they consider that essential provisions of their municipal law so require.

#### **Section VIII – Article 29, paragraph 1**

a This Convention shall, in respect of France, also apply to Algeria and the overseas Departments.

b The Federal Republic of Germany may extend the application of this Convention to the Land Berlin by a declaration addressed to the Secretary General of the Council of Europe who shall notify the other Contracting Parties thereof.

#### *Article 29, paragraph 2*

Any member of the Council of Europe which makes a declaration in accordance with Article 29, paragraph 2, of this Convention shall, at the same time and in respect of any territory mentioned in such declaration, transmit to the Secretary General of the Council the lists of restrictions specified in Article 6, paragraph 1, and Article 14, paragraph 1, any declaration made in accordance with Article 12 and any reservation made in accordance with Article 26 of this Convention.

#### *Article 30*

The term “ordinarily resident” shall be defined according to the regulations applicable in the country of which the person concerned is a national.

#### **Section IX – Article 31, paragraph 1**

Contracting Parties not party to the Statute of the International Court of Justice shall take the necessary steps to obtain access to the Court.

## **Annex I**

*Resolution (55) 33 concerning the European Convention on Establishment, adopted by the Committee of Ministers of the Council of Europe, at its 17th Session, in Paris, on 13 December 1955*

The Committee of Ministers,

Having approved the text of the draft European Convention on Establishment and having decided to submit this Convention for signature by the governments of the members of the Council;

Considering that the question has arisen whether a signatory Party may, during the interval between the signature and the entry into force of the Convention for that Party, introduce new restrictions in respect of the matters provided for in Articles 6 and 14;

In view of the spirit and fundamental character of this Convention,

Recommends the members of the Council, after the signature of the Convention, to take note of the provisions of paragraph 1.b of Articles 6 and 14.

## **Annex II**

*Interpretative text concerning the European Convention on Establishment, approved by the Committee of Ministers of the Council of Europe, at its 17th Session, in Paris, on 13 December 1955*

The Committee of Ministers expressed the view that the European Convention on Establishment should not be applicable to foreign currency and exchange regulations.



**European Treaty Series – No. 165**

## **Convention on the Recognition of Qualifications concerning Higher Education in the European Region**

*Lisbon, 11.IV.1997*

The Parties to this Convention,

*Conscious* of the fact that the right to education is a human right, and that higher education, which is instrumental in the pursuit and advancement of knowledge, constitutes an exceptionally rich cultural and scientific asset for both individuals and society;

*Considering* that higher education should play a vital role in promoting peace, mutual understanding and tolerance, and in creating mutual confidence among peoples and nations;

*Considering* that the great diversity of education systems in the European region reflects its cultural, social, political, philosophical, religious and economic diversity, an exceptional asset which should be fully respected;

*Desiring* to enable all people of the region to benefit fully from this rich asset of diversity by facilitating access by the inhabitants of each State and by the students of each Party's educational institutions to the educational resources of the other Parties, more specifically by facilitating their efforts to continue their education or to complete a period of studies in higher education institutions in those other Parties;

*Considering* that the recognition of studies, certificates, diplomas and degrees obtained in another country of the European region represents an important measure for promoting academic mobility between the Parties;

*Attaching* great importance to the principle of institutional autonomy, and conscious of the need to uphold and protect this principle;

*Convinced* that a fair recognition of qualifications is a key element of the right to education and a responsibility of society;

*Having* regard to the Council of Europe and UNESCO Conventions covering academic recognition in Europe:

European Convention on the Equivalence of Diplomas leading to Admission to Universities (1953, ETS No. 15), and its Protocol (1964, ETS No. 49);

European Convention on the Equivalence of Periods of University Study (1956, ETS No. 21);

European Convention on the Academic Recognition of University Qualifications (1959, ETS No. 32);

Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region (1979);

European Convention on the General Equivalence of Periods of University Study (1990, ETS No. 138);

*Having* regard also to the International Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European States bordering on the Mediterranean (1976), adopted within the framework of UNESCO and partially covering academic recognition in Europe;

*Mindful* that this Convention should also be considered in the context of the UNESCO conventions and the International Recommendation covering other Regions of the world, and of the need for an improved exchange of information between these Regions;

*Conscious* of the wide ranging changes in higher education in the European region since these Conventions were adopted, resulting in considerably increased diversification within and between national higher education systems, and of the need to adapt the legal instruments and practice to reflect these developments;

*Conscious* of the need to find common solutions to practical recognition problems in the European region;

*Conscious* of the need to improve current recognition practice and to make it more transparent and better adapted to the current situation of higher education in the European region;

*Confident* of the positive significance of a Convention elaborated and adopted under the joint auspices of the Council of Europe and UNESCO providing a framework for the further development of recognition practices in the European region;

*Conscious* of the importance of providing permanent implementation mechanisms in order to put the principles and provisions of the current Convention into practice,

Have agreed as follows:

## **Section I. Definitions**

### *Article I*

For the purposes of this Convention, the following terms shall have the following meaning:

*Access (to higher education)*

The right of qualified candidates to apply and to be considered for admission to higher education.

*Admission (to higher education institutions and programmes)*

The act of, or system for, allowing qualified applicants to pursue studies in higher education at a given institution and/or a given programme.

*Assessment (of institutions or programmes)*

The process for establishing the educational quality of a higher education institution or programme.

*Assessment (of individual qualifications)*

The written appraisal or evaluation of an individual's foreign qualifications by a competent body.

*Competent recognition authority*

A body officially charged with making binding decisions on the recognition of foreign qualifications.

*Higher education*

All types of courses of study, or sets of courses of study, training or training for research at the post secondary level which are recognized by the relevant authorities of a Party as belonging to its higher education system.

*Higher education institution*

An establishment providing higher education and recognized by the competent authority of a Party as belonging to its system of higher education.

*Higher education programme*

A course of study recognized by the competent authority of a Party as belonging to its system of higher education, and the completion of which provides the student with a higher education qualification.

*Period of study*

Any component of a higher education programme which has been evaluated and documented and, while not a complete programme of study in itself, represents a significant acquisition of knowledge or skill.

### *Qualification*

#### A. Higher education qualification

Any degree, diploma or other certificate issued by a competent authority attesting the successful completion of a higher education programme.

#### B. Qualification giving access to higher education

Any diploma or other certificate issued by a competent authority attesting the successful completion of an education programme and giving the holder of the qualification the right to be considered for admission to higher education (cf. the definition of access).

### *Recognition*

A formal acknowledgement by a competent authority of the value of a foreign educational qualification with a view to access to educational and/or employment activities.

### *Requirement*

#### A. General requirements

Conditions that must in all cases be fulfilled for access to higher education, or to a given level thereof, or for the award of a higher education qualification at a given level.

#### B. Specific requirements

Conditions that must be fulfilled, in addition to the general requirements, in order to gain admission to a particular higher education programme, or for the award of a specific higher education qualification in a particular field of study.

## **Section II. The competence of authorities**

### *Article II.1*

1 Where central authorities of a Party are competent to make decisions in recognition cases, that Party shall be immediately bound by the provisions of this Convention and shall take the necessary measures to ensure the implementation of its provisions on its territory.

Where the competence to make decisions in recognition matters lies with components of the Party, the Party shall furnish one of the depositaries with a brief statement of its constitutional situation or structure at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or any time thereafter. In such cases, the competent authorities of the components of the Parties so designated shall take the necessary measures to ensure implementation of the provisions of this Convention on their territory.



2 Where the competence to make decisions in recognition matters lies with individual higher education institutions or other entities, each Party according to its constitutional situation or structure shall transmit the text of this convention to these institutions or entities and shall take all possible steps to encourage the favourable consideration and application of its provisions.

3 The provisions of paragraphs 1 and 2 of this Article shall apply, *mutatis mutandis*, to the obligations of the Parties under subsequent articles of this Convention.

#### *Article II.2*

At the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any time thereafter, each State, the Holy See or the European Community shall inform either depositary of the present Convention of the authorities which are competent to make different categories of decisions in recognition cases.

#### *Article II.3*

Nothing in this Convention shall be deemed to derogate from any more favourable provisions concerning the recognition of qualifications issued in one of the Parties contained in or stemming from an existing or a future treaty to which a Party to this Convention may be or may become a party.

### **Section III. Basic principles related to the assessment of qualifications**

#### *Article III.1*

1 Holders of qualifications issued in one of the Parties shall have adequate access, upon request to the appropriate body, to an assessment of these qualifications.

2 No discrimination shall be made in this respect on any ground such as the applicant's gender, race, colour, disability, language, religion, political or other opinion, national, ethnic or social origin, association with a national minority, property, birth or other status, or on the grounds of any other circumstance not related to the merits of the qualification for which recognition is sought. In order to assure this right, each Party undertakes to make appropriate arrangements for the assessment of an application for recognition of qualifications solely on the basis of the knowledge and skills achieved.

#### *Article III.2*

Each Party shall ensure that the procedures and criteria used in the assessment and recognition of qualifications are transparent, coherent and reliable.

*Article III.3*

1 Decisions on recognition shall be made on the basis of appropriate information on the qualifications for which recognition is sought.

2 In the first instance, the responsibility for providing adequate information rests with the applicant, who shall provide such information in good faith.

3 Notwithstanding the responsibility of the applicant, the institutions having issued the qualifications in question shall have a duty to provide, upon request of the applicant and within reasonable limits, relevant information to the holder of the qualification, to the institution, or to the competent authorities of the country in which recognition is sought.

4 The Parties shall instruct or encourage, as appropriate, all education institutions belonging to their education systems to comply with any reasonable request for information for the purpose of assessing qualifications earned at the said institutions.

5 The responsibility to demonstrate that an application does not fulfil the relevant requirements lies with the body undertaking the assessment.

*Article III.4*

Each Party shall ensure, in order to facilitate the recognition of qualifications, that adequate and clear information on its education system is provided.

*Article III.5*

Decisions on recognition shall be made within a reasonable time limit specified beforehand by the competent recognition authority and calculated from the time all necessary information in the case has been provided. If recognition is withheld, the reasons for the refusal to grant recognition shall be stated, and information shall be given concerning possible measures the applicant may take in order to obtain recognition at a later stage. If recognition is withheld, or if no decision is taken, the applicant shall be able to make an appeal within a reasonable time limit.

**Section IV. Recognition of qualifications giving access to higher education**

*Article IV.1*

Each Party shall recognize the qualifications issued by other Parties meeting the general requirements for access to higher education in those Parties for the purpose of access to programmes belonging to its higher education system, unless a substantial difference can be shown between the general requirements for access in the Party in which the qualification was obtained and in the Party in which recognition of the qualification is sought.

*Article IV.2*

Alternatively, it shall be sufficient for a Party to enable the holder of a qualification issued in one of the other Parties to obtain an assessment of that qualification, upon request by the holder, and the provisions of Article IV.1 shall apply *mutatis mutandis* to such a case.

*Article IV.3*

Where a qualification gives access only to specific types of institutions or programmes of higher education in the Party in which the qualification was obtained, each other Party shall grant holders of such qualifications access to similar specific programmes in institutions belonging to its higher education system, unless a substantial difference can be demonstrated between the requirements for access in the Party in which the qualification was obtained and the Party in which recognition of the qualification is sought.

*Article IV.4*

Where admission to particular higher education programmes is dependent on the fulfilment of specific requirements in addition to the general requirements for access, the competent authorities of the Party concerned may impose the additional requirements equally on holders of qualifications obtained in the other Parties or assess whether applicants with qualifications obtained in other Parties fulfil equivalent requirements.

*Article IV.5*

Where, in the Party in which they have been obtained, school leaving certificates give access to higher education only in combination with additional qualifying examinations as a prerequisite for access, the other Parties may make access conditional on these requirements or offer an alternative for satisfying such additional requirements within their own educational systems. Any State, the Holy See or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any time thereafter, notify one of the depositaries that it avails itself of the provisions of this Article, specifying the Parties in regard to which it intends to apply this Article as well as the reasons therefor.

*Article IV.6*

Without prejudice to the provisions of Articles IV.1, IV.2, IV.3, IV.4 and IV.5, admission to a given higher education institution, or to a given programme within such an institution, may be restricted or selective. In cases in which admission to a higher education institution and/or programme is selective, admission procedures should be designed with a view to ensuring that the assessment of foreign qualifications is carried out according to the principles of fairness and non-discrimination described in Section III.

*Article IV.7*

Without prejudice to the provisions of Articles IV.1, IV.2, IV.3, IV.4 and IV.5, admission to a given higher education institution may be made conditional on demonstration by the applicant of sufficient competence in the language or languages of instruction of the institution concerned, or in other specified languages.

*Article IV.8*

In the Parties in which access to higher education may be obtained on the basis of non-traditional qualifications, similar qualifications obtained in other Parties shall be assessed in a similar manner as non-traditional qualifications earned in the Party in which recognition is sought.

*Article IV.9*

For the purpose of admission to programmes of higher education, each Party may make the recognition of qualifications issued by foreign educational institutions operating in its territory contingent upon specific requirements of national legislation or specific agreements concluded with the Party of origin of such institutions.

**Section V. Recognition of periods of study**

*Article V.1*

Each Party shall recognize periods of study completed within the framework of a higher education programme in another Party. This recognition shall comprise such periods of study towards the completion of a higher education programme in the Party in which recognition is sought, unless substantial differences can be shown between the periods of study completed in another Party and the part of the higher education programme which they would replace in the Party in which recognition is sought.

*Article V.2*

Alternatively, it shall be sufficient for a Party to enable a person who has completed a period of study within the framework of a higher education programme in another Party to obtain an assessment of that period of study, upon request by the person concerned, and the provisions of Article V.1 shall apply *mutatis mutandis* to such a case.

*Article V.3*

In particular, each Party shall facilitate recognition of periods of study when:

- a there has been a previous agreement between, on the one hand, the higher education institution or the competent authority responsible for the relevant period of study and, on the other hand, the higher education institu-

tion or the competent recognition authority responsible for the recognition that is sought; and

- b the higher education institution in which the period of study has been completed has issued a certificate or transcript of academic records attesting that the student has successfully completed the stipulated requirements for the said period of study.

## **Section VI. Recognition of higher education qualifications**

### *Article VI.1*

To the extent that a recognition decision is based on the knowledge and skills certified by the higher education qualification, each Party shall recognize the higher education qualifications conferred in another Party, unless a substantial difference can be shown between the qualification for which recognition is sought and the corresponding qualification in the Party in which recognition is sought.

### *Article VI.2*

Alternatively, it shall be sufficient for a Party to enable the holder of a higher education qualification issued in one of the other Parties to obtain an assessment of that qualification, upon request by the holder, and the provisions of Article VI.1 shall apply *mutatis mutandis* to such a case.

### *Article VI.3*

Recognition in a Party of a higher education qualification issued in another Party shall have one or both of the following consequences:

- a access to further higher education studies, including relevant examinations, and/or to preparations for the doctorate, on the same conditions as those applicable to holders of qualifications of the Party in which recognition is sought;
- b the use of an academic title, subject to the laws and regulations of the Party or a jurisdiction thereof, in which recognition is sought.

In addition, recognition may facilitate access to the labour market subject to laws and regulations of the Party, or a jurisdiction thereof, in which recognition is sought.

### *Article VI.4*

An assessment in a Party of a higher education qualification issued in another Party may take the form of:

- a advice for general employment purposes;
- b advice to an educational institution for the purpose of admission into its programmes;

- c advice to any other competent recognition authority.

*Article VI.5*

Each Party may make the recognition of higher education qualifications issued by foreign educational institutions operating in its territory contingent upon specific requirements of national legislation or specific agreements concluded with the Party of origin of such institutions.

**Section VII. Recognition of qualifications held by refugees, displaced persons and persons in a refugee-like situation**

*Article VII*

Each Party shall take all feasible and reasonable steps within the framework of its education system and in conformity with its constitutional, legal, and regulatory provisions to develop procedures designed to assess fairly and expeditiously whether refugees, displaced persons and persons in a refugee-like situation fulfil the relevant requirements for access to higher education, to further higher education programmes or to employment activities, even in cases in which the qualifications obtained in one of the Parties cannot be proven through documentary evidence.

**Section VIII. Information on the assessment of higher education institutions and programmes**

*Article VIII.1*

Each Party shall provide adequate information on any institution belonging to its higher education system, and on any programme operated by these institutions, with a view to enabling the competent authorities of other Parties to ascertain whether the quality of the qualifications issued by these institutions justifies recognition in the Party in which recognition is sought. Such information shall take the following form:

- a in the case of Parties having established a system of formal assessment of higher education institutions and programmes: information on the methods and results of this assessment, and of the standards of quality specific to each type of higher education institution granting, and to programmes leading to, higher education qualifications;
- b in the case of Parties which have not established a system of formal assessment of higher education institutions and programmes: information on the recognition of the various qualifications obtained at any higher education institution, or within any higher education programme, belonging to their higher education systems.

*Article VIII.2*

Each Party shall make adequate provisions for the development, maintenance and provision of:

- a an overview of the different types of higher education institutions belonging to its higher education system, with the typical characteristics of each type of institution;
- b a list of recognized institutions (public and private) belonging to its higher education system, indicating their powers to award different types of qualifications and the requirements for gaining access to each type of institution and programme;
- c a description of higher education programmes;
- d a list of educational institutions located outside its territory which the Party considers as belonging to its education system.

**Section IX. Information on recognition matters**

*Article IX.1*

In order to facilitate the recognition of qualifications concerning higher education, the Parties undertake to establish transparent systems for the complete description of the qualifications obtained.

*Article IX.2*

- 1 Acknowledging the need for relevant, accurate and up-to-date information, each Party shall establish or maintain a national information centre and shall notify one of the depositaries of its establishment, or of any changes affecting it.
- 2 In each Party, the national information centre shall:
  - a facilitate access to authoritative and accurate information on the higher education system and qualifications of the country in which it is located;
  - b facilitate access to information on the higher education systems and qualifications of the other Parties;
  - c give advice or information on recognition matters and assessment of qualifications, in accordance with national laws and regulations.
- 3 Every national information centre shall have at its disposal the necessary means to enable it to fulfil its functions.

*Article IX.3*

The Parties shall promote, through the national information centres or otherwise, the use of the UNESCO/Council of Europe Diploma Supplement or any other comparable document by the higher education institutions of the Parties.

## **Section X. Implementation mechanisms**

### *Article X.1*

The following bodies shall oversee, promote and facilitate the implementation of the Convention:

- a the Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region;
- b the European Network of National Information Centres on academic mobility and recognition (the ENIC Network), established by decision of the Committee of Ministers of the Council of Europe on 9 June 1994 and the UNESCO Regional Committee for Europe on 18 June 1994.

### *Article X.2*

1 The Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (hereafter referred to as “the Committee”) is hereby established. It shall be composed of one representative of each Party.

2 For the purposes of Article X.2, the term “Party” shall not apply to the European Community.

3 The States mentioned in Article XI.1.1 and the Holy See, if they are not Parties to this Convention, the European Community and the President of the ENIC Network may participate in the meetings of the Committee as observers. Representatives of governmental and non-governmental organizations active in the field of recognition in the Region may also be invited to attend meetings of the Committee as observers.

4 The President of the UNESCO Regional Committee for the Application of the Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region shall also be invited to participate in the meetings of the Committee as an observer.

5 The Committee shall promote the application of this Convention and shall oversee its implementation. To this end it may adopt, by a majority of the Parties, recommendations, declarations, protocols and models of good practice to guide the competent authorities of the Parties in their implementation of the Convention and in their consideration of applications for the recognition of higher education qualifications. While they shall not be bound by such texts, the Parties shall use their best endeavours to apply them, to bring the texts to the attention of the competent authorities and to encourage their application. The Committee shall seek the opinion of the ENIC Network before making its decisions.

6 The Committee shall report to the relevant bodies of the Council of Europe and UNESCO.



7 The Committee shall maintain links to the UNESCO Regional Committees for the Application of Conventions on the Recognition of Studies, Diplomas and Degrees in Higher Education adopted under the auspices of UNESCO.

8 A majority of the Parties shall constitute a quorum.

9 The Committee shall adopt its Rules of Procedure. It shall meet in ordinary session at least every three years. The Committee shall meet for the first time within a year of the entry into force of this Convention.

10 The Secretariat of the Committee shall be entrusted jointly to the Secretary General of the Council of Europe and to the Director-General of UNESCO.

#### *Article X.3*

1 Each Party shall appoint as a member of the European network of national information centres on academic mobility and recognition (the ENIC Network) the national information centre established or maintained under Article IX.2. In cases in which more than one national information centre is established or maintained in a Party under Article IX.2, all these shall be members of the Network, but the national information centres concerned shall dispose of only one vote.

2 The ENIC Network shall, in its composition restricted to national information centres of the Parties to this Convention, uphold and assist the practical implementation of the Convention by the competent national authorities. The Network shall meet at least once a year in plenary session. It shall elect its President and Bureau in accordance with its terms of reference.

3 The Secretariat of the ENIC Network shall be entrusted jointly to the Secretary General of the Council of Europe and to the Director-General of UNESCO.

4 The Parties shall cooperate, through the ENIC Network, with the national information centres of other Parties, especially by enabling them to collect all information of use to the national information centres in their activities relating to academic recognition and mobility.

### **Section XI. Final clauses**

#### *Article XI.1*

1 This Convention shall be open for signature by:

- a the member States of the Council of Europe;
- b the member States of the UNESCO Europe Region;
- c any other signatory, contracting State or party to the European Cultural Convention of the Council of Europe and/or to the UNESCO Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region,

which have been invited to the Diplomatic Conference entrusted with the adoption of this Convention.

- 2 These States and the Holy See may express their consent to be bound by:
  - a signature without reservation as to ratification, acceptance or approval; or
  - b signature, subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
  - c accession.
- 3 Signatures shall be made with one of the depositaries. Instruments of ratification, acceptance, approval or accession shall be deposited with one of the depositaries.

*Article XI.2*

This Convention shall enter into force on the first day of the month following the expiration of the period of one month after five States, including at least three member States of the Council of Europe and/or the UNESCO Europe Region, have expressed their consent to be bound by the Convention. It shall enter into force for each other State on the first day of the month following the expiration of the period of one month after the date of expression of its consent to be bound by the Convention.

*Article XI.3*

- 1 After the entry into force of this Convention, any State other than those falling into one of the categories listed under Article XI.1 may request accession to this Convention. Any request to this effect shall be addressed to one of the depositaries, who shall transmit it to the Parties at least three months before the meeting of the Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region. The depositary shall also inform the Committee of Ministers of the Council of Europe and the Executive Board of UNESCO.
- 2 The decision to invite a State which so requests to accede to this Convention shall be taken by a two-thirds majority of the Parties.
- 3 After the entry into force of this Convention the European Community may accede to it following a request by its member States, which shall be addressed to one of the depositaries. In this case, Article XI.3.2 shall not apply.
- 4 In respect of any acceding States or the European Community, the Convention shall enter into force on the first day of the month following the expiration of the period of one month after the deposit of the instrument of accession with one of the depositaries.

*Article XI.4*

- 1 Parties to this Convention which are at the same time parties to one or more of the following Conventions:

European Convention on the Equivalence of Diplomas leading to Admission to Universities (1953, ETS No. 15), and its Protocol (1964, ETS No. 49);

European Convention on the Equivalence of Periods of University Study (1956, ETS No. 21);

European Convention on the Academic Recognition of University Qualifications (1959, ETS No. 32);

International Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European States bordering on the Mediterranean (1976);

Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region (1979);

European Convention on the General Equivalence of Periods of University Study (1990, ETS No. 138),

- a shall apply the provisions of the present Convention in their mutual relations;
- b shall continue to apply the above mentioned Conventions to which they are a party in their relations with other States party to those Conventions but not to the present Convention.

2 The Parties to this Convention undertake to abstain from becoming a party to any of the Conventions mentioned in paragraph 1, to which they are not already a party, with the exception of the International Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European States bordering on the Mediterranean.

#### *Article XI.5*

1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2 Any State may, at any later date, by a declaration addressed to one of the depositaries, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of one month after the date of receipt of such declaration by the depositary.

3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to one of the depositaries. The withdrawal shall become effective on the first day of the month following the expiration of a period of one month after the date of receipt of such notification by the depositary.

#### *Article XI.6*

1 Any Party may, at any time, denounce this Convention by means of a notification addressed to one of the depositaries.

2 Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of receipt of the notification by the depositary. However, such denunciation shall not affect recognition decisions taken previously under the provisions of this Convention.

3 Termination or suspension of the operation of this Convention as a consequence of a violation by a Party of a provision essential to the accomplishment of the object or purpose of this Convention shall be addressed in accordance with international law.

*Article XI.7*

1 Any State, the Holy See or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it reserves the right not to apply, in whole or in part, one or more of the following Articles of this Convention:

Article IV.8

Article V.3

Article VI.3

Article VIII.2

Article IX.3

No other reservation may be made.

2 Any Party which has made a reservation under the preceding paragraph may wholly or partly withdraw it by means of a notification addressed to one of the depositaries. The withdrawal shall take effect on the date of receipt of such notification by the depositary.

3 A Party which has made a reservation in respect of a provision of this Convention may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

*Article XI.8*

1 Draft amendments to this Convention may be adopted by the Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region by a two-thirds majority of the Parties. Any draft amendment so adopted shall be incorporated into a Protocol to this Convention. The Protocol shall specify the modalities for its entry into force which, in any event, shall require the expression of consent by the Parties to be bound by it.

2 No amendment may be made to Section III of this Convention under the procedure of paragraph 1 above.

3 Any proposal for amendments shall be communicated to one of the depositaries, who shall transmit it to the Parties at least three months before the meeting

of the Committee. The depositary shall also inform the Committee of Ministers of the Council of Europe and the Executive Board of UNESCO.

*Article XI.9*

1 The Secretary General of the Council of Europe and the Director-General of the United Nations Educational, Scientific and Cultural Organization shall be the depositaries of this Convention.

2 The depositary with whom an act, notification or communication has been deposited shall notify the Parties to this Convention, as well as the other member States of the Council of Europe and/or of the UNESCO Europe Region of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Convention in accordance with the provisions of Articles XI.2 and XI.3.4;
- d any reservation made in pursuance of the provisions of Article XI.7 and the withdrawal of any reservations made in pursuance of the provisions of Article XI.7;
- e any denunciation of this Convention in pursuance of Article XI.6;
- f any declarations made in accordance with the provisions of Article II.1, or of Article II.2;
- g any declarations made in accordance with the provisions of Article IV.5;
- h any request for accession made in accordance with the provisions of Article XI.3;
- i any proposal made in accordance with the provisions of Article XI.8;
- j any other act, notification or communication relating to this Convention.

3 The depositary receiving a communication or making a notification in pursuance of the provisions of this Convention shall immediately inform the other depositary thereof.

In witness thereof the undersigned representatives, being duly authorized, have signed this Convention.

Done at Lisbon on 11 April 1997, in the English, French, Russian and Spanish languages, the four texts being equally authoritative, in two copies, one of which shall be deposited in the archives of the Council of Europe and the other in the archives of the United Nations Educational, Scientific and Cultural Organization. A certified copy shall be sent to all the States referred to in Article XI.1, to the Holy See and to the European Community and to the Secretariat of the United Nations.



**European Treaty Series – No. 68**

**European Agreement on “au pair” Placement**

*Strasbourg, 24.XI.1969*

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve greater unity between its members, in particular for the purpose of facilitating their social progress;

Noting that in Europe more and more young persons, especially girls, are going abroad to be placed “au pair”;

Considering that, without wishing to make any critical assessment of this widespread practice, it is advisable to define and standardise, in all member States, the conditions governing such “au pair” placement;

Considering that “au pair” placement constitutes in member States an important social problem with legal, moral, cultural and economic implications, which transcends national boundaries and thereby takes on a European complexion;

Considering that persons placed “au pair” belong neither to the student category nor to the worker category but to a special category which has features of both, and that therefore it is useful to make appropriate arrangements for them;

Acknowledging more particularly the need to give persons placed “au pair” adequate social protection inspired by the principles laid down in the European Social Charter;

Considering that many of these persons are minors deprived for a long period of the support of their families, and that as such they should receive special protection relating to the material or moral conditions found in the receiving country;

Considering that only the public authorities can fully ensure and supervise the implementation of these principles;

Being convinced of the need for such co-ordination within the framework of the Council of Europe,

Have agreed as follows:

*Article 1*

Each Contracting Party undertakes to promote in its territory to the greatest extent possible the implementation of the provisions of this Agreement.

*Article 2*

1 “Au pair” placement is the temporary reception by families, in exchange for certain services, of young foreigners who come to improve their linguistic and possibly professional knowledge as well as their general culture by acquiring a better knowledge of the country where they are received.

2 Such young foreigners are hereinafter called persons placed “au pair”.

*Article 3*

Placement “au pair” which shall initially be for a period not exceeding one year, may, however, be extended to permit of a maximum stay of two years.

*Article 4*

1 The person placed “au pair” shall not be less than 17 or more than 30 years of age.

2 Nevertheless, exceptions to the upper age limit may be granted by the competent authority of the receiving country in individual cases when justified.

*Article 5*

The person placed “au pair” shall have a medical certificate, established less than three months before placement, declaring that person’s general state of health.

*Article 6*

1 The rights and obligations of the person “au pair” and the receiving family, as those rights and obligations are defined in this Agreement, shall be the subject of an agreement in writing to be concluded between the parties in question, in the form of a single document or of an exchange of letters, preferably before the person placed “au pair” leaves the country in which that person was resident and at latest during the first week of the placement

2 A copy of the agreement referred to in the preceding paragraph shall be lodged in the receiving country with the competent authority or the organisation chosen by this authority.



*Article 7*

The agreement referred to in Article 6 shall specify inter alia the manner in which the person placed “au pair” is to share the life of the receiving family, while at the same time enjoying a certain degree of independence.

*Article 8*

1 The person placed “au pair” shall receive board and lodging from the receiving family and, where possible, shall occupy a separate room.

2 The person placed “au pair” shall be given adequate time to attend language courses as well as for cultural and professional improvement; every facility as regards the arrangement of working hours shall be accorded to this end.

3 The person placed “au pair” shall have at least one full free day per week, not less than one such free day in every month being a Sunday, and shall have full opportunity to take part in religious worship.

4 The person placed “au pair” shall receive a certain sum of money, as pocket money, the amount of which and the intervals at which it is paid shall be determined by the agreement referred to in Article 6.

*Article 9*

A person placed “au pair” shall render the receiving family services consisting in participation in day-to-day family duties. The time effectively occupied in such services shall generally not be more than five hours per day.

*Article 10*

1 Each Contracting Party shall state, by listing them in Annex I to this Agreement, the benefits to which a person placed “au pair” will be entitled within its territory in the event of sickness, maternity or accident.

2 If and in so far as the benefits listed in Annex I cannot be covered, in the receiving country, by national social security legislation or other official schemes, taking into account the provisions of international agreements or the Regulations of the European Communities, the competent member of the receiving family shall, at his own expense, take out a private insurance.

3 Any change in the list of benefits in Annex I shall be notified by any Contracting Party in accordance with Article 19, paragraph 2.

*Article 11*

1 Where the agreement referred to in Article 6 has been concluded for an unspecified period, either party shall be entitled to terminate it by giving two weeks' notice.

2 Whether the agreement was made for a specified period or not, it may be terminated with immediate effect by either party in the event of serious misconduct by the other party or if other serious circumstances make such instant termination necessary.

*Article 12*

The competent authority of each Contracting Party shall appoint the public bodies and may appoint the private bodies to be entitled to deal with “au pair” placement.

*Article 13*

1 Each Contracting Party shall send to the Secretary General of the Council of Europe a report at five-yearly intervals, in a form to be determined by the Committee of Ministers, concerning the application of the provisions of Articles 1 to 12 of this Agreement.

2 The reports of the Contracting Parties shall be submitted for examination to the Governmental Social Committee of the Council of Europe.

3 The Governmental Social Committee shall present to the Committee of Ministers a report containing its conclusions; it may also make any proposals designed to:

- i. improve the practical implementation of this Agreement;
- ii. amend or supplement its provisions.

*Article 14*

1 This Agreement shall be open to signature by the member States of the Council of Europe, who may become Parties to it either by:

- a signature without reservation in respect of ratification or acceptance, or
- b signature with reservation in respect of ratification or acceptance, followed by ratification or acceptance.

2 Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.

*Article 15*

1 This Agreement shall enter into force one month after the date on which three member States of the Council shall have become Parties to the Agreement, in accordance with the provisions of Article 14.

2 As regards any member States who shall subsequently sign the Agreement without reservation in respect of ratification or acceptance or who shall ratify or accept it, the Agreement shall enter into force one month after the date of such signature or after the date of deposit of the instrument of ratification or acceptance.

*Article 16*

1 After the entry into force of this Agreement, the Committee of Ministers of the Council of Europe may invite any non-member State to accede thereto.

2 Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect one month after the date of its deposit.

*Article 17*

1 Any signatory State, at the time of signature or when depositing its instrument of ratification or acceptance, or any acceding State, when depositing its instrument of accession, may specify the territory or territories to which this Agreement shall apply.

2 Any signatory State, when depositing its instrument of ratification or acceptance or at any later date, or any acceding State, when depositing its instrument of accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, may extend this Agreement to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3 Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 20 of this Agreement.

*Article 18*

1 Any signatory State, at the time of signature or when depositing its instrument of ratification or acceptance, or any acceding State when depositing its instrument of accession, may declare that it avails itself of one or more of the reservations provided for in Annex II to this Agreement. No other reservation shall be admissible.

2 Any signatory State or any Contracting Party may wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective as from the date of its receipt.

*Article 19*

1 Any signatory State, at the time of signature or when depositing its instrument of ratification or acceptance, or any acceding State when depositing its instrument of accession, shall make known the benefits to be listed at Annex I in accordance with the provisions of paragraph 1 of Article 10.

2 Any notification referred to in paragraph 3 of Article 10 shall be addressed to the Secretary General of the Council of Europe and shall state the date from which it takes effect.

*Article 20*

- 1 This Agreement shall remain in force indefinitely.
- 2 Any Contracting Party may, in so far as it is concerned, denounce this Agreement by means of a notification addressed to the Secretary General of the Council of Europe.
- 3 Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

*Article 21*

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Agreement of:

- a any signature without reservation in respect of ratification or acceptance;
- b any signature with reservation in respect of ratification or acceptance;
- c the deposit of any instrument of ratification, acceptance or accession;
- d the lists of benefits listed at Annex I;
- e any date of entry into force of this Agreement in accordance with Article 15 thereof;
- f any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 17;
- g any reservation made in pursuance of the provisions of paragraph 1 of Article 18;
- h the withdrawal of any reservation carried out in pursuance of the provisions of paragraph 2 of Article 18;
- i any notification received in pursuance of the provisions of paragraph 2 of Article 19;
- j any notification received in pursuance of the provisions of Article 20 and the date on which denunciation takes effect.

*Article 22*

The Protocol attached to this Agreement shall form an integral part of it.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Strasbourg, this 24th day of November 1969, in English and French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

## **Annex I**

### **(Article 10)**

#### **Benefits**

(Lists notified)<sup>1</sup>

## **Annex II**

### **(Article 18.1)**

#### **Reservations**

Any Contracting Party may declare that it reserves the right:

- a to consider that the term “person placed “au pair”” shall apply only to females;
- b to adopt, of the two methods specified in Article 6, paragraph 1, only that which lays down that the agreement in writing shall be concluded before the person placed “au pair” leaves the country in which that person was resident;
- c to derogate from the provisions of Article 10, paragraph 2, in so far as one half of any private insurance premiums would be covered by the receiving family and in so far as this derogation would be brought, before the conclusion of the agreement, to the attention of any person interested in an “au pair” placement;
- d to defer implementation of the provisions of Article 12 until it has been able to make the necessary practical arrangements for such implementation, on the understanding that it shall endeavour to make these arrangements as soon as possible.

## **Protocol**

### **(Article 10)**

- 1 Each Contracting Party makes the statement at Annex I and any subsequent changes thereto, entirely on its own responsibility.
- 2 The benefits listed at Annex I should ensure, as far as possible, that the cost of medical treatment, pharmacy and hospital care is covered.

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1. These lists are contained in separate documents prepared as and when they are notified by the Contracting Parties.



**European Treaty Series – No. 14**

**European Convention on  
Social and Medical Assistance**

*Paris, 11.XII.1953*

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose, among others, of facilitating their social progress;

Being resolved, in accordance with this purpose, to extend their co-operation in the social field by establishing the principle of equal treatment for the nationals of each of them in the application of legislation providing for social and medical assistance; and

Desiring to conclude a Convention to this end,

Have agreed as follows:

**Section I – General provisions**

*Article 1*

Each of the Contracting Parties undertakes to ensure that nationals of the other Contracting Parties who are lawfully present in any part of its territory to which this Convention applies, and who are without sufficient resources, shall be entitled equally with its own nationals and on the same conditions to social and medical assistance (hereinafter referred to as “assistance”) provided by the legislation in force from time to time in that part of its territory.

*Article 2*

- a For the purposes of this Convention the terms “assistance”, “nationals”, “territory” and “country of origin” shall have the following meanings, that is to say:
  - i “Assistance” means in relation to each Contracting Party all assistance granted under the laws and regulations in force in any part of its territory under which persons without sufficient resources are granted means of subsistence and the care necessitated by their condition, other than non-contributory pensions and benefits paid in respect of war injuries due to foreign occupation.

- ii The terms “nationals” and “territory” of a Contracting Party shall have the meaning assigned to them by such a Party in a declaration addressed to the Secretary General of the Council of Europe for communication to all other Contracting Parties, provided that a person who has lost his nationality otherwise than by deprivation and has thereby become stateless shall, until he has acquired another nationality, continue to be treated as a national.
- iii “Country of origin” means the country of which a person covered by the provisions of the present Convention is a national.
- b The laws and regulations in force in the territories of the Contracting Parties and to which the present Convention applies, and the reservations formulated by Contracting Parties, are set forth in Annex I and Annex II respectively.

*Article 3*

Proof of the nationality of the person concerned shall be provided in accordance with the regulations governing such matters under the legislation of the country of origin.

*Article 4*

The cost of assistance to a national of any of the Contracting Parties shall be borne by the Contracting Party which has granted the assistance.

*Article 5*

The Contracting Parties undertake, so far as their laws and regulations permit, to help each other to recover the full cost of assistance as far as possible either from third parties under financial obligation to the assisted person or from persons who are liable to contribute to the cost of maintenance of the person concerned.

**Section II – Repatriation**

*Article 6*

- a A Contracting Party in whose territory a national of another Contracting Party is lawfully resident shall not repatriate that national on the sole ground that he is in need of assistance.
- b Nothing in this Convention shall prejudice the right to deport on any ground other than the sole ground mentioned in the previous paragraph.

*Article 7*

- a The provisions of Article 6.a notwithstanding, a Contracting Party may repatriate a national of another Contracting Party resident in its territory on the sole ground mentioned in Article 6.a if the following conditions are fulfilled:



- i the person concerned has not been continuously resident in the territory of that Contracting Party for at least five years if he entered it before attaining the age of 55 years, or for at least ten years if he entered it after attaining that age;
  - ii he is in a fit state of health to be transported; and
  - iii has no close ties in the territory in which he is resident.
- b The Contracting Parties agree not to have recourse to repatriation except in the greatest moderation and then only where there is no objection on humanitarian grounds.
- c In the same spirit, the Contracting Parties agree that, if they repatriate an assisted person, facilities should be offered to the spouse and children, if any, to accompany the person concerned.

*Article 8*

- a The Contracting Party repatriating any national in accordance with the provisions of Article 7 shall bear the cost of repatriation as far as the frontier of the territory to which the national is being repatriated.
- b Each Contracting Party undertakes to receive any of its nationals repatriated in accordance with the provisions of Article 7.
- c Each Contracting Party undertakes to facilitate the transit across its territory of any persons repatriated in accordance with Article 7.

*Article 9*

If the country of which the assisted person claims to be a national does not recognise him as such, the grounds of the disclaimer must be forwarded to the country of residence within thirty days or as soon as possible thereafter.

*Article 10*

- a When repatriation is decided upon, the diplomatic or consular authorities of the country of origin shall be advised (if possible, three weeks in advance) of the repatriation of their national.
- b The authorities of the country of origin shall duly inform the authorities of any country or countries of transit.
- c The places for handing over such persons shall be decided by arrangement between the competent authorities of the country of residence and the country of origin.

**Section III – Residence**

*Article 11*

- a Residence by an alien in the territory of any of the Contracting Parties shall be considered lawful within the meaning of this Convention so long as

there is in force in his case a permit or such other permission as is required by the laws and regulations of the country concerned to reside therein. Failure to renew any such permit, if due solely to the inadvertence of the person concerned, shall not cause him to cease to be entitled to assistance.

- b Lawful residence shall become unlawful from the date of any deportation order made out against the person concerned, unless a stay of execution is granted.

#### *Article 12*

The commencing date of the period of residence laid down in Article 7 shall in each country be established, in the absence of evidence to the contrary, on the basis of evidence supplied by official investigation or by the documents listed in Annex III or any documents recognised by the laws and regulations of the country as affording proof of residence.

#### *Article 13*

- a Proof of continuity of residence may be shown by the production of any evidence acceptable in the country of residence, such as proof of occupational activity or the production of rent receipts.
- b
  - i Residence shall be regarded as continuous notwithstanding periods of absence of less than three months, provided that the absence is not caused by repatriation or deportation.
  - ii Periods of absence of six months or more shall be held to interrupt the continuity of residence.
  - iii In order to determine whether a period of absence of between three and six months shall interrupt the continuity of residence, regard shall be had to the intention or otherwise of the person concerned to return to the country of residence and to the extent to which he has preserved his connection therewith during the period of his absence.
  - iv Service in ships registered in the country of residence shall not be held to interrupt the continuity of residence. Service in other ships shall be treated in accordance with the provisions of sub-paragraphs i to iii above.

#### *Article 14*

There shall be excluded in the calculation of length of residence those periods during which the person concerned has been in receipt of assistance from public monies as laid down in the legislative measures mentioned in Annex I, except in the case of medical treatment for acute illness or short-term medical treatment.

#### **Section IV – Miscellaneous provisions**

##### *Article 15*

The administrative, diplomatic and consular authorities of the Contracting Parties shall afford to one another all possible assistance in the implementation of this Convention.

##### *Article 16*

- a The Contracting Parties shall notify the Secretary General of the Council of Europe of any subsequent amendment of their laws and regulations which may affect Annexes I and III.
- b Each Contracting Party shall notify to the Secretary General of the Council of Europe any new law or regulation not already included in Annex I. At the time of making such notification a Contracting Party may make a reservation in respect of the application of this new law or regulation to the nationals of other Contracting Parties.
- c The Secretary General of the Council of Europe shall communicate to the other Contracting Parties any information notified to him in accordance with paragraphs a and b.

##### *Article 17*

The Contracting Parties may, by bilateral arrangement, take interim measures to deal with cases in which assistance was granted prior to the entry into force of this Convention.

##### *Article 18*

The provisions of this Convention shall not limit the provisions of any national laws or regulations, international conventions or bilateral or multilateral agreements which are more favourable for the beneficiary.

##### *Article 19*

Annexes I, II and III shall constitute an integral part of this Convention.

##### *Article 20*

- a The competent authorities of the Contracting Parties shall endeavour to resolve by negotiation any dispute relating to the interpretation or application of this Convention.
- b If any such dispute has not been resolved by negotiation within a period of three months, the dispute shall be submitted to arbitration by an arbitral body whose composition and procedure shall be agreed upon by the Contracting Parties concerned or, in default of such agreement within a further period of three months, by an arbitrator chosen at the request of any of the Contracting Parties concerned by the President of the International

Court of Justice. Should the latter be a national of one of the Parties to the dispute, this task shall be entrusted to the Vice-President of the Court or to the next judge in order of seniority not a national of one of the Parties to the dispute.

- c The decision of the arbitral body or arbitrator, as the case may be, shall be made in accordance with the principles and spirit of this Convention and shall be final and binding.

*Article 21*

- a This Convention shall be open to the signature of the members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary General of the Council of Europe.
- b This Convention shall come into force on the first day of the month following the date of deposit of the second instrument of ratification.
- c As regards any signatory ratifying subsequently, the Convention shall come into force on the first day of the month following the date of the deposit of its instrument of ratification.

*Article 22*

- a The Committee of Ministers of the Council of Europe may invite any State not a member of the Council to accede to this Convention.
- b Accession shall be effected by the deposit of an instrument of accession with the Secretary General of the Council of Europe, which shall take effect on the first day of the month following the date of deposit.
- c Any instrument of accession deposited in accordance with this article shall be accompanied by a notification of such information as would be contained in the Annexes I and III to this Convention if the government of the State concerned were, on the date of accession, a signatory hereto.
- d For the purposes of this Convention any information notified in accordance with paragraph c of this article shall be deemed to be part of the annex in which it would have been recorded if the government of the State concerned were a signatory hereto.

*Article 23*

The Secretary General of the Council of Europe shall notify the members of the Council:

- a of the date of entry into force of this Convention and the names of any members who ratify it;
- b of the deposit of any instrument of accession in accordance with Article 22 and of such notifications as are received with it;
- c of any notification received in accordance with Article 24 and its effective date.

*Article 24*

This Convention shall remain in force for a period of two years from the date of its entry into force in accordance with paragraph b of Article 21. Thereafter it shall remain in force from year to year for such Contracting Parties as have not denounced it by a notification to that effect addressed to the Secretary General of the Council of Europe at least six months before the expiry either of the preliminary two-year period or of any subsequent yearly period. Such notification shall take effect at the end of the period to which it relates.

In witness whereof the undersigned, being duly authorised thereto, have signed the present Convention.

Done at Paris, this 11th day of December 1953, in English and French, both texts being equally authoritative, in a single copy, which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatories.

## **Protocol to the European Convention on Social and Medical Assistance**

The governments signatory hereto, being members of the Council of Europe,

Having regard to the provisions of the European Convention on Social and Medical Assistance, signed at Paris, on the 11th day of December 1953 (hereinafter referred to as “the Assistance Convention”);

Having regard to the provisions of the Convention relating to the Status of Refugees signed at Geneva on 28th July 1951 (hereinafter referred to as “the Geneva Convention”);

Being desirous of extending the provisions of the Assistance Convention so as to apply to refugees as defined in the Geneva Convention,

Have agreed as follows:

### *Article 1*

For the purposes of this Protocol the term “refugee” shall have the meaning ascribed to it in Article 1 of the Geneva Convention, provided that each Contracting Party shall make a declaration at the time of signature or ratification hereof or accession hereto, specifying which of the meanings set out in paragraph B of Article 1 of that Convention it applies for the purpose of its obligations under this Protocol, unless such Party has already made such a declaration at the time of its signature or ratification of that Convention.

### *Article 2*

The provisions of Section I of the Assistance Convention shall apply to refugees under the same conditions as they apply to the nationals of the Contracting Parties thereto.

### *Article 3*

1 The provisions of Section II of the Assistance Convention shall not apply to refugees.

2 In the case of a person who has ceased to qualify for the benefits of the Geneva Convention in accordance with the provisions of paragraph C of Article 1 thereof, the period for repatriation laid down in Article 7.a.i of the Assistance Convention shall begin from the date when he has thus ceased to qualify.

### *Article 4*

As between the Contracting Parties, the provisions of Articles 1, 2 and 3 of this Protocol shall be regarded as additional articles to the Assistance Convention, and the remaining provisions of that Convention shall apply accordingly.

*Article 5*

1 This Protocol shall be open to the signature of the members of the Council of Europe who have signed the Assistance Convention. It shall be ratified.

2 Any State which has acceded to the Assistance Convention may accede to this Protocol.

3 This Protocol shall come into force on the first day of the month following the date of deposit of the second instrument of ratification.

4 As regards any signatory ratifying subsequently, or any acceding State, the Protocol shall come into force on the first day of the month following the date of the deposit of its instrument of ratification or accession.

5 Instruments of ratification and accession shall be deposited with the Secretary General of the Council of Europe, who shall notify the members of the Council and acceding States of the names of those who have ratified or acceded.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Paris, this 11th day of December 1953, in English and French, both texts being equally authoritative, in a single copy, which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatories.





**European Treaty Series – No. 12**

**European Interim Agreement on  
Social Security Schemes relating to Old Age,  
Invalidity and Survivors**

*Paris, 19.XII.1953*

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose, among others, of facilitating their social progress;

Affirming the principle that the nationals of any one of the Contracting Parties to this Agreement should receive under the laws and regulations of any other Contracting Party relating to benefits payable in respect of old age, invalidity or survivors, equal treatment with the nationals of the latter, a principle sanctioned by Conventions of the International Labour Organisation;

Affirming also the principle that the nationals of any one of the Contracting Parties should receive the benefits of agreements relating to old age, invalidity and survivors concluded by any two or more of the other Contracting Parties;

Desirous of giving effect to these principles by means of an Interim Agreement pending the conclusion of a general convention based on a network of bilateral agreements,

Have agreed as follows:

*Article 1*

1 This Agreement shall apply to all social security laws and regulations which are in force at the date of signature or may subsequently come into force in any part of the territory of the Contracting Parties and which relate to:

- a benefits in respect of old age;
- b benefits in respect of invalidity, other than those awarded under an employment injury scheme;
- c benefits payable to survivors, other than death grants or benefits awarded under an employment injury scheme.

2 This Agreement shall apply to schemes of contributory and non-contributory benefits. It shall not apply to public assistance, special schemes for civil servants or benefits paid in respect of war injuries or injuries due to foreign occupation.

3 For the purpose of this Agreement the word “benefit” shall include any increase in or supplement to the benefit.

4 The terms “nationals” and “territory” of a Contracting Party shall have the meaning assigned to them by such a Party in a declaration addressed to the Secretary General of the Council of Europe for communication to all other Contracting Parties.

#### *Article 2*

1 Subject to the provisions of Article 9, a national of any one of the Contracting Parties shall be entitled to receive the benefits of the laws and regulations of any other of the Contracting Parties under the same conditions as if he were a national of the latter, provided that:

- a in the case of invalidity benefit under either a contributory or non-contributory scheme he had become ordinarily resident in the territory of the latter Contracting Party before the first medical certification of the sickness responsible for such invalidity;
- b in the case of benefit payable under a non-contributory scheme, he has been resident in that territory for a period in the aggregate of not less than fifteen years after the age of twenty, has been ordinarily resident without interruption in that territory for at least five years immediately preceding the claim for benefit and continues to be ordinarily resident in that territory;
- c in the case of benefit payable under a contributory scheme, he is resident in the territory of any one of the Contracting Parties.

2 In any case where the laws and regulations of any one of the Contracting Parties impose a restriction on the rights of a national of that Party who was not born in its territory, a national of any other of the Contracting Parties born in the territory of the latter shall be treated as if he were a national of the former Contracting Party born in its territory.

#### *Article 3*

1 Any agreement relating to the laws and regulations referred to in Article 1 which has been or may be concluded by any two or more of the Contracting Parties shall, subject to the provisions of Article 9, apply to a national of any other of the Contracting Parties as if he were a national of one of the former Parties insofar as it provides, in relation to those laws and regulations:

- a for determining under which laws and regulations a person should be insured;
- b for maintaining acquired rights and rights in course of acquisition and, in particular, for adding together insurance periods and equivalent periods for the purpose of establishing the right to receive benefit and calculating the amount of benefit due;

- c for paying benefit to persons residing in the territory of any one of the Parties to such agreement;
- d for supplementing and administering the provisions of such agreement referred to in this paragraph.

2 The provisions of paragraph 1 of this article shall not apply to any provision of the said agreement which concerns benefits provided under a non-contributory scheme, unless the national concerned has been resident in the territory of the Contracting Party under whose laws and regulations he claims benefit for a period in the aggregate of not less than fifteen years after the age of twenty and has been ordinarily resident without interruption in that territory for a period of at least five years immediately preceding the claim for benefit.

#### *Article 4*

Subject to the provisions of any relevant bilateral and multilateral agreements, benefits which in the absence of this Agreement have not been awarded, or have been suspended, shall be awarded or reinstated from the date of the entry into force of this Agreement for all the Contracting Parties concerned with the claim in question, provided that the claim thereto is presented within one year after such date or within such longer period as may be determined by the Contracting Party under whose laws and regulations the benefit is claimed. If the claim is not presented within such period, the benefit shall be awarded or reinstated from the date of the claim or such earlier date as may be determined by the latter Contracting Party.

#### *Article 5*

The provisions of this Agreement shall not limit the provisions of any national laws or regulations, international conventions, or bilateral or multilateral agreements which are more favourable for the beneficiary.

#### *Article 6*

This Agreement shall not affect those provisions of national laws or regulations which relate to the participation of insured persons, and of other categories of persons concerned, in the management of social security.

#### *Article 7*

1 Annex I to this Agreement sets out in relation to each Contracting Party the social security schemes to which Article 1 applies which are in force in any part of its territory at the date of signature of this Agreement.

2 Each Contracting Party shall notify the Secretary General of the Council of Europe of every new law or regulation of a type not included in Annex I in relation to that Party. Such notifications shall be made by each Contracting Party within three months of the date of publication of the new law or regulation, or if

such law or regulation is published before the date of ratification of this Agreement by the Contracting Party concerned, at that date of ratification.

*Article 8*

1 Annex II to this Agreement sets out in relation to each Contracting Party the agreements concluded by it to which Article 3 applies which are in force at the date of signature of this Agreement.

2 Each Contracting Party shall notify the Secretary General of the Council of Europe of every new agreement concluded by it to which Article 3 applies. Such notification shall be made by each Contracting Party within three months of the date of coming into force of the agreement, or if such new agreement has come into force before the date of ratification of this Agreement, at that date of ratification.

*Article 9*

1 Annex III to this Agreement sets out the reservations hereto made at the date of signature.

2 Any Contracting Party may, at the time of making a notification in accordance with Article 7 or Article 8, make a reservation in respect of the application of the present Agreement to any law, regulation or agreement which is referred to in such notification. A statement of any such reservation shall accompany the notification concerned; it will take effect from the date of entry into force of the new law, regulation or agreement.

3 Any Contracting Party may withdraw either in whole or in part any reservation made by it by a notification to that effect addressed to the Secretary General of the Council of Europe. Such notification shall take effect on the first day of the month following the month in which it is received and this Agreement shall apply accordingly

*Article 10*

The annexes to this Agreement shall constitute an integral part of this Agreement.

*Article 11*

1 Arrangements, where necessary, between the competent authorities of the Contracting Parties shall determine the methods of implementation of this Agreement.

2 The competent authorities of the Contracting Parties concerned shall endeavour to resolve by negotiation any dispute relating to the interpretation or application of this Agreement.

3 If any such dispute has not been resolved by negotiation within a period of three months, the dispute shall be submitted to arbitration by an arbitral body whose composition and procedure shall be agreed upon by the Contracting Parties concerned, or, in default of such agreement, within a further period of three months, by an arbitrator chosen at the request of any of the Contracting Parties concerned by the President of the International Court of Justice. Should the latter be a national of one of the Parties to the dispute, this task shall be entrusted to the Vice-President of the Court or to the next judge in order of seniority not a national of one of the Parties to the dispute.

4 The decision of the arbitral body, or arbitrator, as the case may be, shall be made in accordance with the principles and spirit of this Agreement and shall be final and binding.

#### *Article 12*

In the event of the denunciation of this Agreement by any of the Contracting Parties,

- a any right acquired by a person in accordance with its provisions shall be maintained and, in particular, if he has, in accordance with its provisions, acquired the right to receive any benefit under the laws and regulations of one of the Contracting Parties while he is resident in the territory of another, he shall continue to enjoy that right;
- b subject to any conditions which may be laid down by supplementary agreements concluded by the Contracting Parties concerned for the settlement of any rights then in course of acquisition, the provisions of this Agreement shall continue to apply to insurance periods and equivalent periods completed before the date when the denunciation becomes effective.

#### *Article 13*

1 This Agreement shall be open to the signature of the members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary General of the Council of Europe.

2 This Agreement shall come into force on the first day of the month following the date of deposit of the second instrument of ratification.

3 As regards any signatory ratifying subsequently, the Agreement shall come into force on the first day of the month following the date of the deposit of its instrument of ratification.

#### *Article 14*

1 The Committee of Ministers of the Council of Europe may invite any State not a member of the Council of Europe to accede to this Agreement.

2 Accession shall be effected by the deposit of an instrument of accession with the Secretary General of the Council of Europe, which shall take effect on the first day of the month following the date of deposit.

3 Any instrument of accession deposited in accordance with this article shall be accompanied by a notification of such information as would be contained in the Annexes I and II to this Agreement if the government of the State concerned were, on the date of accession, a signatory hereto.

4 For the purposes of this Agreement any information notified in accordance with paragraph 3 of this article shall be deemed to be part of the annex in which it would have been recorded if the government of the State concerned were a signatory hereto.

#### *Article 15*

The Secretary General of the Council of Europe shall notify:

- a the members of the Council and the Director General of the International Labour Office:
  - i of the date of entry into force of this Agreement and the names of any members who ratify it,
  - ii of the deposit of any instrument of accession in accordance with Article 14 and of such notifications as are received with it,
  - iii of any notification received in accordance with Article 16 and its effective date;
- b the Contracting Parties and the Director General of the International Labour Office:
  - i of any notifications received in accordance with Articles 7 and 8,
  - ii of any reservation made in accordance with paragraph 2 of Article 9,
  - iii of the withdrawal of any reservation in accordance with paragraph 3 of Article 9.

#### *Article 16*

This Agreement shall remain in force for a period of two years from the date of its entry into force in accordance with paragraph 2 of Article 13. Thereafter it shall remain in force from year to year for such Contracting Parties as have not denounced it by a notification to that effect addressed to the Secretary General of the Council of Europe at least six months before the expiry either of the preliminary two-year period, or of any subsequent yearly period. Such notification shall take effect at the end of the period to which it relates.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Paris, this 11th day of December 1953, in the English and French languages, both texts being equally authoritative, in a single copy which shall remain in the archives of the Council of Europe and of which the Secretary General shall send certified copies to each of the signatories and to the Director General of the International Labour Office.

## **Protocol to the European Interim Agreement on Social Security Schemes relating to Old Age, Invalidity and Survivors**

The governments signatory hereto, being members of the Council of Europe,

Having regard to the provisions of the European Interim Agreement on Social Security Schemes relating to Old Age, Invalidity and Survivors, signed at Paris, on the 11th day of December 1953 (hereinafter referred to as “the principal Agreement”);

Having regard to the provisions of the Convention relating to the Status of Refugees signed at Geneva on 28th July 1951 (hereinafter referred to as “the Convention”);

Being desirous of extending the provisions of the principal Agreement so as to apply to refugees as defined in the Convention,

Have agreed as follows:

### *Article 1*

For the purposes of this Protocol the term “refugee” shall have the meaning ascribed to it in Article 1 of the Convention, provided that each Contracting Party shall make a declaration at the time of signature or ratification hereof or accession hereto, specifying which of the meanings set out in paragraph B of Article 1 of the Convention it applies for the purpose of its obligations under this Protocol, unless such Party has already made such a declaration at the time of its signature or ratification of the Convention.

### *Article 2*

The provisions of the principal Agreement shall apply to refugees under the same conditions as they apply to the nationals of the Contracting Parties thereto, provided that Article 3 of that Agreement shall apply to refugees only in cases where the Contracting Parties to the agreements to which that article refers have ratified this Protocol or acceded thereto.

### *Article 3*

1 This Protocol shall be open to the signature of the members of the Council of Europe who have signed the principal Agreement. It shall be ratified.

2 Any State which has acceded to the principal Agreement may accede to this Protocol.

3 This Protocol shall come into force on the first day of the month following the date of deposit of the second instrument of ratification.



4 As regards any signatory ratifying subsequently, or any acceding State, the Protocol shall come into force on the first day of the month following the date of the deposit of its instrument of ratification or accession.

5 Instruments of ratification and accession shall be deposited with the Secretary General of the Council of Europe, who shall notify the members of the Council, acceding States and the Director General of the International Labour Office of the names of those who have ratified or acceded.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Paris, this 11th day of December 1953, in the English and French languages, both texts being equally authoritative, in a single copy which shall remain in the archives of the Council of Europe and of which the Secretary General shall send certified copies to each of the signatories and to the Director General of the International Labour Office.



**European Treaty Series – No. 13**

## **European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors**

*Paris, 11.XII.1953*

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose, among others, of facilitating their social progress;

Affirming the principles that the nationals of any one of the Contracting Parties to this Agreement should receive under the social security laws and regulations of any other Contracting Party equal treatment with the nationals of the latter, a principle sanctioned by Conventions of the International Labour Organisation;

Affirming also the principle that nationals of any one of the Contracting Parties should receive the benefits of agreements on social security concluded by any two or more of the other Contracting Parties;

Desirous of giving effect to these principles by means of an Interim Agreement, pending the conclusion of a general convention based on a network of bilateral agreements,

Have agreed as follows:

### *Article 1*

1 This Agreement shall apply to all social security laws and regulations which are in force at the date of signature or may subsequently come into force in any part of the territory of the Contracting Parties and which relate to:

- a sickness, maternity and death (death grants), including medical benefits insofar as they are not subject to a needs test;
- b employment injury;
- c unemployment;
- d family allowances.

2 This Agreement shall apply to schemes of contributory and non-contributory benefits, including employers' obligations to compensate for employment

injuries. It shall not apply to public assistance, special schemes for civil servants, or benefits paid in respect of war injuries or injuries due to foreign occupation.

3 For the purposes of this Agreement, the word “benefit” includes any increase in or supplement to the benefit.

4 The terms “nationals” and “territory” of a Contracting Party shall have the meaning assigned to them by such a Party in a declaration addressed to the Secretary General of the Council of Europe for communication to all other Contracting Parties.

#### *Article 2*

1 Subject to the provisions of Article 9, a national of any one of the Contracting Parties shall be entitled to receive the benefits of the laws and regulations of any other Contracting Parties under the same conditions as if he were a national of the latter:

- a in the case of benefit in respect of employment injury, provided that he resides in the territory of one of the Contracting Parties;
- b in the case of any benefit other than benefit in respect of employment injury, provided that he is ordinarily resident in the territory of the latter Contracting Party;
- c in the case of benefit claimed in respect of sickness, maternity or unemployment, provided that he had become ordinarily resident in the territory of the latter Contracting Party before the first medical certification of the sickness, the presumed date of conception or the beginning of the unemployment, as the case may be;
- d in the case of a benefit provided under a non-contributory scheme, other than a benefit in respect of employment injury, provided that he has been resident for six months in the territory of the latter Contracting Party.

2 In any case where the laws and regulations of any one of the Contracting Parties impose a restriction on the rights of a national of that Party who was not born in its territory, a national of any other of the Contracting Parties born in the territory of the latter shall be treated as if he were a national of the former Contracting Party born in its territory.

3 In any case where in determining a right to benefit the laws and regulations of any one of the Contracting Parties make any distinction which depends on the nationality of a child, a child who is a national of any other of the Contracting Parties shall be treated as if he were a national of the former Contracting Party.

#### *Article 3*

1 Any agreement relating to the laws and regulations referred to in Article 1 which has been or may be concluded by any two or more of the Contracting Parties shall, subject to the provisions of Article 9, apply to a national of any

other of the Contracting Parties as if he were a national of one of the former Parties insofar as it provides, in relation to those laws and regulations:

- a for determining under which laws and regulations a person should be insured;
- b for maintaining acquired rights and rights in course of acquisition and, in particular, for adding together insurance periods and equivalent periods for the purpose of establishing the right to receive benefit and calculating the amount of benefit due;
- c for paying benefit to persons residing in the territory of any one of the Parties to such agreement;
- d for supplementing and administering the provisions of such agreement referred to in this paragraph.

2 The provisions of paragraph 1 of this article shall not apply to any provision of the said agreement which concerns benefits provided under a non-contributory scheme unless the national concerned has resided for six months in the territory of the Contracting Party under whose laws and regulations he claims benefit.

#### *Article 4*

Subject to the provisions of any relevant bilateral and multilateral agreements, benefits which in the absence of this Agreement have not been awarded or have been suspended shall be awarded or reinstated from the date of the entry into force of this Agreement for all the Contracting Parties concerned with the claim in question, provided that the claim thereto is presented within one year after such date or within such longer period as may be determined by the Contracting Party under whose laws and regulations the benefit is claimed. If the claim is not presented within such period, the benefit shall be awarded or reinstated from the date of the claim or such earlier date as may be determined by the latter Contracting Party.

#### *Article 5*

The provisions of this Agreement shall not limit the provisions of any national laws or regulations, international conventions, or bilateral or multilateral agreements which are more favourable for the beneficiary.

#### *Article 6*

This Agreement shall not affect those provisions of national laws or regulations which relate to the participation of insured persons, and of other categories of persons, concerned in the management of social security.

*Article 7*

1 Annex I to this Agreement sets out in relation to each Contracting Party the social security schemes to which Article 1 applies which are in force in any part of its territory at the date of signature of this Agreement.

2 Each Contracting Party shall notify the Secretary General of the Council of Europe of every new law or regulation of a type not included in Annex I in relation to that Party. Such notifications shall be made by each Contracting Party within three months of the date of publication of the new law or regulation, or if such law or regulation is published before the date of ratification of this Agreement by the Contracting Party concerned, at that date of ratification.

*Article 8*

1 Annex II to this Agreement sets out in relation to each Contracting Party the agreements concluded by it to which Article 3 applies which are in force at the date of signature of this Agreement.

2 Each Contracting Party shall notify the Secretary General of the Council of Europe of every new agreement concluded by it to which Article 3 applies. Such notification shall be made by each Contracting Party within three months of the date of coming into force of the agreement, or if such new agreement has come into force before the date of ratification of this Agreement, at that date of ratification.

*Article 9*

1 Annex III to this Agreement sets out the reservations hereto made at the date of signature.

2 Any Contracting Party may, at the time of making a notification in accordance with Article 7 or Article 8, make a reservation in respect of the application of this Agreement to any law, regulation or agreement which is referred to in such notification. A statement of any such reservation shall accompany the notification concerned; it will take effect from the date of entry into force of the new law, regulation or agreement.

3 Any Contracting Party may withdraw either in whole or in part any reservation made by it by a notification to that effect addressed to the Secretary General of the Council of Europe. Such notification shall take effect on the first day of the month following the month in which it is received and this Agreement shall apply accordingly.

*Article 10*

The annexes to this Agreement shall constitute an integral part of this Agreement.

*Article 11*

1 Arrangements where necessary between the competent authorities of the Contracting Parties shall determine the methods of implementation of this Agreement.

2 The competent authorities of the Contracting Parties concerned shall endeavour to resolve by negotiation any dispute relating to the interpretation or application of this Agreement.

3 If any dispute has not been resolved by negotiation within a period of three months, the dispute shall be submitted to arbitration by an arbitral body whose composition and procedure shall be agreed upon by the Contracting Parties concerned, or, in default of such agreement, within a further period of three months, by an arbitrator chosen at the request of any of the Contracting Parties concerned by the President of the International Court of Justice. Should the latter be a national of one of the Parties to the dispute, this task shall be entrusted to the Vice-President of the Court or to the next judge in order of seniority not a national of one of the Parties to the dispute.

4 The decision of the arbitral body, or arbitrator, as the case may be, shall be made in accordance with the principles and spirit of this Agreement and shall be final and binding.

*Article 12*

In the event of the denunciation of this Agreement by any of the Contracting Parties,

- a any right acquired by a person in accordance with its provisions shall be maintained and, in particular, if he has, in accordance with its provisions, acquired the right to receive any benefit under the laws and regulations of one of the Contracting Parties while he is resident in the territory of another, he shall continue to enjoy that right;
- b subject to any conditions which may be laid down by supplementary agreements concluded by the Contracting Parties concerned for the settlement of any rights then in course of acquisition, the provisions of this Agreement shall continue to apply to insurance periods and equivalent periods completed before the date when the denunciation becomes effective.

*Article 13*

1 This Agreement shall be open to the signature of the members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary General of the Council of Europe.

2 This Agreement shall come into force on the first day of the month following the date of deposit of the second instrument of ratification.

3 As regards any signatory ratifying subsequently, the Agreement shall come into force on the first day of the month following the date of the deposit of its instrument of ratification.

*Article 14*

1 The Committee of Ministers of the Council of Europe may invite any State not a member of the Council of Europe to accede to this Agreement.

2 Accession shall be effected by the deposit of an instrument of accession with the Secretary General of the Council of Europe, which shall take effect on the first day of the month following the date of deposit.

3 Any instrument of accession deposited in accordance with this article shall be accompanied by a notification of such information as would be contained in the Annexes I and II to this Agreement if the government of the State concerned were, on the date of accession, a signatory hereto.

4 For the purposes of this Agreement any information notified in accordance with paragraph 3 of this article shall be deemed to be part of the annex in which it would have been recorded if the government of the State concerned were a signatory hereto.

*Article 15*

The Secretary General of the Council of Europe shall notify:

- a the members of the Council and the Director General of the International Labour Office:
  - i of the date of entry into force of this Agreement and the names of any members who ratify;
  - ii of the deposit of any instrument of accession in accordance with Article 14 and of such notifications as are received with it;
  - iii of any notification received in accordance with Article 16 and its effective date;
- b the Contracting Parties and the Director General of the International Labour Office:
  - i of any notifications received in accordance with Articles 7 and 8;
  - ii of any reservation made in accordance with paragraph 2 of Article 9;
  - iii of the withdrawal of any reservation in accordance with paragraph 3 of Article 9.

*Article 16*

This Agreement shall remain in force for a period of two years from the date of its entry into force in accordance with paragraph 2 of Article 13. Thereafter it shall remain in force from year to year for such Contracting Parties as have not



denounced it by a notification to that effect addressed to the Secretary General of the Council of Europe at least six months before the expiry either of the preliminary two-year period, or of any subsequent yearly period. Such notification shall take effect at the end of the period to which it relates.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Paris, this 11th day of December 1953, in the English and French languages, both texts being equally authoritative, in a single copy which shall remain in the archives of the Council of Europe and of which the Secretary General shall send certified copies to each of the signatories and to the Director General of the International Labour Office.

## **Protocol to the European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors**

The governments signatory hereto, being members of the Council of Europe,

Having regard to the provisions of the European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors, signed at Paris on the 11th day of December 1953 (hereinafter referred to as “the principal Agreement”);

Having regard to the provisions of the Convention relating to the Status of Refugees signed at Geneva on 28 July 1951 (hereinafter referred to as “the Convention”);

Being desirous of extending the provisions of the principal Agreement so as to apply to refugees as defined in the Convention,

Have agreed as follows:

### *Article 1*

For the purposes of this Protocol the term “refugee” shall have the meaning ascribed to it in Article 1 of the Convention, provided that each Contracting Party shall make a declaration at the time of signature or ratification hereof or accession hereto, specifying which of the meanings set out in paragraph B of Article 1 of the Convention it applies for the purpose of its obligations under this Protocol, unless such Party has already made such a declaration at the time of its signature or ratification of the Convention.

### *Article 2*

The provisions of the principal Agreement shall apply to refugees under the same conditions as they apply to the nationals of the Contracting Parties thereto, provided that Article 3 of that Agreement shall apply to refugees only in cases where the Contracting Parties to the agreements to which that article refers have ratified this Protocol or acceded thereto.

### *Article 3*

1 This Protocol shall be open to the signature of the members of the Council of Europe who have signed the principal Agreement. It shall be ratified.

2 Any State which has acceded to the principal Agreement may accede to this Protocol.

3 This Protocol shall come into force on the first day of the month following the date of deposit of the second instrument of ratification.

4 As regards any signatory ratifying subsequently, or any acceding State, the Protocol shall come into force on the first day of the month following the date of the deposit of its instrument of ratification or accession.

5 Instruments of ratification and accession shall be deposited with the Secretary General of the Council of Europe, who shall notify the members of the Council, acceding States and the Director General of the International Labour Office of the names of those who have ratified or acceded.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Paris, this 11th day of December 1953, in the English and French languages, both texts being equally authoritative, in a single copy which shall remain in the archives of the Council of Europe and of which the Secretary General shall send certified copies to each of the signatories and to the Director General of the International Labour Office.



**European Treaty Series – No. 78**

**European Convention on Social Security**

*Paris, 14.XII.1972*

The member states of the Council of Europe signatory hereto,

Considering that the aim of the Council of Europe is to achieve greater unity between its members, in particular for the purpose of facilitating their social progress;

Considering that multilateral co-ordination of social security legislation is one of the means of achieving that aim;

Considering that the European Code of Social Security, opened for signature on 16 April 1964, provides, in Article 73, that the Contracting Parties to the Code shall endeavour to conclude a special instrument governing questions relating to social security for foreigners and migrants, particularly with regard to equality of treatment with their own nationals and to the maintenance of acquired rights and rights in course of acquisition;

Affirming the principle of equality of treatment for nationals of the Contracting Parties, refugees and stateless persons, under the social security legislation of each Contracting Party, and the principle that the benefits under social security legislation should be maintained despite any change of residence by the protected persons within the territories of the Contracting Parties, principles which underlie not only certain provisions of the European Social Charter but also several conventions of the International Labour Organisation,

Have agreed as follows:

**Title I – General provisions**

*Article 1*

For the purposes of this Convention:

- a the term “Contracting Party” means any State which has deposited an instrument of ratification, of acceptance or of accession, in accordance with the provisions of Article 75, paragraph 1, or of Article 77;
- b the terms “territory of a Contracting Party” and “national of a Contracting Party” are defined in Annex I; each Contracting Party shall give notice, in accordance with the provisions of Article 81, paragraph 1, of any amendment to be made to Annex I;

- c the term “legislation” means any laws, regulations and other statutory instruments which are in force at the time of signature of this Convention or may enter into force subsequently in the whole or any part of the territory of each Contracting Party and which relate to the social security branches and schemes specified in Article 2, paragraphs 1 and 2;
- d the term “social security convention” means any bilateral or multilateral instrument by which two or more Contracting Parties are, or may subsequently be, bound exclusively, and any multilateral instrument by which at least two Contracting Parties and one or more other States are, or may subsequently be, bound in the field of social security in respect of all or of part of the social security branches and schemes specified in Article 2, paragraphs 1 and 2, as well as any agreements concluded pursuant to the said instruments;
- e the term “competent authority” means the minister, ministers or other corresponding authority responsible for the social security schemes in all or any part of the territory of each Contracting Party;
- f the term “institution” means the body or authority responsible for applying all or part of the legislation of each Contracting Party;
- g the term “competent institution” means:
  - i in relation to a social insurance scheme, either the institution with which the person concerned is insured when he claims benefit, or the institution from which he is entitled to receive benefit or would be entitled to receive benefit if he were resident in the territory of the Contracting Party where that institution is situated, or the institution designated by the competent authority of the Contracting Party concerned;
  - ii in relation to a scheme other than a social insurance scheme, or in relation to a family benefits scheme, the institution designated by the competent authority of the Contracting Party concerned;
  - iii in relation to a scheme concerning an employer’s liability in respect of benefits referred to in Article 2, paragraph 1, either the employer or his insurer or, in default thereof, the body or authority designated by the competent authority of the Contracting Party concerned;
- h the term “competent State” means the Contracting Party in whose territory the competent institution is situated;
- i the term “residence” means ordinary residence;
- j the term “temporary residence” means a temporary stay;
- k the term “institution of the place of residence” means the institution empowered, under the Contracting Party’s legislation which it applies, to pay the benefits in question at the place of residence or, where no such institution exists, the institution designated by the competent authority of the Contracting Party concerned;

- l the term “institution of the place of temporary residence” means the institution empowered, under the Contracting Party’s legislation which it applies, to pay the benefits in question at the place of temporary residence or, where no such institution exists, the institution designated by the competent authority of the Contracting Party concerned;
- m the term “worker” means an employed person or a self-employed person or a person treated as such under the legislation of the Contracting Party concerned, unless otherwise specified in this Convention;
- n the term “frontier worker” means an employed person who is employed in the territory of one Contracting Party and resides in the territory of another Contracting Party where he returns in principle every day or at least once a week; provided that
  - i as regards relations between France and the Contracting Parties bordering France, the person concerned must, to be deemed a frontier worker, reside and be employed within a zone which does not, in principle, extend more than twenty kilometres on either side of the common frontier;
  - ii a frontier worker employed in the territory of one Contracting Party by an undertaking which is his normal employer, who is sent by that undertaking to work outside the frontier area, either in the territory of the same Contracting Party or in the territory of another Contracting Party, for a period not expected to exceed four months, shall retain the status of frontier worker during such employment for a period not exceeding four months;
- o the term “refugee” has the meaning assigned to it in Article 1, Section A, of the Convention on the Status of Refugees, signed at Geneva on 28 July 1951, and in Article 1, paragraph 2, of the Protocol on the Status of Refugees of 31 January 1967, without any geographical limitation;
- p the term “stateless person” has the meaning assigned to it in Article 1 of the Convention on the Status of Stateless Persons, done at New York on 28 September 1954;
- q the term “members of the family” means the persons defined, or recognised as such, or designated as members of the household, by the institution responsible for paying benefits, or, in the cases referred to in Article 21, paragraph 1, sub-paragraphs a and c and Article 24, paragraph 6, by the legislation of the Contracting Party in whose territory they reside; where, however, this legislation regards only persons living with the person concerned as members of the family or members of the household, this condition shall be deemed to be satisfied if such persons are mainly maintained by the person concerned;
- r the term “survivors” means the persons defined or recognised as such by the legislation under which the benefits are granted; where, however, this legislation regards as survivors only persons who were living with the

- deceased, this condition shall be deemed to be satisfied, if the persons concerned were mainly maintained by the deceased;
- s the term “periods of insurance” means periods of contributions, employment, occupational activity or residence as defined or recognised as periods of insurance by the legislation under which they were completed, and any other periods, in so far as they are regarded by this legislation as equivalent to periods of insurance;
- t the terms “periods of employment” and “periods of occupational activity” mean periods defined or recognised as such by the legislation under which they were completed, and any other periods, in so far as they are regarded by this legislation as equivalent to periods of employment or occupational activity;
- u the term “periods of residence” means periods of residence as defined or recognised as such by the legislation under which they were completed;
- v the terms “benefits” and “pensions” mean all benefits or pensions including all components thereof provided out of public funds and all increases, revaluation allowances or supplementary allowances, unless otherwise specified in this Convention, and any benefits awarded for the purpose of maintaining or improving earning capacity, such lump sum benefits as are payable in lieu of pensions and, where applicable, any payments made by way of refund of contributions;
- w the term “family allowances” means periodical cash benefits granted according to the number and age of children; the expression “family benefits” means any benefits in kind or in cash granted to offset family maintenance costs, except the special birth grants explicitly excluded in Annex II; each Contracting Party concerned shall give notice in accordance with the provisions of Article 81, paragraph 1, of any amendment to be made to Annex II in respect of any special birth grants provided by its legislation;
- x the term “death grant” means any lump sum payable in the event of death, other than the lump sum benefits mentioned in sub-paragraph v of this article;
- y the term “contributory” applies to benefits, the award of which depends either on direct financial participation by the persons protected or by their employer, or on a qualifying period of occupational activity, and to legislation or schemes which provide for such benefits; benefits, the award of which does not depend on direct financial participation by the persons protected or by their employer, or on a qualifying period of occupational activity, and the legislation or schemes under which they are exclusively awarded, are said to be “non-contributory”;
- z the term “benefits granted under transitional arrangements” means benefits granted to persons who are over a given age on the date of entry into force of the legislation applicable, or benefits granted provisionally in consider-



ation of events that have occurred or periods that have been completed outside the current frontiers of the territory of a Contracting Party.

#### *Article 2*

1 This Convention applies to all legislation governing the following branches of social security:

- a sickness and maternity benefits;
- b invalidity benefits;
- c old-age benefits;
- e benefits in respect of occupational injuries and diseases;
- d survivors' benefits;
- e benefits in respect of occupational injuries and diseases;
- f death grants;
- g unemployment benefits;
- h family benefits.

2 This Convention applies to all general social security schemes and special schemes, whether contributory or non-contributory, including employers' liability schemes in respect of the benefits referred to in the preceding paragraph. Bilateral or multilateral agreements between two or more Contracting Parties shall determine, as far as possible, the conditions in which this Convention shall apply to schemes established by means of collective agreements made compulsory by decision of the public authorities.

3 Where schemes relating to seafarers are concerned, the provisions of Title III of this Convention shall apply without prejudice to the legislation of any Contracting Party governing the liabilities of shipowners, who shall be treated as the employers for the purposes of the application of this Convention.

4 This Convention does not apply to social or medical assistance schemes, to benefit schemes for victims of war or its consequences, or to special schemes for civil servants or persons treated as such.

5 This Convention does not apply to legislation designed to give effect to a social security convention concluded between a Contracting Party and one or more other States.

#### *Article 3*

1 Annex II specifies, in respect of each Contracting Party, the legislation and schemes referred to in Article 2, paragraphs 1 and 2.

2 Each Contracting Party shall give notice, in accordance with the provisions of Article 81, paragraph 1, of any amendment to be made to Annex II as a result of the adoption of new legislation. Such notice shall be given within three months

from the date of publication of such legislation or, in the case of legislation published before the date of ratification of this Convention, on the date of ratification.

*Article 4*

1 The provisions of this Convention shall be applicable:

- a to persons who are or have been subject to the legislation of one or more of the Contracting Parties and are nationals of a Contracting Party, or are refugees or stateless persons resident in the territory of a Contracting Party, as well as to the members of their families and their survivors;
- b to the survivors of persons who were subject to the legislation of one or more of the Contracting Parties, irrespective of the nationality of such persons, where these survivors are nationals of a Contracting Party, or refugees or stateless persons resident in the territory of a Contracting Party;
- c without prejudice to Article 2, paragraph 4, to civil servants and persons treated as such under the legislation of the Contracting Party concerned, in so far as they are subject to any legislation of that Contracting Party to which this Convention applies.

2 Notwithstanding the provisions of sub-paragraph c of the preceding paragraph, the categories of persons – other than members of the service staff of diplomatic missions or consular posts and persons employed in the private service of officials of such missions or posts – in respect of whom the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations provide for exemption from the social security provisions which are in force in the receiving State, shall not benefit from the provisions of this Convention.

*Article 5*

1 Subject to the provisions of Article 6, this Convention replaces, in respect of persons to whom it is applicable, any social security conventions binding:

- a two or more Contracting Parties exclusively; or
- b at least two Contracting Parties and one or more other States in respect of cases calling for no action on the part of an institution of one of the latter States.

2 However, where the application of certain provisions of this Convention is subject to the conclusion of bilateral or multilateral agreements, the provisions of the conventions referred to in sub-paragraphs a and b of the preceding paragraph shall remain applicable until the entry into force of such agreements.

*Article 6*

1 The provisions of this Convention shall not affect obligations under any convention adopted by the International Labour Conference.

2 This Convention shall not affect the provisions on social security in the Treaty of 25 March 1957 establishing the European Economic Community nor the association agreements envisaged under that Treaty nor the measures taken in application of those provisions.

3 Notwithstanding the provisions of Article 5, paragraph 1, two or more Contracting Parties may keep in force, by mutual agreement and in respect of themselves, the provisions of social security conventions by which they are bound by specifying them in Annex III or, in the case of provisions relating to the application of these conventions, by specifying them in an annex to the Supplementary Agreement for the application of this Convention.

4 However, this Convention shall apply in all cases requiring action on the part of an institution of a Contracting Party other than those which are bound by the provisions referred to in paragraph 2 or in paragraph 3 of this article as well as in the case of persons who are entitled to benefits under this Convention and to whom the said provisions are not exclusively applicable.

5 Two or more Contracting Parties which are bound by the provisions specified in Annex III may, by mutual agreement and in respect of themselves, make appropriate amendments to this annex by giving notice thereof in accordance with the provisions of Article 81, paragraph 1.

*Article 7*

1 Two or more Contracting Parties may, if need be, conclude with each other social security conventions founded on the principles of this Convention.

2 Each Contracting Party shall give notice, in accordance with the provisions of Article 81, paragraph 1, of any convention which it concludes by virtue of the preceding paragraph, and of any subsequent amendment or denunciation of such a convention. Such notice shall be given within three months from the date of entry into force of that convention or its amendment, or from the date on which its denunciation takes effect.

*Article 8*

1 Unless otherwise specified in this Convention, persons who are resident in the territory of a Contracting Party and to whom the Convention is applicable shall have the same rights and obligations under the legislation of every Contracting Party as the nationals of such Party.

2 However, entitlement to non-contributory benefits, the amount of which does not depend on the length of the periods of residence completed, may be made conditional on the beneficiary having resided in the territory of the Contracting

Party concerned or, in the case of survivors' benefits, on the deceased having resided there for a period which may not be set:

- a at more than six months immediately preceding the lodging of the claim, for maternity benefits and unemployment benefits;
- b at more than five consecutive years immediately preceding the lodging of the claim, for invalidity benefits, or immediately preceding death, for survivors' benefits;
- c at more than ten years between the age of sixteen and the pensionable age, of which it may be required that five years shall immediately precede the lodging of the claim, for old-age benefits.

3 If a person does not fulfil the conditions laid down in sub-paragraph b or sub-paragraph c of the preceding paragraph, but has been subject – or, in the case of survivors' benefits, if the deceased has been subject – to the legislation of the Contracting Party concerned for at least one year, that person or the survivors of the deceased shall nevertheless, without prejudice to the provisions of Article 27, be entitled to benefits calculated on the basis of the full benefit and up to an amount not exceeding it:

- a in the case of invalidity or death benefits, in proportion to the ratio of the number of years of residence completed by the person concerned or the deceased under the said legislation between the date on which he reached the age of sixteen and the date of his incapacity for work followed by invalidity or death, to two-thirds of the number of years separating those two dates, disregarding any years subsequent to pensionable age;
- b in the case of old-age pension, in proportion to the ratio of the number of years of residence completed by the person concerned under the said legislation between the date on which he reached the age of sixteen and the pensionable age, to thirty years.

4 Annex IV specifies, for each Contracting Party concerned, the benefits provided under its legislation to which the provisions of paragraph 2 or paragraph 3 of this article are applicable.

5 Each Contracting Party concerned shall give notice, in accordance with the provisions of Article 81, paragraph 1, of any amendment to be made to Annex IV. If such an amendment results from the adoption of new legislation, such notice shall be given within three months from the date of publication of that legislation or, in the case of legislation published before the date of ratification of this Convention, on the date of ratification.

6 The provisions of paragraph 1 of this article shall not affect the legislation of any Contracting Party in so far as it concerns participation in social security administration or membership of social security tribunals.

7 Special measures may be adopted concerning the participation in voluntary insurance or optional continued insurance of persons not resident in the territory

of the Contracting Party concerned, or the entitlement to benefits under the transitional arrangements specified in Annex VII.

#### *Article 9*

1 The benefit of the provisions of social security conventions which remain in force by virtue of Article 6, paragraph 3, and the provisions of social security conventions concluded by virtue of Article 7, paragraph 1, may be extended, by agreement between the Parties bound thereby, to nationals of every Contracting Party.

2 Annex V specifies the provisions of social security conventions which remain in force by virtue of Article 6, paragraph 3, and whose application is to be extended, in accordance with paragraph 1 of the present article, to nationals of every Contracting Party.

3 The Contracting Parties concerned shall give notice, in accordance with the provisions of Article 81, paragraph 1, of the provisions of the social security conventions concluded by them by virtue of Article 7, paragraph 1, whose application is extended, in accordance with paragraph 1 of the present article, to nationals of every Contracting Party. The provisions of the said conventions shall be indicated in Annex V.

4 Two or more Contracting Parties which are bound by the provisions specified in Annex V may, by mutual agreement and in respect of themselves, make appropriate amendments to this annex by giving notice thereof in accordance with the provisions of Article 81, paragraph 1.

#### *Article 10*

If the legislation of a Contracting Party makes admission to voluntary insurance or optional continued insurance conditional upon the completion of periods of insurance, the institution applying that legislation shall to that end, for the purpose of adding periods together, take account, to the extent necessary, of periods of insurance completed under the legislation of any other Contracting Party and, where appropriate, of periods of residence completed after the age of sixteen under the non-contributory scheme of any other Contracting Party, as if they had been periods of insurance completed under the legislation of the first Party.

#### *Article 11*

1 Unless otherwise specified in this Convention, neither invalidity cash benefits, old-age or survivors' cash benefits, pensions in respect of occupational injuries or diseases, nor death grants, payable under the legislation of one or more Contracting Parties, shall be liable to reduction, modification, suspension, suppression or forfeiture by reason of the fact that the beneficiary is resident in the territory of a Contracting Party other than that in which the institution liable for payment is situated.

2 However, notwithstanding the provisions of Article 8, paragraphs 1 and 2, the invalidity, old-age or survivors' benefits specified in Annex IV shall be calculated in accordance with the provisions of sub-paragraph a or sub-paragraph b of paragraph 3 of the said Article 8, as the case may be, if the beneficiary is resident in the territory of a Contracting Party other than that in which the institution liable for payment is situated.

3 The provisions of paragraphs 1 and 2 of the present article shall not apply to the following benefits, in so far as they are specified in Annex VI:

- a special non-contributory benefits granted to invalids who are unable to earn a living;
- b special non-contributory benefits granted to persons not entitled to normal benefits;
- c benefits granted under transitional arrangements;
- d special benefits granted as assistance or in case of need.

4 Each Contracting Party concerned shall give notice, in accordance with the provisions of Article 81, paragraph 1, of any amendment to be made to Annex VI. If such an amendment results from the adoption of new legislation, such notice shall be given within three months from the date of publication of that legislation or, in the case of legislation published before the date of ratification of this Convention, on the date of ratification.

5 Where the legislation of a Contracting Party makes the repayment of contributions conditional upon the person concerned having ceased to be subject to compulsory insurance, that condition shall not be regarded as fulfilled so long as that person is subject to compulsory insurance under the legislation of any other Contracting Party.

6 The Contracting Parties shall determine by means of bilateral or multilateral agreements the conditions of payment of benefits referred to in paragraph 1 of the present article due to persons enjoying rights under this Convention who are resident in the territory of a State which is not a Contracting Party.

#### *Article 12*

The rules governing changes in rates of benefits laid down in the legislation of a Contracting Party shall be applicable to benefits payable under such legislation in accordance with the provisions of this Convention.

#### *Article 13*

1 Except for benefits in respect of invalidity, old age, survivors or occupational disease which are paid by the institutions of two or more Contracting Parties in accordance with the provisions of Article 29 or of Article 47, sub-paragraph b, this Convention shall not confer or maintain entitlement to several benefits of

the same nature or to several benefits relating to one and the same period of compulsory insurance.

2 Provisions in the legislation of a Contracting Party for the reduction, suspension or suppression of benefits where there is overlapping with other benefits or other income, or because of an occupational activity, shall apply also to a beneficiary in respect of benefits acquired under the legislation of another Contracting Party or in respect of income obtained, or occupation followed, in the territory of another Contracting Party. This rule shall not, however, apply to benefits of the same nature payable in respect of invalidity, old age, survivors or occupational disease by the institutions of two or more Contracting Parties in accordance with the provisions of Article 29 or of Article 47, sub-paragraph b.

## **Title II – Provisions which determine the legislation applicable**

### *Article 14*

In respect of persons coming within the scope of this Convention, the legislation applicable shall be determined in accordance with the following provisions:

- a employed persons who are employed in the territory of a Contracting Party shall be subject to the legislation of that Party, even if they are resident in the territory of another Contracting Party or if the undertaking which employs them has its principal place of business, or their employer has his place of residence, in the territory of another Contracting Party;
- b workers who follow their occupation on board a ship flying the flag of a Contracting Party shall be subject to the legislation of that Party;
- c self-employed persons who follow their occupation in the territory of a Contracting Party shall be subject to the legislation of that Party, even if they reside in the territory of another Contracting Party;
- d civil servants and persons treated as such shall be subject to the legislation of the Contracting Party in whose administration they are employed.

### *Article 15*

1 The rule stated in Article 14, sub-paragraph a, shall apply subject to the following exceptions or modifications:

- a i employed persons who are employed in the territory of a Contracting Party by an undertaking which is their regular employer and who are sent by that undertaking to work for it in the territory of another Contracting Party shall remain subject to the legislation of the first Party provided that the expected duration of the work does not exceed twelve months and that they are not sent to replace other employed persons who have completed their period of employment abroad;
- ii if the work to be carried out continues because of unforeseeable circumstances for a period longer than originally intended and exceeding twelve months, the legislation of the first Party shall remain applicable

until the work is completed, subject to the consent of the competent authority of the second Party or of the body designated by it;

- b i employed persons who are employed in international transport in the territory of two or more Contracting Parties as travelling personnel in the service of an undertaking which has its principal place of business in the territory of a Contracting Party and which, on behalf of others or on its own account, transports passengers or goods by rail, road, air or inland waterway, shall be subject to the legislation of the latter Party;
- ii however, if they are employed by a branch or permanent agency which the said undertaking has in the territory of a Contracting Party other than the Party in whose territory it has its principal place of business, they shall be subject to the legislation of the Contracting Party in whose territory the branch or permanent agency is situated;
- iii if they are employed wholly or mainly in the territory of the Contracting Party where they are resident, they shall be subject to the legislation of that Party, even if the undertaking which employs them has neither its principal place of business nor a branch or permanent agency in that territory;
- c i employed persons other than those in international transport who normally follow their occupation in the territory of two or more Contracting Parties shall be subject to the legislation of the Contracting Party in whose territory they reside if their occupation is carried on partly in that territory or if they are employed by several undertakings or by several employers having their principal places of business or their places of residence in the territory of different Contracting Parties;
- ii in other cases, they shall be subject to the legislation of the Contracting Party in whose territory the undertaking which employs them has its principal place of business or their employer has his place of residence;
- d employed persons who are employed in the territory of a Contracting Party by an undertaking which has its principal place of business in the territory of another Contracting Party and lies astride the common frontier of the Contracting Parties concerned shall be subject to the legislation of the Contracting Party in whose territory the undertaking has its principal place of business.

2 The rule stated in Article 14, sub-paragraph b, shall apply subject to the following exceptions:

- a employed persons who are employed by an undertaking which is their regular employer, either in the territory of a Contracting Party or on board a ship flying the flag of a Contracting Party, and who are sent by that undertaking to work for it on board a ship flying the flag of another Contracting Party, shall remain subject to the legislation of the first Party, subject to the conditions laid down in paragraph 1, sub-paragraph a, of the present article;



- b workers who normally follow their occupation in the territorial waters or in a port of a Contracting Party on board a ship flying the flag of another Contracting Party but who are not members of the ship's crew, shall be subject to the legislation of the first Party; and
  - c employed persons who are employed on board a ship flying the flag of a Contracting Party and who are paid in respect of this occupation by an undertaking having its principal place of business, or by a person having his place of residence, in the territory of another Contracting Party, shall be subject to the legislation of the latter Party if they reside in its territory; the undertaking or person paying the remuneration shall be considered as the employer for the purpose of the application of the said legislation.
- 3 The rule stated in Article 14, sub-paragraph c, shall apply subject to the following exceptions or modifications:
- a self-employed persons who reside in the territory of one Contracting Party and follow their occupation in the territory of another Contracting Party shall be subject to the legislation of the first Party:
    - i if the second Party has no legislation applicable to them, or
    - ii if, under the legislation of the two Parties concerned, self-employed persons are subject to such legislation solely by reason of the fact that they are resident in the territory of those Parties;
  - b self-employed persons who normally follow their occupation in the territory of two or more Contracting Parties shall be subject to the legislation of the Contracting Party in whose territory they are resident, if they work partly in that territory or if, under that legislation, they are subject to it solely by reason of the fact that they are resident in the territory of that Party;
  - c where the self-employed persons referred to in the preceding sub-paragraph do not follow a part of their occupation in the territory of the Contracting Party where they are resident, or where, under the legislation of that Party, they are not subject to that legislation solely by reason of the fact that they are resident, or where that Party has no legislation applicable to them, they shall be subject to the legislation jointly agreed upon by the Contracting Parties concerned or by their competent authorities.
- 4 Where by virtue of the preceding paragraphs of this article, a worker is subject to the legislation of a Contracting Party in whose territory he does not work, that legislation shall be applicable to him as if he worked in the territory of that Party.

#### *Article 16*

- 1 The provisions of Articles 14 and 15 shall not apply to voluntary insurance or optional continued insurance.

2 Where the application of the legislation of two or more Contracting Parties would result in affiliation to a compulsory insurance scheme and at the same time permit membership of one or more voluntary insurance or optional continued insurance schemes, the person concerned shall be subject exclusively to the compulsory insurance scheme. However, in respect of invalidity, old age and death pensions, this Convention shall not affect the provisions of legislation of any Contracting Party permitting simultaneous affiliation to a voluntary insurance or optional continued insurance scheme and to a compulsory insurance scheme.

3 Where the application of the legislation of two or more Contracting Parties would result in the possibility of membership of two or more voluntary insurance or optional continued insurance schemes, the person concerned shall be admitted solely to the voluntary insurance or optional continued insurance scheme of the Contracting Party in whose territory he is resident or, if he is not resident in the territory of one of these Contracting Parties, to the scheme of that Contracting Party for whose legislation he has opted.

#### *Article 17*

1 The provisions of Article 14, sub-paragraph a, shall apply to members of the service staff of diplomatic missions or consular posts, and also to persons employed in the private service of officials of such missions or posts.

2 However, workers referred to in the preceding paragraph, who are nationals of a Contracting Party which is the sending State, may opt for the application of the legislation of that Party. Such right of option may be exercised only once, within the three months following the entry into force of this Convention or on the date on which the person concerned is engaged by the diplomatic mission or consular post or enters the private service of an official of that mission or that post, as the case may be. The option shall take effect on the date on which it is exercised.

#### *Article 18*

1 The competent authorities of two or more Contracting Parties may, by agreement, provide for exceptions to the provisions of Articles 14 to 17 in the interests of persons affected thereby.

2 The application of the provisions of the preceding paragraph shall, if need be, be subject to a request by the workers concerned and, where appropriate, by their employers. Moreover, such application shall be the subject of a decision by which the competent authority of the Contracting Party whose legislation is applicable confirms that the said workers are no longer subject to the aforesaid legislation and will henceforth be subject to the legislation of another Contracting Party.

### **Title III – Special provisions governing the various categories of benefits**

#### ***Chapter 1 – Sickness and maternity***

##### *Article 19*

1 Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of the entitlement to benefits conditional upon the completion of periods of insurance, the competent institution of that Party shall, to that end, for the purpose of adding periods together, take account, to the extent necessary, of periods of insurance completed under the legislation of any other Contracting Party and, where appropriate, of periods of residence completed after the age of sixteen under non-contributory schemes of any other Contracting Party, as if they were periods of insurance completed under the legislation of the first Party.

2 Where the legislation of a Contracting Party makes admission to compulsory insurance conditional upon the completion of periods of insurance, periods of insurance completed under the legislation of any other Contracting Party and, where appropriate, periods of residence completed after the age of sixteen under the non-contributory schemes of any other Contracting Party shall, to that end, for the purpose of adding periods together, be taken into account, to the extent necessary, as if they were periods of insurance completed under the legislation of the first Party.

##### *Article 20*

1 Persons who reside in the territory of a Contracting Party other than the competent State and who satisfy the conditions for entitlement prescribed by the legislation of the latter State, regard being had, where appropriate, to the provisions of Article 19, shall receive in the territory of the Contracting Party in which they are resident:

- a benefits in kind, provided at the expense of the competent institution by the institution of the place of residence in accordance with the provisions of the legislation which the latter institution applies, as if these persons were affiliated to it;
- b cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these persons were resident in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence, cash benefits may also be paid through the latter institution, on behalf of the competent institution.

2 The provisions of the preceding paragraph shall apply, *mutatis mutandis*, in respect of benefits in kind to members of the family who are resident in the territory of a Contracting Party other than the competent State.

3 Benefits may also be paid to frontier workers by the competent institution in the territory of the competent State, in accordance with the provisions of the leg-

islation of that State, as if they were resident in its territory. However, members of their family shall be entitled to benefits in kind under the same conditions only if there is an agreement to that effect between the competent authorities of the Contracting Parties concerned, or failing that, except in case of emergency, if there is prior authorisation by the competent institution.

4 Persons to whom this article applies, other than frontier workers or members of their families, who are temporarily resident in the territory of the competent State, shall be entitled to benefits in accordance with the provisions of the legislation of that State as if they were resident in its territory even if they were already receiving benefits for the same case of sickness or maternity before taking up their temporary residence.

5 Persons to whom this article applies who transfer their residence to the territory of the competent State shall be entitled to benefits in accordance with the provisions of the legislation of that State, even if they were already receiving benefits for the same case of sickness or maternity before transferring their residence.

#### *Article 21*

1 Persons who satisfy the conditions for entitlement to benefits under the legislation of the competent State, regard being had, where appropriate, to the provisions of Article 19, and:

- a whose condition necessitates the immediate provision of benefits during temporary residence in the territory of a Contracting Party other than the competent State, or
- b who, having become entitled to benefits payable by the competent institution, are authorised by that institution to return to the territory of a Contracting Party other than the competent State where they are resident or to transfer their residence to the territory of a Contracting Party other than the competent State, or
- c who are authorised by the competent institution to go to the territory of a Contracting Party other than the competent State in order to receive the treatment required by their condition,  
shall receive:
  - i benefits in kind, provided at the expense of the competent institution by the institution of the place of residence or temporary residence in accordance with the provisions of the legislation applied by the latter institution, as if these persons were affiliated to it, for a period not exceeding any period which may be prescribed by the legislation of the competent State;
  - ii cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these persons were in the territory of the competent State. However, by agreement between

the competent institution and the institution of the place of residence or temporary residence, cash benefits may be paid through the latter institution, on behalf of the competent institution.

- 2 a The authorisation referred to in sub-paragraph b of the preceding paragraph may be refused only if the move might prejudice the health or the course of medical treatment of the person concerned;
  - b the authorisation referred to in sub-paragraph c of the preceding paragraph shall not be refused when the requisite treatment cannot be given in the territory of the Contracting Party in which the person concerned resides.
- 3 The provisions of the preceding paragraphs of this article shall apply, *mutatis mutandis*, to members of the family in respect of benefits in kind.

#### Article 22

1 Where the legislation of a Contracting Party makes the provision of benefits in kind to members of the family conditional on their being personally insured, the provisions of Articles 20 and 21 shall apply to members of the family of a person subject to that legislation only if they are personally affiliated to the same institution of the said Party as that person, or to another institution of the said Party which provides corresponding benefits.

2 Where the legislation of a Contracting Party provides that the calculation of cash benefits shall be based on average earnings, the competent institution of that Party shall determine those average earnings exclusively on the basis of the earnings recorded during the periods completed under the said legislation.

3 Where the legislation of a Contracting Party provides that the calculation of cash benefits shall be based on fixed earnings, the competent institution of that Party shall take account exclusively of such fixed earnings or, where appropriate, of the average fixed earnings corresponding to the periods completed under the said legislation.

4 Where the legislation of a Contracting Party provides that the amount of cash benefits shall vary with the number of members of the family, the competent institution of that Party shall take account also of members of the family resident in the territory of another Contracting Party, as if they were resident in the territory of the first Party.

#### Article 23

Unemployed persons who satisfy the conditions for entitlement to benefits in kind under the legislation of the Contracting Party responsible for providing unemployment benefit, regard being had, where appropriate, to the provisions of Article 19, shall be entitled, together with the members of their families, to benefits in kind if they are resident in the territory of another Contracting Party. Such benefits in kind shall be provided by the institution of the place of resi-

dence in accordance with the provisions of the legislation which that institution applies, as if the persons concerned were entitled to the benefits by virtue of that legislation, but the cost shall be borne by the competent institution of the first-mentioned Party.

*Article 24*

1 Where a person receiving a pension under the legislation of two or more Contracting Parties is entitled to benefits in kind under the legislation of the Contracting Party in whose territory he is resident, regard being had, where appropriate, to the provisions of Article 19, such benefits shall be provided for him and for the members of his family by the institution of the place of residence at its own cost, as if he were a pensioner under the legislation of the latter Party only.

2 Where a person receiving a pension under the legislation of a Contracting Party or pensions under the legislation of two or more Contracting Parties, is not entitled to benefits in kind under the legislation of the Contracting Party in whose territory he is resident, he shall nevertheless be entitled to such benefits for himself, and for the members of his family, if he is entitled to them under the legislation of the former Party, or of one of the former Parties, regard being had, where appropriate, to the provisions of Article 19, or if he would be entitled to them if he were resident in the territory of one of those Parties. The benefits in kind shall be provided by the institution of the place of residence, in accordance with the provisions of the legislation which it applies, as if the pensioner were entitled to the said benefits under that legislation, but the cost shall be borne by the institution as determined under the rules laid down in the following paragraph.

3 In the cases referred to in the preceding paragraph, the institution which shall bear the cost of the benefits in kind shall be determined according to the following rules:

- a where the pensioner is entitled to the said benefits under the legislation of one Contracting Party only, the cost shall be borne by the competent institution of that Party;
- b where the pensioner is entitled to the said benefits under the legislation of two or more Contracting Parties, the cost shall be borne by the competent institution of the Contracting Party under whose legislation the pensioner completed the longest period of insurance or residence; if by virtue of this rule two or more institutions would be liable for the cost of the benefits, the cost shall be borne by the institution of the Contracting Party to whose legislation the pensioner was last subject.

4 Where the members of the family of a person receiving a pension under the legislation of a Contracting Party or pensions under the legislation of two or more Contracting Parties are resident in the territory of a Contracting Party other

than that in which the pensioner himself resides, they shall receive benefits in kind as if the pensioner were resident in the same territory, provided that he is entitled to such benefits under the legislation of a Contracting Party. The benefits in kind shall be provided by the institution of the place of residence of the members of the family under the provisions of the legislation which it applies, as if they were entitled to such benefits under that legislation, but their cost shall be borne by the institution of the pensioner's place of residence.

5 Members of the family to whom the preceding paragraph applies who transfer their residence to the territory of the Contracting Party in which the pensioner resides shall be entitled to benefits under the provisions of the legislation of that Party even if they have already received benefits for the same case of sickness or maternity before transferring their residence.

6 A person receiving a pension under the legislation of a Contracting Party, or pensions under the legislation of two or more Contracting Parties, who is entitled to benefits in kind under the legislation of one of these Parties, shall, together with the members of his family, be entitled to such benefits:

a during temporary residence in the territory of a Contracting Party other than that in which they are resident, where their condition requires the immediate provision of benefit; or

b where they have been authorised by the institution of the place of residence to go to the territory of a Contracting Party other than that in which they are resident in order to receive the treatment required by their condition.

7 In the cases referred to in the preceding paragraph, the benefits in kind shall be provided by the institution of the place of temporary residence in accordance with the provisions of the legislation which it applies, as if the persons concerned were entitled to such benefits under that legislation, but the cost shall be borne by the institution of the pensioner's place of residence.

8 Where the legislation of a Contracting Party provides for contributions to be deducted from the pension payable for the purpose of entitlement to benefits in kind, the institution of the Party which pays the pension shall be authorised to make such deductions if the cost of the benefits in kind is borne by an institution of that Party by virtue of this article.

#### *Article 25*

1 Where the legislation applied by the institution of the place of residence or temporary residence provides for two or more sickness and maternity insurance schemes, the rules to be applied in respect of the provision of benefits in kind, in the cases covered by Article 20, paragraphs 1 and 2, Article 21, paragraphs 1 and 3, Article 23, and Article 24, paragraphs 2, 4 and 6, shall be those of the general scheme or, failing that, of the scheme for industrial workers.

2 Where the legislation of a Contracting Party makes the award of benefits dependent on the origin of the sickness, that condition shall not apply to persons covered by this Convention, irrespective of the territory of the Contracting Party in which they reside.

3 Where the legislation of a Contracting Party fixes a maximum period for the award of benefits, the institution which applies that legislation may, where appropriate, take account of any period during which benefits have already been provided by the institution of another Contracting Party for the same case of sickness or maternity.

#### *Article 26*

1 The application of the provisions of Articles 20, 21, 23 and 24 as between two or more Contracting Parties shall be subject to the conclusion between those Parties of bilateral or multilateral agreements which may also contain appropriate special arrangements.

2 The agreements referred to in the preceding paragraph shall specify in particular:

- a the categories of persons to whom the provisions of Articles 20, 21, 23 and 24 shall apply;
- b the period during which benefits in kind may be provided by the institution of one Contracting Party, the cost being borne by the institution of another Contracting Party;
- c the special conditions governing the supply of prosthetic appliances, major aids and other major benefits in kind;
- d rules to prevent the overlapping of benefits of the same kind;
- e arrangements for the refund of benefits provided by the institution of one Contracting Party, the cost being borne by the institution of another Contracting Party.

3 Two or more Contracting Parties may agree that there shall be no refunds between the institutions in their jurisdiction.

### ***Chapter 2 – Invalidity, old age and death pensions***

#### *Section 1 – Common provisions*

#### *Article 27*

Where a person has been subject successively or alternatively to the legislation of two or more Contracting Parties, the said person or his survivors shall be entitled to benefits in accordance with the provisions of this chapter, even if such persons would be entitled to claim benefits under the legislation of one or more Contracting Parties without these provisions being applied.



*Article 28*

1 Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of entitlement to benefits conditional upon the completion of periods of insurance, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account of periods of insurance completed under the legislation of any other Contracting Party and, where appropriate, of periods of residence completed after the age of sixteen under non-contributory schemes of any other Contracting Party, as if they were periods of insurance completed under the legislation of the first Party.

2 Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of entitlement to benefits conditional upon the completion of periods of residence, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account of periods of insurance completed under the legislation of any other Contracting Party, and, where appropriate, of periods of residence completed after the age of sixteen under non-contributory schemes of any other Contracting Party, as if they were periods of residence completed under the legislation of the first Party.

3 Where, under the legislation of a Contracting Party, a person has been affiliated at the same time to a contributory scheme and to a non-contributory scheme for the same contingency, the institution of any other Contracting Party concerned shall have regard, in applying paragraphs 1 or 2 of this article, to the longest period of insurance or of residence completed under the legislation of the first Party.

4 Where the legislation of a Contracting Party makes the provision of certain benefits conditional upon the completion of periods of insurance in an occupation covered by a special scheme or in a specified occupation or employment, only periods completed under a corresponding scheme, or, failing that, in the same occupation or, where appropriate, in the same employment, under the legislation of other Contracting Parties, shall be taken into account for the award of such benefits. If, notwithstanding periods completed in this way, the person concerned does not satisfy the conditions for entitlement to the said benefits, the periods concerned shall be taken into account for the award of benefits under the general scheme or, failing that, the scheme applicable to wage-earners or to salaried employees, as appropriate.

5 Where the legislation of a Contracting Party, which does not make entitlement to benefits or the amount thereof subject to any specific period of insurance or employment but makes the provision of such benefits conditional on the person concerned or, in the case of survivors' benefits, the deceased, having been subject to that legislation at the time at which the contingency arose, that condition shall be considered fulfilled if the person concerned or the deceased, as the case may be, was subject at that time to the legislation of another Contracting Party.

6 Where the legislation of a Contracting Party provides that the period of payment of a pension may be taken into consideration for the acquisition, maintenance or recovery of entitlement to benefits, the competent institution of that Party shall to that end take account of any period during which a pension was paid under the legislation of any other Contracting Party.

*Article 29*

1 The institution of each Contracting Party to whose legislation the person concerned has been subject shall determine, in accordance with the legislation which it applies, whether such person satisfies the conditions for entitlement to benefits having regard, where appropriate, to the provisions of Article 28.

2 If the person concerned satisfies those conditions, the said institution shall calculate the theoretical amount of the benefit he could claim if all the periods of insurance and of residence completed under the legislation of the Contracting Parties concerned, and taken into account for determining entitlement, in accordance with the provisions of Article 28, had been completed exclusively under the legislation which that institution applies.

3 However,

- a in the case of benefits the amount of which does not depend on the length of periods completed, that amount shall be taken to be the theoretical amount referred to in the preceding paragraph;
- b in the case of benefits specified in Annex IV, the theoretical amount referred to in the preceding paragraph may be calculated on the basis of the full benefit and up to an amount not exceeding it:
  - i in the case of invalidity or death, in proportion to the ratio of the total periods of insurance and residence completed, before the contingency arose, by the person concerned or the deceased under the legislation of all Contracting Parties concerned and taken into account in accordance with the provisions of Article 28, to two-thirds the number of years which elapsed between the date on which the person concerned or the deceased reached the age of sixteen and the date on which occurred the incapacity for work followed by invalidity or the death, as the case may be, disregarding any years subsequent to pensionable age;
  - ii in the case of old age, in proportion to the ratio of the total periods of insurance and residence completed by the person concerned under the legislation of all the Contracting Parties concerned, and taken into account in accordance with the provisions of Article 28, to thirty years, disregarding any years subsequent to pensionable age.

4 The said institution shall then calculate the actual amount of the benefit payable by it to the person concerned on the basis of the theoretical amount calculated in accordance with the provisions of paragraph 2 or of paragraph 3 of this article, as appropriate, and in proportion to the ratio of the periods of insur-

ance or residence completed before the contingency arose under the legislation which it applies, to the total of the periods of insurance or residence completed before the contingency arose under the legislation of all the Contracting Parties concerned.

5 Where the legislation of a Contracting Party provides that the amount of benefits or certain parts thereof shall be in proportion to the periods of insurance or residence completed, the competent institution of that Party may calculate those benefits or parts thereof directly, solely on the basis of the periods completed under the legislation which it applies, notwithstanding the provisions of paragraphs 2 to 4 of this article.

#### *Article 30*

1 For the calculation of the theoretical amount referred to in Article 29, paragraph 2:

- a where the legislation of a Contracting Party provides that benefits shall be calculated on the basis of average earnings, an average contribution, an average increase or on the basis of the ratio of the claimant's gross earnings during the periods of insurance to the average gross earnings of all insured persons other than apprentices, such average figures or ratios shall be determined by the competent institution of that Party solely on the basis of the periods completed under the legislation of the said Party or of the gross earnings received by the person concerned during those periods only;
- b where the legislation of a Contracting Party provides that benefits shall be calculated on the basis of the amount of earnings, contributions or increases, the earnings, contributions or increases to be taken into account by the competent institution of that Party in respect of periods completed under the legislation of other Contracting Parties shall be determined on the basis of the average earnings, contributions or increases recorded for the periods completed under the legislation of the first Party;
- c where the legislation of a Contracting Party provides that benefits shall be calculated on the basis of fixed earnings or a fixed amount, the earnings or the amount to be taken into account by the competent institution of that Party in respect of periods completed under the legislation of other Contracting Parties shall be equal to the fixed earnings or the fixed amount or, where appropriate, the average fixed earnings or fixed amount corresponding to the periods completed under the legislation of the first Party;
- d where the legislation of a Contracting Party provides that benefits shall be calculated, in respect of certain periods, on the basis of earnings and, in respect of other periods, on the basis of fixed earnings or a fixed amount, the competent institution of that Party shall take into account, in respect of periods completed under the legislation of other Contracting Parties, the earnings or amounts determined in accordance with the provisions of sub-paragraph b or sub-paragraph c of this paragraph, as appropriate; where in

respect of all the periods completed under the legislation of the first Party, the benefits are calculated on the basis of fixed earnings or a fixed amount, the earnings to be taken into account by the competent institution of that Party, in respect of periods completed under the legislation of other Contracting Parties, shall be equal to the notional earnings corresponding to the said fixed earnings or fixed amount.

2 Where the legislation of a Contracting Party embodies rules providing for the revaluation of the factors taken into account for the calculation of benefits, these rules shall apply, where appropriate, to the factors taken into account by the competent institution of that Party, in accordance with the provisions of the preceding paragraph, in respect of periods completed under the legislation of other Contracting Parties.

3 Where the legislation of a Contracting Party provides that the amount of benefits shall vary with the number of members of the family, the competent institution of that Party shall take account also of the members of the family resident in the territory of another Contracting Party, as if they were resident in the territory of the first Party.

#### *Article 31*

1 Notwithstanding the provisions of Article 29, where the total duration of the periods of insurance or residence completed under the legislation of a Contracting Party is less than one year and where, taking into account only those periods, no entitlement to benefits exists under that legislation, the institution of the Party concerned shall not be bound to award benefits in respect of the said periods.

2 The periods referred to in the preceding paragraph shall be taken into account by the institution of each of the other Contracting Parties concerned for the purpose of applying Article 29, except paragraph 4 thereof.

3 However, where the application of the provisions of paragraph 1 of this article would have the effect of relieving all the institutions concerned of the obligation to award benefits, benefits shall be awarded exclusively under the legislation of the last Contracting Party whose conditions are fulfilled by the person concerned, regard being had to the provisions of Article 28, as if all the periods referred to in paragraph 1 of the present article had been completed under the legislation of that Party.

#### *Article 32*

1 Notwithstanding the provisions of Article 29, where the total of all periods of insurance or residence completed under the legislation of a Contracting Party is at least one year but less than five years, the institution of that Party shall not be bound to award old-age benefits in respect of the said periods.

2 The periods referred to in the preceding paragraph shall be taken into account, for the purpose of applying Article 29, by the institution of the Contracting Party under whose legislation the person concerned completed the longest period of insurance or residence, as if the periods in question had been completed under the legislation of that Party. Where, under this rule, the said periods would have to be taken into account by more than one institution, they shall be taken into account only by the institution of the Contracting Party to whose legislation the person concerned was last subject.

3 The institution referred to in paragraph 1 of this article shall transfer to the institution mentioned in paragraph 2, in final settlement, a lump sum equal to ten times the annual amount of the part-benefit payable by the last-mentioned institution, in accordance with the provisions of Article 29, in respect of periods completed under the legislation applied by the first institution. The competent authorities of the Contracting Parties concerned may agree on different arrangements for settling their liabilities in respect of such periods.

4 However, where the application of the provisions of paragraph 1 of this article would have the effect of relieving all the institutions concerned of the obligation to award benefits, benefits shall be awarded in accordance with the provisions of Article 29.

5 Where the combined application of the provisions of Article 31, paragraph 1, and of paragraph 1 of this article would have the effect of relieving all the institutions concerned of the obligation to award benefits, benefits shall be awarded in accordance with the provisions of Article 29, without prejudice to the provisions of Article 31, paragraphs 1 and 2.

6 The application of the provisions of the preceding paragraphs of this article as between two or more Contracting Parties shall be subject to the conclusion of bilateral or multilateral agreements between those Parties and shall be limited to cases in which the persons concerned have been subject exclusively to the legislation of those Parties.

### *Article 33*

1 If the person concerned does not, at a given date, satisfy the conditions required by the legislation of all the Contracting Parties concerned, regard being had to the provisions of Article 28, but satisfies the conditions of the legislation of only one or more of them, the following provisions shall apply:

- a the amount of the benefits payable shall be calculated in accordance with the provisions of paragraphs 2 to 4 or of paragraph 5 of Article 29, as appropriate, by each of the competent institutions applying legislation the conditions of which are fulfilled;
- b however,
  - i if the person concerned satisfies the conditions of at least two legislations, without any need to include periods of insurance or residence

completed under legislations the conditions of which are not fulfilled, such periods shall not be taken into account for the purpose of applying the provisions of Article 29, paragraphs 2 to 4;

- ii if the person concerned satisfies the conditions of one legislation only, without any need to invoke the provisions of Article 28, the amount of the benefit payable shall be calculated exclusively in accordance with the provisions of the legislation the conditions of which are fulfilled, taking account of periods completed under that legislation only.

2 Benefits awarded under one or more of the legislations concerned in the case covered by the preceding paragraph shall be recalculated *ex officio*, in accordance with the provisions of paragraphs 2 to 4 or of paragraph 5 of Article 29, as appropriate, as and when the conditions prescribed by the other legislation or legislations concerned are satisfied, regard being had, where appropriate, to the provisions of Article 28.

3 Benefits awarded under the legislation of two or more Contracting Parties shall be recalculated, in accordance with the provisions of paragraph 1 of this article, at the request of the beneficiary, when the conditions prescribed by one or more of the legislations concerned cease to be fulfilled.

#### *Article 34*

1 Where the amount of the benefits a person would be entitled to claim under the legislation of a Contracting Party, disregarding the provisions of Articles 28 to 33, is greater than the total benefits payable in accordance with those provisions, the competent institution of that Party shall pay a supplement equal to the difference between the two amounts, and shall bear the whole cost thereof.

2 Where the application of the provisions of the preceding paragraph would have the effect of entitling the person concerned to supplements from the institutions of two or more Contracting Parties, he shall receive only whichever is the largest, and the cost shall be apportioned among the competent institutions of the Contracting Parties concerned according to the ratio between the amount of the supplement which each of them would have to pay if it alone had been concerned and the amount of the combined supplement which all the said institutions would have had to pay.

3 The supplement referred to in the preceding paragraphs of this article shall be regarded as a component of the benefits provided by the institution liable for payment. Its amount shall be determined once and for all, except where it may be necessary to apply the provisions of paragraph 2 or paragraph 3 of Article 33.

#### *Section 2 – Special provisions concerning invalidity*

#### *Article 35*

1 In the event of an aggravation of any invalidity for which a person is receiving benefits under the legislation of one Contracting Party only, the following provisions shall apply:

- a if the person concerned, since he began to receive benefits, has not been subject to the legislation of any other Contracting Party, the competent institution of the first Party shall be bound to award benefits, taking the aggravation into account, in accordance with the provisions of the legislation which that institution applies;
- b if the person concerned, since he began to receive benefits, has been subject to the legislation of one or more other Contracting Parties, benefits shall be awarded, taking the aggravation into account, in accordance with the provisions of Articles 28 to 34;
- c in the case referred to in the preceding sub-paragraph, the date on which the aggravation was established shall be regarded as the date on which the contingency arose;
- d if in the case referred to in sub-paragraph b of this paragraph the person concerned is not entitled to benefits from the institution of another Contracting Party, the competent institution of the first Party shall be bound to award benefits, taking the aggravation into account, in accordance with the provisions of the legislation which that institution applies.

2 In the event of an aggravation of any invalidity for which a person is receiving benefits under the legislation of two or more Contracting Parties, benefits shall be awarded, taking the aggravation into account, in accordance with the provisions of Articles 28 to 34. The provisions of sub-paragraph c of the preceding paragraph shall apply, *mutatis mutandis*.

#### Article 36

1 Where, after the suspension of benefits, payment thereof is to be resumed, this shall be done by the institution or institutions which were liable for payment of the benefits at the time of the suspension, without prejudice to the provisions of Article 37.

2 Where, after the suppression of benefits, the state of health of the person concerned justifies the award of further benefits, such benefits shall be awarded in accordance with the provisions of Articles 28 to 34.

#### Article 37

1 Invalidity benefits shall, where appropriate, be converted into old-age benefits, on the conditions prescribed by the legislation or legislations under which they have been awarded and in accordance with the provisions of Articles 28 to 34.

2 Where, in the case referred to in Article 33, a recipient of invalidity benefits payable under the legislation of one or more Contracting Parties becomes entitled to old-age benefits, any institution liable for the payment of invalidity benefits shall continue to pay the recipient the benefits to which he is entitled under

the legislation which it applies until such time as the provisions of the preceding paragraph become applicable in respect of that institution.

### ***Chapter 3 – Occupational injuries and diseases***

#### *Article 38*

1 Workers having sustained an occupational injury or contracted an occupational disease who reside in the territory of a Contracting Party other than the competent State shall be entitled to receive in the territory of the Contracting Party in which they are resident:

- a benefits in kind, provided at the expense of the competent institution by the institution of the place of residence in accordance with the provisions of the legislation which the latter institution applies, as if these workers were affiliated to it;
- b cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these workers were resident in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence, cash benefits may also be paid through the latter institution, on behalf of the competent institution.

2 Benefits may also be paid to frontier workers by the competent institution in the territory of the competent State, in accordance with the provisions of the legislation of that State, as if they were resident in its territory.

3 Workers to whom this article applies, other than frontier workers, who are temporarily resident in the territory of the competent State, shall be entitled to benefits in accordance with the provisions of the legislation of that State as if they were resident in its territory even if they were already receiving benefits before taking up their temporary residence.

4 Workers to whom this article applies who transfer their residence to the territory of the competent State shall be entitled to benefits in accordance with the provisions of the legislation of that State even if they were already receiving benefits before transferring their residence.

#### *Article 39*

An accident on the way to or from work, which happens in the territory of a Contracting Party other than the competent State, shall be regarded as having happened in the territory of the competent State.

#### *Article 40*

1 Workers having sustained an occupational injury or contracted an occupational disease and:



- a who are temporarily resident in the territory of a Contracting Party other than the competent State, or
  - b who, having become entitled to benefits payable by the competent institution, are authorised by that institution to return to the territory of a Contracting Party other than the competent State where they are resident, or to transfer their residence to the territory of a Contracting Party other than the competent State, or
  - c who are authorised by the competent institution to go to the territory of a Contracting Party other than the competent State in order to receive the treatment required by their condition, shall receive:
    - i benefits in kind, provided at the expense of the competent institution by the institution of the place of residence or temporary residence in accordance with the provisions of the legislation applied by the latter institution, as if these workers were affiliated to it, for a period not exceeding any period which may be prescribed by the legislation of the competent State;
    - ii cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these workers were in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence or temporary residence, cash benefits may be paid through the latter institution, on behalf of the competent institution.
- 2 a The authorisation referred to in sub-paragraph b of the preceding paragraph may be refused only if the move might prejudice the health or the course of medical treatment of the worker;
- b the authorisation referred to in sub-paragraph c of the preceding paragraph shall not be refused when the requisite treatment cannot be given in the territory of the Contracting Party in which the worker resides.

#### *Article 41*

In the cases mentioned in Article 38, paragraph 1, and in Article 40, paragraph 1, the competent authorities of two or more Contracting Parties may agree to make the provision of prosthetic appliances, major aids and other major benefits in kind conditional upon authorisation by the competent institution.

#### *Article 42*

1 Where the legislation of the competent State provides for the payment of the cost of transporting the injured worker to his place of residence or to hospital, the cost of transport to the corresponding place in the territory of another Contracting Party where he is resident shall be borne by the competent institution, in accordance with the provisions of the legislation which it applies, pro-

vided that it has given prior authorisation for the said transport, due account being taken of the reasons justifying it.

2 Where the legislation of the competent State provides for the payment of the cost of transporting the body of a deceased worker to the place of burial, the cost of transport to the corresponding place in the territory of another Contracting Party where the deceased was resident shall be borne by the competent institution, in accordance with the provisions of the legislation which it applies.

3 The application of the provisions of the preceding paragraphs of this article as between two or more Contracting Parties shall be subject to the conclusion of bilateral or multilateral agreements between those Parties. Such agreements shall specify the categories of persons to whom the said provisions shall apply and the arrangements for apportioning the transport costs between the Contracting Parties concerned.

#### *Article 43*

1 Where no insurance scheme covering occupational injuries or diseases exists in the territory of the Contracting Party where the worker happens to be or where an insurance scheme exists but has no institution responsible for the provision of benefits in kind, such benefits shall be provided by the institution of the place of residence or temporary residence responsible for providing benefits in kind in the event of sickness.

2 Where the legislation of the competent State provides that benefits in kind shall not be completely free unless use is made of the medical service organised by the employer, the benefits in kind provided in the cases referred to in Article 38, paragraph 1, and in Article 40, paragraph 1, shall be deemed to have been provided by such medical service.

3 Where the legislation of the competent State embodies an employers' liability scheme, the benefits in kind provided in the cases referred to in Article 38, paragraph 1, and in Article 40, paragraph 1, shall be deemed to have been provided at the request of the competent institution.

4 Where the legislation of one Contracting Party explicitly or implicitly provides that previous occupational injuries or diseases shall be taken into account in the assessment of the degree of incapacity, the competent institution of that Party shall also take into account for this purpose occupational injuries or diseases previously recognised in accordance with the legislation of any other Contracting Party, as if they had occurred under the legislation which that institution applies.

#### *Article 44*

1 Where the legislation applied by the institution of the place of residence or temporary residence embodies two or more compensation schemes, the rules to be applied in respect of the provision of benefits in kind, in the cases referred to

in Article 38, paragraph 1, and in Article 40, paragraph 1, shall be those of the general scheme or, failing that, of the scheme for industrial workers.

2 Where the legislation of a Contracting Party fixes a maximum period for the provision of benefits, the institution which applies that legislation may, where appropriate, take account of any period during which benefits have already been provided by the institution of another Contracting Party for the same case of occupational injury or disease.

*Article 45*

1 Where the legislation of a Contracting Party provides that the calculation of cash benefits shall be based on average earnings, the competent institution of that Party shall determine those average earnings exclusively on the basis of the earnings recorded during the period completed under the said legislation.

2 Where the legislation of a Contracting Party provides that the calculation of cash benefits shall be based on fixed earnings, the competent institution of that Party shall take account exclusively of such fixed earnings or, where appropriate, of the average fixed earnings corresponding to the periods completed under the said legislation.

3 Where the legislation of a Contracting Party provides that the amount of cash benefits shall vary with the number of members of the family, the competent institution of that Party shall take account also of members of the family resident in the territory of another Contracting Party, as if they were resident in the territory of the first Party.

*Article 46*

1 If a worker having contracted an occupational disease has followed, under the legislation of two or more Contracting Parties, an occupation liable to cause such a disease, the benefits to which he or his survivors may be entitled shall be awarded exclusively under the legislation of the last of the said Parties the conditions of which they fulfil, regard being had, where appropriate, to the provisions of paragraphs 2, 3 and 4 of this article.

2 Where the legislation of a Contracting Party makes entitlement to benefits for occupational diseases conditional upon the disease in question being first diagnosed in its territory, that condition shall be deemed to have been fulfilled if this disease was first diagnosed in the territory of another Contracting Party.

3 Where the legislation of a Contracting Party explicitly or implicitly makes entitlement to benefits for occupational diseases conditional upon the disease in question being diagnosed within a specified period after the termination of the last occupation liable to have caused it, the competent institution of that Party, when ascertaining the time at which the occupation in question was followed, shall take account to the extent necessary of any occupation of the same kind fol-

lowed under the legislation of any other Contracting Party, as if it had been followed under the legislation of the first Party.

4 Where the legislation of a Contracting Party explicitly or implicitly makes entitlement to benefits for occupational diseases conditional upon an occupation liable to cause the disease in question having been followed for a specified period, the competent institution of that Party shall take account, to the extent necessary, for the purpose of adding periods together, of periods during which such an occupation was followed in the territory of any other Contracting Party.

5 The application of the provisions of paragraphs 3 and 4 of this article as between two or more Contracting Parties shall be subject to the conclusion of bilateral or multilateral agreements between those Parties. Such agreements shall specify the occupational diseases to which these provisions shall be applicable and the arrangements for apportioning the cost of the benefits between the Contracting Parties concerned.

#### *Article 47*

Where a worker having contracted an occupational disease has received or is receiving compensation paid by the institution of a Contracting Party, and, in the event of an aggravation of his condition, claims benefits from the institution of another Contracting Party, the following provisions shall apply:

a where the worker has not followed, under the legislation of the second Party, an occupation liable to cause or to aggravate the disease in question, the competent institution of the first Party shall bear the cost of the benefits, taking the aggravation into account, in accordance with the provisions of the legislation which that institution applies;

b where the worker followed such an occupation under the legislation of the second Party, the competent institution of the first Party shall bear the cost of the benefits, leaving the aggravation out of account, in accordance with the provisions of the legislation which it applies; the competent institution of the second Party shall award to the worker a supplementary benefit the amount of which shall be equal to the difference between the amount of the benefits due after the aggravation and the amount of the benefits that would have been due before the aggravation, in accordance with the provisions of the legislation which that institution applies, if the disease in question had been contracted under the legislation of that Party.

#### *Article 48*

1 The competent institution shall be bound to refund the cost of benefits in kind provided on its behalf by virtue of Article 38, paragraph 1, and Article 40, paragraph 1.

2 The refund referred to in the preceding paragraph shall be determined and made under arrangements to be agreed between the competent authorities of the Contracting Parties.

3 Two or more Contracting Parties may agree that there shall be no refunds between the institutions in their jurisdiction.

#### ***Chapter 4 – Death grants***

##### *Article 49*

1 Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of entitlement to death grants conditional upon the completion of periods of insurance, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account, to the extent necessary, of periods of insurance completed under the legislation of any other Contracting Party and, where appropriate, of periods of residence completed after the age of sixteen under non-contributory schemes of any other Contracting Party, as if they were periods of insurance completed under the legislation of the first Party.

2 Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of entitlement to death grants conditional upon the completion of periods of residence, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account, to the extent necessary, of periods of insurance completed under the legislation of any other Contracting Party and, where appropriate, of periods of residence completed after the age of sixteen under non-contributory schemes of any other Contracting Party, as if they were periods of residence completed under the legislation of the first Party.

##### *Article 50*

1 Where a person dies in the territory of a Contracting Party other than the competent State, the death shall be deemed to have occurred in the territory of the competent State.

2 The competent institution shall provide death grants due under the legislation which it applies, even if the beneficiary resides in the territory of a Contracting Party other than the competent State.

3 The provisions of the preceding paragraphs of this article shall apply also where death results from an occupational injury or disease.

#### ***Chapter 5 – Unemployment***

##### *Article 51*

1 Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of entitlement to benefits conditional upon the completion of

periods of insurance, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account, to the extent necessary, of periods of insurance, employment or occupational activity completed under the legislation of any other Contracting Party, as if they were periods of insurance completed under the legislation of the first Party, provided however that, in the case of periods of employment or occupational activity, these periods would have been considered as periods of insurance if they had been completed under the last mentioned legislation.

2 Where the legislation of a Contracting Party makes the entitlement to benefits conditional upon the completion of periods of employment, occupational activity or residence, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account, to the extent necessary, of periods of insurance, employment or occupational activity completed under the legislation of any other Contracting Party, as if they were periods of employment, occupational activity or residence completed under the legislation of the first Party.

3 Where the legislation of a Contracting Party makes the provision of certain benefits conditional upon the completion of periods of insurance in an occupation covered by a special scheme, only periods completed under a corresponding scheme, or, failing that, in the same occupation under the legislation of other Contracting Parties, shall be taken into account for the provision of such benefits. If, notwithstanding periods completed in this way, the person concerned does not satisfy the conditions for entitlement to the said benefits, the periods concerned shall be taken into account for the provision of benefits under the general scheme.

4 The application of the provisions of the preceding paragraphs of this article is subject to the condition that the person concerned was last subject to the legislation of the Contracting Party under which the benefits are claimed, except in the cases referred to in Article 53, paragraph 1, sub-paragraphs a.ii and b.ii.

#### *Article 52*

Unemployed workers who satisfy the conditions for entitlement to benefits prescribed by the legislation of one Contracting Party in respect of the completion of periods of insurance, employment, occupational activity or residence, regard being had, where appropriate, to the provisions of Article 51, and who transfer their residence to the territory of another Contracting Party, shall be deemed to satisfy also the conditions for entitlement to benefits prescribed by the legislation of the second Party in this respect, provided that they lodge a claim with the institution of their new place of residence within thirty days of their transfer of residence. The benefits shall be paid by the institution of the place of residence, in accordance with the provisions of the legislation which that institution applies, the cost being borne by the competent institution of the first Party.

*Article 53*

1 Without prejudice to the provisions of Article 52, an unemployed worker who, during his last employment, was resident in the territory of a Contracting Party other than the competent State shall receive benefits in accordance with the following provisions:

- a i a frontier worker, whose unemployment in the undertaking which employs him is partial or incidental, shall receive benefits in accordance with the provisions of the legislation of the competent State, as if he were resident in the territory of that State, regard being had, where appropriate, to the provisions of Article 51; such benefits shall be paid by the competent institution;
- ii a frontier worker who is wholly unemployed shall receive benefits in accordance with the provisions of the legislation of the Contracting Party in whose territory he is resident, as if he had been subject to that legislation during his last employment, regard being had, where appropriate, to the provisions of Article 51; such benefits shall be paid by the institution of the place of residence;
- b i a worker, other than a frontier worker, who becomes partially, incidentally or wholly unemployed and remains available to his employer or to the employment services in the territory of the competent State, shall receive benefits in accordance with the provisions of the legislation of the competent State, as if he were resident in the territory of that State, regard being had, where appropriate, to the provisions of Article 51; such benefits shall be paid by the competent institution;
- ii a worker, other than a frontier worker, who becomes wholly unemployed and makes himself available to the employment services in the territory of the Contracting Party where he is resident, or returns to that territory, shall receive benefits in accordance with the provisions of the legislation of that Party, as if he had been subject to that legislation during his last employment, regard being had, where appropriate, to the provisions of Article 51; such benefits shall be paid by the institution of the place of residence;
- iii however, if the worker referred to in sub-paragraph b.ii of this paragraph has become entitled to benefits from the competent institution of the Contracting Party to whose legislation he was last subject, he shall receive benefits in accordance with the provisions of Article 52, as if he had transferred his residence to the territory of the Contracting Party referred to in sub-paragraph b.ii of this paragraph.

2 As long as an unemployed worker is entitled to benefits by virtue of sub-paragraphs a.i or b.i of the preceding paragraph, he shall not be entitled to benefits under the legislation of the Contracting Party in whose territory he resides.

*Article 54*

Where, in the cases referred to in Article 52 and in Article 53, paragraph 1, subparagraph b.iii, the legislation applied by the institution of the place of residence prescribes a maximum period for the award of benefits, the said institution may, where appropriate, take account of any period during which benefits have already been paid by the institution of another Contracting Party since entitlement to benefits was last established.

*Article 55*

1 Where the legislation of a Contracting Party provides that the calculation of benefits shall be based on the amount of previous earnings, the institution which applies that legislation shall take account exclusively of the earnings of the worker concerned in the last occupation which he followed in the territory of the said Party or, if he was not last employed in that territory for at least four weeks, of the corresponding normal wage at his place of residence, for work equivalent or similar to his last occupation in the territory of another Contracting Party.

2 Where the legislation of a Contracting Party provides that the amount of benefits shall vary with the number of members of the family, the institution which applies that legislation shall take account also of the members of the family resident in the territory of another Contracting Party, as if they were resident in the territory of the first Party.

3 Where the legislation applied by the institution of the place of residence provides that the time during which benefits are payable shall depend on the length of the periods completed, the time during which benefits are payable shall be determined with due regard, where appropriate, to the provisions of paragraph 1 or paragraph 2 of Article 51.

*Article 56*

1 The application of the provisions of Articles 52 to 54 as between two or more Contracting Parties shall be subject to the conclusion between those Parties of bilateral or multilateral agreements which may also contain appropriate special arrangements.

2 The agreements referred to in the preceding paragraph shall specify in particular:

- a the categories of persons to whom the provisions of Articles 52 to 54 shall apply;
- b the period during which benefits may be paid by the institution of one Contracting Party, the cost being borne by the institution of another Contracting Party;



- c arrangements for the refund of benefits provided by the institution of one Contracting Party where the cost is to be borne by the institution of another Contracting Party.

3 Two or more Contracting Parties may agree that there shall be no refunds between the institutions in their jurisdiction.

## **Chapter 6 – Family benefits**

### *Article 57*

Where the legislation of a Contracting Party makes the entitlement to benefits conditional upon the completion of periods of employment, occupational activity or residence, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account, to the extent necessary, of periods of employment, occupational activity or residence completed under the legislation of any other Contracting Party, as if they were periods of employment, occupational activity or residence completed under the legislation of the first Party.

### *Article 58*

1 The application of the provisions of Section 1 or Section 2 of this chapter as between two or more Contracting Parties shall be subject to the conclusion between those Parties of bilateral or multilateral agreements which may also contain appropriate special arrangements.

2 The agreements referred to in the preceding paragraph shall specify in particular:

- a the categories of persons to whom the provisions of Articles 59 to 62 shall apply;
- b rules to prevent the overlapping of benefits of the same kind;
- c where appropriate, the maintenance of rights acquired by virtue of social security conventions.

### *Section 1 – Family allowances*

### *Article 59*

1 For the purpose of the application of this article and of Article 60, the term “children” shall, within the limits prescribed in the legislation of the Contracting Party concerned, mean:

- a legitimate children, legitimised children, acknowledged illegitimate children, adopted children and orphaned grandchildren of the beneficiary;
- b legitimate children, legitimised children, acknowledged illegitimate children, adopted children and orphaned grandchildren of the beneficiary’s

spouse, on condition that they are living in the beneficiary's household in the territory of a Contracting Party.

2 Persons subject to the legislation of one Contracting Party, having children who are resident or are being brought up in the territory of another Contracting Party, shall be entitled in respect of such children to the family allowances provided for by the legislation of the first Party, as if these children were permanently resident or were being brought up in the territory of that Party.

3 However, in the case referred to in the preceding paragraph, the amount of the family allowances may be limited to the amount of family allowances provided for by the legislation of the Contracting Party in whose territory the children are resident or are being brought up.

4 For the purpose of applying the provisions of the preceding paragraph, the comparison of the amounts of family allowances payable under the two legislations concerned shall be made on the basis of the total number of children of the same beneficiary. Where the legislation of the Contracting Party in whose territory the children are resident or are being brought up provides for different family allowances rates for different categories of beneficiaries, regard shall be had to the amounts that would be payable if the beneficiary were subject to that legislation.

5 The provisions of paragraphs 3 and 4 of this article shall not be applicable to an employed person covered by Article 15, paragraph 1, sub-paragraph a, in respect of such children as accompany him to the territory of the Contracting Party where he is sent to work.

6 Family allowances shall be paid in accordance with the provisions of the legislation of the Contracting Party to which the beneficiary is subject, even if the physical or legal person to whom the allowances are payable resides or is temporarily in the territory of another Contracting Party.

#### Article 60

1 Unemployed workers drawing unemployment benefits at the expense of the institution of one Contracting Party, and having children who are resident or are being brought up in the territory of another Contracting Party, shall be entitled, in respect of such children, to the family allowances payable in that contingency under the legislation of the first Party, as if they were resident or were being brought up in the territory of this Party.

2 In the case referred to in the preceding paragraph, the provisions of Article 59, Paragraphs 1, 3, 4 and 6 shall apply, *mutatis mutandis*.

*Section 2 – Family benefits*

*Article 61*

1 Persons who are subject to the legislation of a Contracting Party shall be entitled, in respect of members of their family resident in the territory of another Contracting Party, to the benefits provided under the legislation of the latter Party, as if these persons were subject to that Party's legislation. Such benefits shall be paid to the members of the family by the institution of their place of residence, in accordance with the provisions of the legislation which that institution applies, and the cost shall be borne by the competent institution.

2 Notwithstanding the provisions of the preceding paragraph, an employed person to whom Article 15, paragraph 1, sub-paragraph a, refers shall be entitled, in respect of such members of his family as accompany him to the territory of the Contracting Party where he is sent to work, to the benefits provided under the legislation of the Contracting Party to which he remains subject. Such benefits shall be paid by the competent institution of the latter Party. However, by agreement between the competent institution and the institution of the place of residence, the benefits may also be paid through the latter institution, on behalf of the competent institution.

*Article 62*

Unemployed workers drawing unemployment benefits payable by an institution of a Contracting Party shall be entitled, in respect of members of their family resident in the territory of another Contracting Party, to the family benefits payable under the legislation of the latter Party provided that, under the legislation of the first Party, family benefits are payable in the event of unemployment. The family benefits shall be paid to the members of the family by the institution of their place of residence, in accordance with the provisions of the legislation which that institution applies, and the cost shall be borne by the competent institution of the first Party.

*Article 63*

1 In those cases where the provisions of this section are applied between two or more Contracting Parties, the bilateral or multilateral agreements referred to in Article 58, paragraph 1, shall specify the arrangements for the refund of benefits provided by the institution of one Contracting Party where the cost is to be borne by the institution of another Contracting Party.

2 Two or more Contracting Parties may agree that there shall be no refunds between the institutions in their jurisdiction.

#### **Title IV – Miscellaneous provisions**

##### *Article 64*

1 The competent authorities of the Contracting Parties shall communicate to each other:

- a all information regarding measures taken by them for the application of this Convention; and
- b all information regarding changes made in their legislation which may affect the application of this Convention.

2 For the purpose of applying this Convention, the authorities and institutions of the Contracting Parties shall assist one another as if it were a matter of applying their own legislation. In principle the administrative assistance furnished by the said authorities and institutions to one another shall be free of charge. However, the competent authorities of the Contracting Parties may agree to reimburse certain expenses.

3 The authorities and institutions of the Contracting Parties may, for the purpose of applying this Convention, communicate directly with one another and with the individuals concerned or their representatives.

4 The authorities, institutions and jurisdictions of one Contracting Party may not reject claims or other documents submitted to them by reason of the fact that they are written in an official language of another Contracting Party.

##### *Article 65*

1 Any exemption from, or reduction of, taxes, stamp duty, legal dues or registration fees provided for in the legislation of one Contracting Party in connection with certificates or documents required to be produced for the purposes of the legislation of that Party shall be extended to similar certificates and documents required to be produced for the purposes of the legislation of another Contracting Party or of this Convention.

2 All official instruments, documents or certificates of any kind that are required to be produced for the purposes of this Convention shall be exempt from authentication or any similar formality.

##### *Article 66*

1 Where a claimant is resident in the territory of a Contracting Party other than the competent State, he may validly present his claim to the institution of his place of residence, which shall refer it to the competent institution or institutions mentioned in the claim.

2 Any claim, declaration or appeal that should have been submitted, under the legislation of a Contracting Party, within a specified time to an authority, institution or jurisdiction of that Party shall be admissible if it is submitted within the

same period to an authority, institution or jurisdiction of another Contracting Party. In such event, the authority, institution or jurisdiction receiving the claim, declaration or appeal shall forward it without delay to the competent authority, institution or jurisdiction of the first Party, either directly or through the intermediary of the competent authorities of the Contracting Parties concerned. The date on which any claim, declaration or appeal was submitted to an authority, institution or jurisdiction of the second Contracting Party shall be deemed to be the date of its submission to the authority, institution or jurisdiction competent to deal with it.

*Article 67*

1 Medical examinations prescribed by the legislation of one Contracting Party may be carried out, at the request of the institution which applies this legislation, in the territory of another Contracting Party, by the institution of the place of temporary residence or residence. In such event, they shall be deemed to have been carried out in the territory of the first Party.

2 The application of the provisions of the preceding paragraph as between two or more Contracting Parties shall be subject to the conclusion of bilateral or multilateral agreements between those Parties.

*Article 68*

1 Where, under this Convention, the institution of one Contracting Party is liable to pay cash benefits to a beneficiary who is in the territory of another Contracting Party, its liability shall be expressed in the currency of the first Party. That institution may validly discharge its liability in the currency of the second Party.

2 Where, under this Convention, the institution of one Contracting Party is liable to pay sums in refund of benefits provided by the institution of another Contracting Party, its liability shall be expressed in the currency of the second Party. The first institution may validly discharge its liability in that currency, unless the Contracting Parties concerned have agreed on other arrangements.

3 Transfers of funds which result from the application of this Convention shall be effected in accordance with the relevant agreements in force between the Contracting Parties concerned at the date of transfer. Failing such agreements, the arrangements for effecting such transfers shall be agreed between the said Parties.

*Article 69*

1 For the calculation of the amount of contributions due to the institution of a Contracting Party, account shall be taken, where appropriate, of any income received in the territory of any other Contracting Party.

2 The recovery of contributions due to the institution of one Contracting Party may be effected in the territory of another Contracting Party in accordance with the administrative procedures and subject to the guarantees and privileges applicable to the recovery of contributions due to a corresponding institution of the latter Party.

3 The application of the provisions of paragraphs 1 and 2 of this article as between two or more Contracting Parties shall be subject to the conclusion of bilateral or multilateral agreements between those Parties. Such agreements may also deal with legal procedure for recovery.

*Article 70*

1 Where a person is receiving benefits under the legislation of one Contracting Party in respect of an injury caused or sustained in the territory of another Contracting Party, the rights of the institution liable to pay benefits against the third party liable to pay damages shall be regulated in the following manner:

- a where the said institution, under the legislation applicable to it, is substituted for the beneficiary in any rights which he may have against the third party, such substitution shall be recognised by every other Contracting Party; and
- b where the said institution has a direct right against the third party, such right shall be recognised by every other Contracting Party.

2 The application of the provisions of the preceding paragraph as between two or more Contracting Parties shall be subject to the conclusion of bilateral or multilateral agreements between those Parties.

3 The rules governing the liability of employers or their agents in the case of occupational injuries or accidents on the way to or from work which happen in the territory of a Contracting Party other than the competent State shall be determined by agreement between the Contracting Parties concerned.

*Article 71*

1 Any dispute arising between two or more Contracting Parties as to the interpretation or application of this Convention shall first of all be the subject of negotiations between the Parties to the dispute.

2 If one of the Parties to the dispute considers that there is a question likely to affect all the Contracting Parties, the Parties to the dispute jointly, or failing that, one of them, shall submit it to the Committee of Ministers of the Council of Europe, which shall give an opinion on the question within six months.

3 If it has not proved possible to settle the dispute either, as the case may be, within six months from the request for the opening of negotiations as prescribed by paragraph 1 of this article, or within three months from the communication to the Contracting Parties of the opinion given by the Committee of Ministers,

the dispute may be the subject of arbitration proceedings before one arbitrator, at the request of any Party to the dispute. The requesting Party shall notify the other Party, through the Secretary General of the Council of Europe, of the subject matter of the request it intends to refer to arbitration and of the grounds on which the request is based.

4 Unless otherwise agreed by the Parties to the dispute, the arbitrator shall be appointed by the President of the European Court of Human Rights. The arbitrator shall not be a national of one of the Parties to the dispute, nor have his usual place of residence in the territory of these Parties, nor be employed by them, nor have dealt with the case in another capacity.

5 If, in the case referred to in the preceding paragraph, the President of the European Court of Human Rights is unable to act or is a national of one of the Parties to the dispute, the arbitrator shall be appointed by the Vice-President of the Court or by the most senior member of the Court who is not unable to act and is not a national of one of the Parties to the dispute.

6 Failing a special agreement between the Parties to the dispute, or failing a sufficiently precise agreement, the arbitrator shall give his decision on the basis of the provisions of this Convention, taking due account of the general principles of international law.

7 The arbitrator's decision shall be binding and final.

#### *Article 72*

1 Annex VII specifies, for each Contracting Party concerned, the particular measures for the application of its legislation.

2 Each Contracting Party concerned shall give notice, in accordance with the provisions of Article 81, paragraph 1, of any amendment to be made to Annex VII. If such an amendment results from the adoption of new legislation, notice shall be given within three months from the date of publication of that legislation or, in the case of legislation published before the date of ratification of this Convention, on the date of ratification.

#### *Article 73*

1 The annexes referred to in Article 1, sub-paragraph b, Article 3, paragraph 1, Article 6, paragraph 3, Article 8, paragraph 4, Article 9, paragraph 2, Article 11, paragraph 3, and Article 72, paragraph 1, and any subsequent amendments made to these annexes, shall be an integral part of this Convention.

2 Any amendment to the annexes referred to in the preceding paragraph shall be considered as adopted if, within the three months following the notification provided for in Article 81, paragraph 2, sub-paragraph d, of this Convention, no Contracting Party or signatory State has opposed it by notification addressed to the Secretary General of the Council of Europe.

3 In the event of such opposition being notified to the Secretary General, the question shall be settled in accordance with a procedure to be established by the Committee of Ministers of the Council of Europe.

#### **Title V – Transitional and final provisions**

##### *Article 74*

1 This Convention shall confer no rights for any period before its entry into force in respect of the Contracting Party or Parties concerned.

2 All periods of insurance and, where appropriate, of employment, occupational activity or residence completed under the legislation of a Contracting Party before the date on which this Convention enters into force shall be taken into account for the purpose of determining rights arising from this Convention.

3 Subject to the provisions of paragraph 1 of this article, rights may arise under this Convention even in respect of a contingency which arose before its entry into force.

4 Any benefit which has not been provided or which has been suspended on account of the nationality of the person concerned or of his residence in the territory of the Contracting Party other than that in which the institution liable to pay the benefits is situated shall, at the request of the person concerned, be provided or resumed with effect from the date on which this Convention enters into force, unless the rights previously extinguished have given rise to the payment of a lump sum.

5 The rights of persons concerned who have been awarded a pension before the entry into force of this Convention shall be revised at their request, regard being had to the provisions of this Convention. These rights may also be revised *ex officio*. In no circumstances shall such a revision operate to lessen the former rights of the person concerned.

6 Where the request referred to in paragraph 4 or in paragraph 5 of this article is submitted within two years of the date on which this Convention enters into force, the rights arising in accordance with the provisions of the Convention shall be acquired as from that date, and those provisions of the legislation of any Contracting Party which concern the loss of rights or the extinction of rights by lapse of time shall not be raised against the person concerned.

7 Where the request referred to in paragraph 4 or in paragraph 5 of this article is submitted more than two years after the date on which this Convention enters into force, such rights as have not lapsed or have not been extinguished by lapse of time shall be acquired only with reference to the date on which the request was submitted, unless there are more favourable provisions in the legislation of the Contracting Party concerned.



*Article 75*

1 This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.

2 This Convention shall enter into force on the first day of the third month following that in which the third instrument of ratification or acceptance is deposited.

3 In respect of a signatory State ratifying or accepting subsequently, the Convention shall enter into force three months after the date of deposit of its instrument of ratification or acceptance.

*Article 76*

From the date of entry into force of this Convention, the provisions of the European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors and Protocol thereto, and European Interim Agreement on Social Security Schemes relating to Old Age, Invalidity and Survivors and Protocol thereto shall cease to be applicable in relations between Contracting Parties.

*Article 77*

1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council to accede to this Convention, provided that the resolution containing such invitation receives the unanimous agreement of the member States of the Council who have ratified or accepted the Convention.

2 Accession shall be effected by the deposit with the Secretary General of the Council of Europe of an instrument of accession which shall take effect three months after the date of its deposit.

*Article 78*

1 This Convention shall remain in force indefinitely.

2 Any Contracting Party may, in so far as it is concerned, denounce this Convention after it has been in force for five years in respect of that Party, by means of a notification addressed to the Secretary General of the Council of Europe.

3 Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

*Article 79*

1 In the event of denunciation of this Convention, all rights acquired under its provisions shall be maintained.

2 Rights in process of acquisition in respect of periods before the date on which the denunciation takes effect shall not lapse as a result of the denunciation; their subsequent continued recognition shall be determined by agreement or, failing such agreement, by the legislation which the institution concerned applies.

*Article 80*

1 The application of this Convention shall be governed by a Supplementary Agreement which shall be open to signature by the member States of the Council of Europe.

2 The Contracting Parties or, in so far as the constitutional provisions of these Parties permit, their competent authorities, shall make all other arrangements necessary for the application of this Convention.

3 Any signatory State of this Convention which ratifies or accepts it must, at the same time, either ratify or accept the Supplementary Agreement or sign it without reservation in respect of ratification or acceptance, not later than the date of deposit of its instrument of ratification or acceptance of the Convention.

4 Any State which accedes to this Convention must at the same time accede to the Supplementary Agreement.

5 Any Contracting Party which denounces this Convention must at the same time denounce the Supplementary Agreement.

*Article 81*

1 The notifications or declarations referred to in Article 1, sub-paragraphs b and w, Article 3, paragraph 2, Article 6, paragraph 5, Article 7, paragraph 2, Article 8, paragraph 5, Article 9, paragraphs 3 and 4, Article 11, paragraph 4 and Article 72, paragraph 2, shall be addressed to the Secretary General of the Council of Europe.

2 The Secretary General of the Council of Europe shall, within one month, notify the Contracting Parties, signatory States and the Director General of the International Labour Office of:

- a any signature and any deposit of an instrument of ratification, acceptance or accession;
- b any date of entry into force of this Convention in accordance with the provisions of Article 75 and Article 77;
- c any notification of denunciation received in pursuance of the provisions of Article 78, paragraph 2, and the date on which denunciation takes effect;

d any notification or declaration received in pursuance of the provisions of paragraph 1 of this article.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Convention.

Done at Paris, this 14th day of December 1972, in English and in French, both texts being equally authoritative, in a single copy, which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatory and acceding States.

### **Annex I**

(Article 1, sub-paragraph b)

*Definition of territories and nationals of the Contracting Parties*

(text not reproduced here)

### **Annex II**

(Article 3, paragraph 1)

*Legislation and schemes to which this Convention is applicable*

(text not reproduced here)

### **Annex III**

(Article 6, paragraph 3)

*Provisionings remaining in force notwithstanding the provisions of Article 5*

(text not reproduced here)

### **Annex IV**

(Article 8, paragraph 4)

*Benefits to which the provisions of paragraph 2 or paragraph 3 of Article 8 are applicable*

(text not reproduced here)

### **Annex V**

(Article 9, paragraphs 2 et 3)

*Provisions whose application is extended to nationals of all the Contracting Parties*

(text not reproduced here)

**Annex VI**

(Article 11, paragraph 3)

*Benefits to which the provisions of paragraph 1 or paragraph 2 of Article 11 are not applicable*

(text not reproduced here)

**Annex VII**

(Article 72, paragraph 1)

*Particular measures for the application of the legislation of the Contracting Parties*

(text not reproduced here)

**European Treaty Series – No. 78A**

## **Supplementary Agreement for the Application of the European Convention on Social Security**

*Paris, 14.XII.1972*

The member States of the Council of Europe, signatory to the European Convention on Social Security and to this Supplementary Agreement,

Considering that by the terms of Article 80, paragraph 1, of the European Convention on Social Security, the application of that Convention is governed by a Supplementary Agreement,

Have agreed as follows:

### **Title I – General provisions**

#### *Article 1*

For the purposes of this Supplementary Agreement:

- a the term “Convention” means the European Convention on Social Security;
- b the term “Agreement” means the Supplementary Agreement for the application of the Convention;
- c the term “Committee” means the Committee of Experts on Social Security of the Council of Europe or such other committee as the Committee of Ministers of the Council of Europe may designate to carry out the duties mentioned in Article 2 of this Agreement;
- d the term “seasonal worker” means a worker who moves to the territory of a Contracting Party other than that of his residence for the purpose of carrying out, for an undertaking or employer of that Party, work of a seasonal nature for a period not longer than eight months, and who temporarily resides in the territory of that Party for the duration of such work; work of a seasonal nature means work which is dependent on the cycle of the seasons and is automatically repeated each year; the status of a seasonal worker is proved by the production of a contract of employment endorsed by the employment service of the Contracting Party whose territory the seasonal worker enters to follow his occupation, or of a document endorsed by that service, attesting to his seasonal employment in that territory;

- e the terms defined in Article 1 of the Convention have the meanings given them in that article.

*Article 2*

- 1 Models of the certificates, statements, declarations, claims and other documents required for the application of the Convention and of this Agreement shall be prepared by the Committee. However, if two or more Contracting Parties agree on the use of different models, they shall inform the Committee accordingly.
- 2 The Committee may assemble information on the legislative provisions to which the Convention applies at the request of the competent authorities of any Contracting Party.
- 3 The Committee may prepare leaflets for the purpose of informing the persons concerned of their rights and of the administrative formalities with which they must comply in order to secure them.

*Article 3*

- 1 The competent authorities of the Contracting Parties may designate liaison bodies empowered to communicate directly with one another and provided they are authorised to do so by the competent authorities of that Party, with the institutions of any Contracting Party.
- 2 Any institution of a Contracting Party, and likewise any person residing or temporarily residing in the territory of a Contracting Party, may approach the institution of another Contracting Party either directly or through the liaison bodies.

*Article 4*

- 1 Annex 1 names the competent authority or authorities of each Contracting Party.
- 2 Annex 2 names the competent institutions of each Contracting Party.
- 3 Annex 3 names the institutions of the place of residence and the institutions of the place of temporary residence of each Contracting Party.
- 4 Annex 4 names the liaison bodies designated by the competent authorities of the Contracting Parties pursuant to Article 3, paragraph 1, of this Agreement.
- 5 Annex 5 lists the provisions referred to in Article 6, sub-paragraph b and Article 46, paragraph 2, of this Agreement.
- 6 Annex 6 lists the names and addresses of the banks referred to in Article 48, paragraph 1, of this Agreement.

7 Annex 7 names the institutions designated by the competent authorities of the Contracting Parties pursuant to the provisions of Article 7, paragraph 1, Article 12, paragraph 1, Article 14, paragraphs 2 and 3, Article 34, Article 57, paragraph 1, Article 63, paragraph 1, Article 72, paragraph 2, Article 73, paragraph 2, Article 76, Article 77, Article 78, paragraph 2, Article 83, paragraph 1, Article 84 and Article 87, paragraph 2, of this Agreement.

#### *Article 5*

Two or more Contracting Parties may by common agreement, in so far as they are concerned, prescribe different rules for applying the Convention from those provided for in this Agreement.

#### *Article 6*

This Agreement replaces:

- a agreements for the application of such social security conventions as the Convention replaces;
- b provisions for the application of such provisions in the conventions on social security referred to in Article 6, paragraph 3, of the Convention as are not listed in Annex 5.

### **Title II – Application of the Convention (General provisions)**

#### **Application of Article 10 of the Convention**

##### *Article 7*

1 Where, having regard to Article 10 of the Convention, the person concerned satisfies the conditions for admission to optional continued insurance in respect of invalidity, old age or death (pensions) under more than one scheme, by virtue of the legislation of a Contracting Party, and has not been compulsorily insured under any of those schemes by virtue of his most recent employment, he shall qualify for admission to optional continued insurance only under the scheme which would have applied if he had followed, under the legislation of that Party, the employment subject to compulsory insurance for pension purposes which he last followed under the legislation of another Contracting Party. However, where the said employment was not subject to compulsory insurance under the legislation of the first Party, or where the nature of that employment cannot be determined, then the competent authority of that Party or such institution as it may designate shall decide the scheme under which the optional insurance may be continued.

2 In order to benefit from the provisions of Article 10 of the Convention, the person concerned shall submit to the institution of the Contracting Party concerned a certificate of the periods of insurance completed under the legislation

of any other Contracting Party and also of any periods of residence, after the age of sixteen, under the non-contributory legislation of any other Contracting Party. This certificate shall be issued at the request of the person concerned, or the said institution, by the institution or institutions within whose purview he has completed the periods in question.

### **Application of Article 13 of the Convention**

#### *Article 8*

Where a person in receipt of benefit under the legislation of one Contracting Party is also entitled to benefits under the legislation of one or more of the other Contracting Parties, the following rules shall apply:

- a where the application of the provisions of Article 13, paragraph 2, of the Convention would entail the reduction, suspension or suppression of such benefits, none of them may be reduced, suspended or suppressed to an extent greater than the amount which would be obtained by dividing the sum affected by the reduction, suspension or suppression in accordance with the legislation under which benefit is due by the number of benefits subject to reduction, suspension or suppression to which the beneficiary is entitled;
- b nevertheless, where the benefits concerned are invalidity, old age, or death (pensions) benefits paid out in conformity with the provisions of Article 29 of the Convention by the institution of a Contracting Party, that institution shall take account of the benefits, income or remuneration entailing the reduction, suspension or suppression of the benefits due from it solely for the purposes of the reduction, suspension or suppression of the amount referred to in Article 29, paragraphs 4 or 5, but not for the calculation of the theoretical amount referred to in Article 29, paragraphs 2 and 3; however, account shall be taken of such benefits, income or remuneration only to the extent of that fraction of their amount corresponding to the ratio of the periods completed, as prescribed in Article 29, paragraph 4, of the Convention;
- c for the application of the provisions of Article 13, paragraph 2, of the Convention, the competent institutions concerned shall communicate all relevant information to one another on request;
- d for the application of the provisions of Article 13, paragraph 2, of the Convention, the official rate of exchange shall be the rate prevailing on the first day of the month in which the final payment is made or, if the pension is recalculated, at the rate then prevailing.

#### *Article 9*

Where a person or a member of that person's family has a claim to maternity benefit under the legislation of two or more Contracting Parties, benefits shall be provided solely under the legislation of the Party in whose territory the birth took



place, or, if the birth did not take place in the territory of either of these Parties, solely under the legislation to which the person concerned was last subject.

#### *Article 10*

1 Where death occurs in the territory of a Contracting Party, only entitlement to a death grant acquired under the legislation of that Party shall be recognised, to the exclusion of any right acquired under the legislation of another Contracting Party.

2 When death occurs in the territory of a Contracting Party and entitlement to death grant has been acquired solely under the legislation of two or more other Contracting Parties, or where death occurs outside the territory of either of the Contracting Parties, and entitlement to death grant has been acquired under the legislation of any Contracting Party, only the entitlement acquired under the legislation of the Contracting Party to which the person in respect of whom the death grant is payable was last subject shall be recognised, to the exclusion of any entitlement acquired under the legislation of any other Contracting Party.

#### *Article 11*

Where, over the same period, two or more persons are entitled to family allowances under the legislation of two or more Contracting Parties with respect to the same members of the family, the Contracting Party to whose legislation the family's main breadwinner is subject shall be deemed to be the only competent State. However, where family allowances are payable under the legislation of the Contracting Party in whose territory the children reside or are brought up, by virtue of a person's employment or occupational activity, that Party shall be deemed to be the only competent State.

### **Title III – Application of Title II of the Convention (Provisions which determine the legislation applicable)**

#### **Application of Article 15, paragraphs 1 and 2, of the Convention**

#### *Article 12*

1 In the cases covered by Article 15, paragraph 1, sub-paragraph a.i, and paragraph 2, sub-paragraph a, of the Convention, the institution designated by the competent authority of the Contracting Party whose legislation is applicable shall issue to the worker on his or his employer's request, if the requisite conditions are fulfilled, a certificate of such temporary employment abroad stating that he is still subject to that legislation.

2 The consent referred to in Article 15, paragraph 1, sub-paragraph a.ii, of the Convention shall be requested by the employer. The consent of each worker concerned shall be required if so provided in the legislation of the Contracting Party referred to in the preceding paragraph.

*Article 13*

Where, under Article 15, paragraph 1, sub-paragraph b or c, of the Convention, the legislation of a Contracting Party is applicable to an employed person whose employer is not in the territory of that Party, that legislation shall apply as if the person were employed at his place of residence in the said territory, particularly for the purpose of determining the competent institution.

**Application of Article 17 of the Convention**

*Article 14*

1 The provisions of Article 17, paragraph 1, of the Convention shall remain applicable until the date of exercise of the option provided for in paragraph 2 of that article.

2 An employed person who exercises his right of option shall so notify the competent institution of the Contracting Party in whose territory he is employed, as well as the institution designated by the competent authority of the Contracting Party for whose legislation he has opted, and shall at the same time notify his employer. The last mentioned institution shall, as required, notify any other institutions of the latter Contracting Party, in accordance with the instructions issued by that Party's competent authority.

3 The institution designated by the competent authority of the Contracting Party for whose legislation the employed person has opted shall issue him a certificate stating that he is subject to the legislation of that Party whilst he is employed in the diplomatic mission or consular post in question, or in the private service of officials of such mission or post.

4 Where the employed person has opted for the application of the legislation of the Contracting Party which is the accrediting State or the sending State, the provisions of that legislation shall apply as if the person were employed at the seat of government of the said Party.

**Title IV – The adding together of periods of insurance and of residence**

**Application of Articles 10, 19, 28, 49 and 51 of the Convention**

*Article 15*

1 In the cases referred to in Article 10, Article 19, Article 28, paragraphs 1 to 4, Article 49, and Article 51, paragraphs 1 to 3, of the Convention, without prejudice to the provisions of Article 28, paragraph 4, or of Article 51, paragraph 3, of the Convention, as the case may be, periods of insurance and periods of residence shall be added together in accordance with the following rules:

- a to the periods of insurance or residence completed under the legislation of one Contracting Party shall be added the periods of insurance completed under the legislation of any other Contracting Party and also any periods

of residence completed after the age of sixteen under the non-contributory scheme of any other Contracting Party, to the extent necessary to make up the total period of insurance or residence required under the legislation of the first Contracting Party for the acquisition, maintenance or recovery of entitlement to benefit, provided always these periods do not overlap. In the case of invalidity, old age, or death (pensions) benefits to be paid by the institutions of two or more Contracting Parties in accordance with the provisions of Article 29 of the Convention, each of the institutions concerned shall separately add together all the periods of insurance or residence completed by the person concerned under the legislation of all the Contracting Parties to which he has been subject;

- b where a period of compulsory insurance completed in accordance with the legislation of one Contracting Party coincides with a period of voluntary or optional continued insurance completed under the legislation of another Contracting Party, the first only shall be taken into account, without prejudice to the provisions of the second sentence of Article 16, paragraph 2, of the Convention;
  - c where an actual period of insurance completed under the legislation of one Contracting Party coincides with a period assimilated to an actual period of insurance under the legislation of another Contracting Party, the first only shall be taken into account;
  - d any period assimilated to an actual period of insurance under the legislation of two or more Contracting Parties shall be taken into account only by the institution of that Contracting Party to whose legislation the person insured was last compulsorily subject prior to the said period; where the insured person has not been compulsorily subject to the legislation of one of those Parties prior to the said period, that period shall be taken into account by the institution of that Contracting Party to whose legislation he was first compulsorily subject after the period in question;
  - e where the time at which certain periods of insurance were completed under the legislation of a Contracting Party cannot be accurately determined, such periods shall be presumed not to overlap with periods completed under the legislation of another Contracting Party and shall be taken into account as may be necessary;
  - f where, according to the legislation of one Contracting Party, certain periods of insurance are taken into account only if they have been completed within a specified time, the institution which applies this legislation shall take into account only periods completed under the legislation of another Contracting Party as have been completed within the same specified time.
- 2 Periods of insurance completed under a scheme of a Contracting Party to which the Convention does not apply, but which are taken into account by a scheme of that Party to which the Convention does apply, shall be considered as insurance periods to be taken into account for the purpose of adding together.

3 Where the periods of insurance completed under the legislation of one Contracting Party are expressed in units other than those used in the legislation of another Contracting Party, the conversion necessary for the purpose of adding them together shall be governed by the following rules:

- a where the person concerned has been working a six-day week:
  - i one day shall be equivalent to eight hours, and vice versa;
  - ii six days shall be equivalent to one week, and vice versa;
  - iii twenty-six days shall be equivalent to one month, and vice versa;
  - iv three months, or thirteen weeks, or seventy-eight days shall be equivalent to one quarter and vice versa;
  - v for the conversion of weeks into months, and vice versa, the weeks and months shall be converted into days;
  - vi the application of the rules set out above shall not result in a total, for periods completed during one calendar year, of more than three hundred and twelve days, or fifty-two weeks, or twelve months, or four quarters;
- b where the person concerned has been working a five-day week:
  - i one day shall be equivalent to nine hours, and vice versa;
  - ii five days shall be equivalent to one week, and vice versa;
  - iii twenty-two days shall be equivalent to one month, and vice versa;
  - iv three months, or thirteen weeks, or sixty-six days, shall be equivalent to one quarter, and vice versa;
  - v for the conversion of weeks into months, and vice versa, the weeks and months shall be converted into days;
  - vi the application of the preceding rules shall not result in a total, for periods completed during one calendar year, of more than two hundred and sixty-four days, or fifty-two weeks, or twelve months, or four quarters.

4 Where, in accordance with paragraph 1, sub-paragraph b, of this article, periods of voluntary or optional continued insurance in respect of invalidity, old age or death (pensions) completed under the legislation of a Contracting Party are not taken into account when adding periods together, the contributions relating to such periods shall be considered as conferring entitlement to increased benefits under the said legislation. Where such legislation provides for supplementary insurance, the said contributions shall be taken into account for the calculation of the benefits due under such supplementary insurance.

**Title V – Application of Title III of the Convention  
(Special provisions governing the various categories of benefits)**

***Chapter 1 – Sickness and maternity***

**Application of Article 19 of the Convention**

*Article 16*

1 In order to benefit from the provisions of Article 19 of the Convention, the person concerned shall submit to the competent institution a certificate setting out the periods of insurance completed under the legislation of the Contracting Party to which he was previously last subject, and he shall supply any additional information required under the legislation applied by that institution.

2 The certificate referred to in the preceding paragraph shall be issued, at the request of the person concerned, by the institution, competent in relation to sickness, of the Contracting Party to whose legislation he was previously last subject. If the person concerned does not submit this certificate, the competent institution shall apply for it to that institution.

3 Where it is necessary to take into account periods of insurance previously completed under the legislation of any other Contracting Party in order to satisfy the conditions prescribed by the legislation of the competent State, the provisions of the preceding paragraphs of this article shall be applied *mutatis mutandis*.

**Application of Article 20 of the Convention**

*Article 17*

1 In order to receive the benefits in kind provided for in Article 20 of the Convention, the person concerned shall register himself and the members of his family with the institution of his place of residence, submitting a certificate of his and his family's entitlement. This certificate shall be issued by the competent institution on the basis of information supplied, where appropriate, by the employer. If the person concerned or the members of his family fail to submit such a certificate, the institution of the place of residence shall itself apply for it to the competent institution.

2 The certificate referred to in the preceding paragraph shall be valid until such time as the institution of the place of residence receives notice of its cancellation.

3 Where the person concerned is employed as a seasonal worker, the certificate referred to in paragraph 1 of this article shall remain valid for the expected duration of the seasonal work, unless in the meantime the competent institution notifies the institution of the place of residence of its cancellation.

4 The institution of the place of residence shall advise the competent institution of any registration made in accordance with the provisions of paragraph 1 of this article.

5 For any claim for benefits in kind, the claimant shall submit the supporting documents normally required for the provision of benefits in kind under the legislation of the Contracting Party in whose territory he resides.

6 In the event of hospitalisation, the institution of the place of residence shall notify the competent institution, as soon as this information is available, of the date of entry, the probable duration of hospitalisation and the date of discharge.

7 The person concerned or the members of his family shall advise the institution of the place of residence of any change in their circumstances which might affect their entitlement to benefits in kind and, in particular, of any cessation or change of employment or occupational activity on the part of the person concerned or any change in the latter's residence or temporary residence, or in that of a member of his family. The competent institution shall likewise inform the institution of the place of residence of the person concerned of the termination of his affiliation or of his entitlement to benefit. The institution of the place of residence may at any time request the competent institution to supply any information relating to the said person's affiliation or entitlement to benefit.

#### *Article 18*

In the case of frontier workers or members of their families, any medicines, bandages, spectacles, minor appliances, laboratory analyses and examinations shall only be provided or carried out in the territory of the Contracting Party in which they have been prescribed and in accordance with the legislation of that Party.

#### *Article 19*

1 In order to receive the cash benefits provided for in Article 20, paragraph 1, sub-paragraph b, of the Convention, the person concerned shall apply to the institution of his place of residence within three days of becoming incapable of work, and submit a certificate to the effect that he has ceased to work or, if the legislation applied by the competent institution or by the institution of the place of residence so requires, a certificate of incapacity for work issued by the doctor attending him. He shall also submit any other documents required by the legislation of the competent State, according to the type of benefit claimed.

2 If doctors in the country of residence do not issue certificates of incapacity for work, the person concerned shall apply directly to the institution of the place of residence, within the time-limit set by the legislation it applies. That institution shall at once seek medical confirmation of incapacity for work and issue the certificate referred to in the preceding paragraph.

3 The institution of the place of residence shall immediately transmit to the competent institution the documents referred to in the preceding paragraphs of

this article, indicating at the same time the probable duration of incapacity for work.

4 As soon as possible, the institution of the place of residence shall undertake a medical examination of the person concerned and make the necessary administrative enquiries regarding his case, and shall notify the competent institution without delay of the findings. The competent institution may, if it so desires, have the person concerned examined by a doctor of its choice at its own expense. Where this institution decides to refuse benefit on the grounds that the person concerned has failed to comply with the rules relating to the investigation of his case, it shall notify him of this decision and at the same time send a copy to the institution of the place of residence.

5 Termination of incapacity for work shall be notified without delay to the person concerned by the institution of the place of residence, which shall at the same time notify the competent institution. When this latter institution itself decides that the person concerned is again capable of work, it shall notify him of its decision and at the same time send a copy of the decision to the institution of the place of residence.

6 Where, in the same case, two different dates are set by the institution of the place of residence and by the competent institution for the termination of incapacity for work, the date set by the competent institution shall apply.

7 When the person concerned resumes work, he shall notify the competent institution, if so required by the legislation which that institution applies.

8 The competent institution shall pay cash benefits by any appropriate means, for example by international money order, and shall advise the institution of the place of residence of such payments. Where benefit is paid by the institution of the place of residence on behalf of the competent institution, the competent institution shall inform the person concerned of his entitlement in the manner prescribed by the legislation which it applies and shall also advise him of the institution charged with paying the benefits. It shall at the same time inform the institution of the place of residence of the amount of benefit payable, the dates of payment, and the maximum period for which it is payable under the legislation of the competent State. The amount of benefit payable by the institution of the place of residence shall be converted at the official rate of exchange prevailing on the first day of the month in which benefit is paid.

### **Application of Article 21 of the Convention**

#### *Article 20*

1 In order to receive benefits in kind for himself or for such members of his family as accompany him in his temporary employment abroad, a worker employed in the circumstances referred to in Article 15, paragraph 1, sub-paragraph a. i or paragraph 2, sub-paragraph a, of the Convention shall submit to the institution of his place of temporary residence the certificate prescribed in

Article 12, paragraph 1, of this Agreement. When he has submitted this certificate, he shall be presumed to have satisfied the conditions for entitlement to benefits in kind.

2 In order to receive benefits in kind for himself or for the members of his family who accompany him, a worker employed in the circumstances referred to in Article 15, paragraph 1, sub-paragraph b, of the Convention, whose work brings him to the territory of a Contracting Party other than the competent State, shall submit as promptly as possible to the institution of his place of temporary residence a statement issued by the employer or his agent within the two preceding calendar months. This statement shall indicate the date on which he began work for that employer, and the name and address of the competent institution. However, if, according to the legislation of the competent State, the employer is not presumed to know the competent institution, the said worker shall indicate the name and address of that institution in writing when submitting his application to the institution of the place of temporary residence. When he has produced the above-mentioned statements he shall be presumed to have satisfied the conditions for entitlement to benefits in kind. If he is unable to apply to the institution of the place of temporary residence before commencing medical treatment, he shall nevertheless receive such treatment on presentation of the said statement, as if he were insured with that institution.

3 The institution of the place of temporary residence shall apply without delay to the competent institution to ascertain whether the worker referred to in paragraph 1 or 2 of this article, as the case may be, or the members of his family concerned, satisfy the conditions for entitlement to benefits in kind. The institution of the place of temporary residence shall provide the said benefits until a reply has been received from the competent institution, but for not longer than thirty days.

4 The competent institution shall reply to the institution of the place of temporary residence within ten days of receiving that institution's enquiry. If the reply is in the affirmative, the competent institution shall indicate the maximum period, if any, during which the benefits in kind may be provided under the legislation which it applies, and the institution of the place of temporary residence shall continue to provide the said benefits.

5 Instead of the certificate or statement referred to respectively in paragraphs 1 and 2 of this article, the worker may submit to the institution of the place of temporary residence the certificate referred to in Article 21, paragraph 1, of this Agreement. In that case, the provisions of the preceding paragraphs of this article shall not apply.

6 The provisions of Article 17, paragraph 6, of this Agreement shall apply, *mutatis mutandis*.



#### Article 21

1 In order to receive the benefits in kind provided for in Article 21, paragraph 1, sub-paragraph a. i, of the Convention, except in cases where the presumption in Article 20, paragraphs 1 and 2, of this Agreement is operative, the person concerned shall submit to the institution of his place of temporary residence a certificate that he is entitled to such benefits. This certificate, issued by the competent institution at the request of the person concerned before he leaves the territory of the Contracting Party in which he resides, shall indicate the maximum period, if any, during which benefits in kind may be provided under the legislation of the competent State. If the person concerned does not submit such a certificate, the institution of the place of temporary residence shall apply for it to the competent institution.

2 The provisions of Article 17, paragraph 6, of this Agreement shall apply, *mutatis mutandis*.

#### Article 22

1 In order to receive the benefits in kind provided for in Article 21, paragraph 1, sub-paragraph b. i, of the Convention, the person concerned shall submit to the institution of his place of residence a certificate that he is authorised to continue receiving such benefits. This certificate, issued by the competent institution at the request of the person concerned, prior to his departure, shall indicate the maximum period, if any, during which such benefits may continue to be provided under the legislation of the competent State. The certificate may be issued after the departure of the person concerned, at his request, when, for reasons outside his control, it could not have been prepared earlier.

2 The provisions of Article 17, paragraph 6, of this Agreement shall apply, *mutatis mutandis*.

3 The provisions of the preceding paragraphs of this article shall apply, *mutatis mutandis*, in the case covered by Article 21, paragraph 1, sub-paragraph c.i of the Convention.

#### Article 23

The provisions of Article 21 or of Article 22 of this Agreement as the case may be shall apply, *mutatis mutandis*, in relation to the provision of benefits in kind to the members of the family referred to in Article 21, paragraph 3, of the Convention.

#### Article 24

1 In order to receive the cash benefits provided for in Article 21, paragraph 1, sub-paragraph a. ii of the Convention, the person concerned shall apply to the institution of his place of temporary residence within three days of becoming incapable of work, and submit a certificate of incapacity for work issued by the

doctor attending him, if so required by the legislation applied by the competent institution or by the institution of the place of temporary residence. He shall also indicate his address in the country of temporary residence as well as the name and address of the competent institution.

2 If doctors in the country of temporary residence do not issue certificates of incapacity for work, the provisions of Article 19, paragraph 2, of this Agreement shall apply, *mutatis mutandis*.

3 The institution of the place of temporary residence shall without delay transmit to the competent institution the documents referred to in the preceding paragraphs of this article, indicating in particular the probable duration of incapacity for work.

4 Persons other than the workers referred to in Article 15, paragraph 1, subparagraph a. i, and paragraph 2, subparagraph a, of the Convention, whose state of health is found by medical examination to be such as not to prevent them from returning to the territory of the Contracting Party where they reside, shall immediately be notified to this effect by the institution of the place of temporary residence, which shall also send a copy of the notification to the competent institution.

5 In addition, the provisions of Article 19, paragraphs 4 to 8, of this Agreement shall apply, *mutatis mutandis*.

#### **Application of Article 22, paragraph 4, of the Convention**

##### *Article 25*

1 In order to benefit from the provisions of Article 22, paragraph 4, of the Convention, the person concerned shall submit to the competent institution a certificate regarding the members of his family residing in the territory of a Contracting Party other than the competent State. This certificate shall be issued by the institution of the place of residence of the said members of the family.

2 The certificate referred to in the preceding paragraph shall be valid for a period of twelve months from the date of issue and shall be renewable. When renewed, its validity shall begin to run from the date of its renewal. The person concerned shall immediately notify the competent institution of any change to be made in the certificate. Such change shall have effect from the date on which the contingency occurred.

3 Instead of the certificate referred to in paragraph 1 of this article, the competent institution may require the person concerned to submit recent civil status papers for the members of his family who are residing in the territory of a Contracting Party other than the competent State, if such papers are normally issued by the authorities of that Contracting Party.

### **Application of Article 23 of the Convention**

#### *Article 26*

The provisions of Article 17 of this Agreement shall apply, *mutatis mutandis*, in relation to the provision of benefits in kind for unemployed persons and the members of their family residing in the territory of a Contracting Party other than the competent State.

### **Application of Article 24 of the Convention**

#### *Article 27*

1 In order to receive the benefits in kind provided for in Article 24, paragraph 2, of the Convention in the territory of the Contracting Party in which he resides, a person receiving a pension, and the members of his family, shall register with the institution of the place of residence, submitting a certificate stating his entitlement to benefits in kind for himself and for the members of his family according to the legislation, or one of the legislations, under which the pension is payable.

2 The certificate referred to in the preceding paragraph shall be issued, at the request of the person concerned, by the institution, or by one of the institutions, by which the pension is payable or, where appropriate, by the institution competent to decide on entitlement to benefits in kind, provided that the recipient of the pension satisfies the conditions for entitlement to such benefits. If the person concerned fails to submit such a certificate, the institution of the place of residence shall apply for it to the institution or institutions by which the pension is payable or, where appropriate, to any other institution empowered to issue such a certificate. Pending receipt of the certificate the institution of the place of residence may register the person concerned and the members of his family provisionally upon presentation of supporting documents which are acceptable to it. Such registration can only be invoked against the institution responsible for the provision of benefits in kind if this latter institution has issued the said certificate.

3 The institution of the place of residence shall notify the institution which has issued the certificate referred to in paragraph 1 of this article of any registration made in accordance with the provisions of that paragraph.

4 Any application for benefits in kind shall entitle the institution of the place of residence to require the person concerned to furnish proof of his continued entitlement to a pension in the form of a receipt, or the counterfoil of a money order, relating to the latest pension payment.

5 The person concerned or the members of his family shall inform the institution of the place of residence of any change in their circumstances which might affect their entitlement to benefits in kind, and in particular of any suspension or suppression of the pension, and of any change of residence. The institutions con-

cerned shall likewise notify the institution of the place of residence of any changes of which they become aware.

*Article 28*

1 In order to receive the benefits in kind provided for in Article 24, paragraph 4, of the Convention in the territory of the Contracting Party in which they reside, the members of the family of a recipient of a pension shall register with the institution of their place of residence, submitting the supporting documents normally required by the legislation which that institution applies for the granting of such benefits to members of the family of a recipient of a pension, together with a certificate similar to that referred to in Article 27, paragraph 1, of this Agreement. The said institution shall notify the institution of the recipient's place of residence of any registration made in accordance with this paragraph.

2 When applying for benefits in kind, the members of the family shall submit to the institution of their place of residence a certificate that the recipient of the pension is entitled to benefits in kind for himself and for the members of his family; this certificate, issued by the institution of the recipient's place of residence, shall remain valid as long as the institution of the place of residence of the members of the family has not received notice of its cancellation.

3 The institution of the place of residence of the recipient of a pension shall notify to the institution of the place of residence of the members of the family the suspension or suppression of the pension and any change in the place of residence of such recipient. The institution of the place of residence of the members of the family may at any time request the institution of the place of residence of the recipient of a pension to supply any information relating to the latter's entitlement to benefit.

4 The members of the family shall inform the institution of their place of residence of any change in their circumstances which might affect their entitlement to benefits in kind, and in particular of any change of residence.

*Article 29*

1 In order to receive the benefits in kind provided for in Article 24, paragraph 6, of the Convention, the recipient of a pension shall submit to the institution of his place of temporary residence a certificate that he is entitled to such benefits. This certificate, issued by the institution of his place of residence before he leaves the territory of the Contracting Party in which he resides, shall indicate the maximum period, if any, during which benefits in kind may be provided under the legislation of this Contracting Party. If he does not submit such a certificate, the institution of the place of temporary residence shall apply for it to the institution of the place of residence.

2 The provisions of Article 17, paragraph 6, of this Agreement shall apply, *mutatis mutandis*. In this case, the institution of the recipient's place of residence shall be regarded as the competent institution.

3 The previous paragraphs of this article shall apply, *mutatis mutandis*, in relation to the provision of benefits in kind for the members of the family referred to in Article 24, paragraph 6, of the Convention.

4 If the formalities referred to in the preceding paragraphs could not be complied with during temporary residence of the person concerned in the territory of a Contracting Party other than the competent State, the provisions of Article 30 shall apply, *mutatis mutandis*.

#### **Application of Articles 21 and 24 of the Convention**

##### *Article 30*

If the formalities referred to in Article 20, paragraphs 1, 2 and 5 and in Articles 21 and 22 of this Agreement have not been complied with during the temporary residence in the territory of a Contracting Party other than the competent State, the relevant medical expenses shall be refunded, at the request of the person concerned, by the competent institution, in accordance with the scale of reimbursement applied by the institution of the place of temporary residence. The institution of the place of temporary residence shall provide the competent institution, on request, with any necessary information concerning the scale of reimbursement.

#### **Application of Article 25, paragraph 3, of the Convention**

##### *Article 31*

For the purpose of applying the provisions of Article 25, paragraph 3, of the Convention, the institution of a Contracting Party from which benefits are due may apply to the institution of another Contracting Party for information concerning the period for which the latter has been providing such benefits for the same case of sickness or maternity.

### ***Chapter 2 – Invalidity, old age and death (pensions)***

#### **Application of Articles 27 to 37 of the Convention**

##### *Submission and examination of benefit claims*

##### *Article 32*

1 In order to receive the benefits provided for in Articles 28 to 34 of the Convention, the claimant shall submit a claim to the institution of his place of residence in the manner prescribed by the legislation which that institution applies. If the claimant or the deceased person has not been subject to that legislation, the institution of the place of residence shall transmit the claim to the

institution of the Contracting Party to whose legislation the claimant or the deceased person was last subject, indicating the date on which the claim was submitted. That date shall then be considered as the date of submission of the claim to the last-mentioned institution.

2 If the claimant resides in the territory of a Contracting Party to whose legislation he or the deceased person has not been subject, he may submit his claim to the institution of the Contracting Party to whose legislation he or the deceased person was last subject

### Article 33

The submission of the claims referred to in Article 32 of this Agreement shall be subject to the following rules:

- a the claim shall be accompanied by the requisite supporting documents and shall be submitted on the forms prescribed
  - i either by the legislation of the Contracting Party in whose territory the claimant resides, in the case referred to in Article 32, paragraph 1;
  - ii or by the legislation of the Contracting Party to which the claimant or the deceased person was last subject, in the case referred to in Article 32, paragraph 2;
- b the accuracy of the information furnished by the claimant shall be substantiated by official documents attached to the claim form, or corroborated by the authorities of the Contracting Party in whose territory he resides;
- c the claimant shall indicate, as far as possible, either the invalidity, old age, or death (pensions) insurance institution or institutions of each of the Contracting Parties to whose legislation he or the deceased has or had been subject, or the employer or employers by whom he or the deceased has or had been employed in the territory of any Contracting Party, and submit any certificates of employment that may be in his possession.

### Article 34

In order to benefit from the provisions of Article 30, paragraph 3, of the Convention, the claimant shall submit a certificate regarding the members of his family who are residing in the territory of a Contracting Party other than that where the institution which pays the benefit is situated. This certificate shall be issued either by the institution, competent in relation to sickness, of the place of residence of the members of the family or by any other institution designated by the competent authority of the Contracting Party in whose territory the said members of the family reside. The provisions of Article 25, paragraphs 2 and 3, of this Agreement shall apply, *mutatis mutandis*.

*Article 35*

In determining the degree of invalidity, the institution of a Contracting Party shall take account of all the medical and administrative information assembled by the institutions of any other Contracting Party. However, each institution shall retain the right to have the claimant examined by a doctor of its choice at its own expense.

*Article 36*

1 Claims shall be examined by the institution to which they have been submitted or to which they have been transmitted, as the case may be, as provided for in Article 32 of this Agreement. This institution shall be known as “the examining institution”.

2 The examining institution shall immediately advise all the institutions concerned so that the claims may be examined by them simultaneously and without delay.

*Article 37*

1 In examining claims, the examining institution shall use a form setting out details of, and the total of, the periods of insurance or residence completed by the person concerned or by the deceased person under the legislation of all the Contracting Parties concerned.

2 The transmission of this form to the institution of any other Contracting Party shall take the place of the transmission of supporting documents.

*Article 38*

1 The examining institution shall enter, on the form referred to in Article 37, paragraph 1, of this Agreement, the periods of insurance or residence completed under its own legislation, and shall return a copy of the form to the invalidity, old age or death (pensions) insurance institution of each Contracting Party to whose legislation the person concerned or the deceased person has or had been subject, attaching any employment certificates produced by the claimant.

2 If only one other institution is involved, that institution shall complete the form sent to it in accordance with the provisions of the preceding paragraphs, indicating the periods of insurance or residence completed under the legislation it applies. It shall then determine entitlement under that legislation, having regard to the provisions of Article 28 of the Convention, and shall state on the form the theoretical and the actual amounts of the benefit, calculated in accordance with the provisions of paragraphs 2, 3, 4 or 5 of Article 29 of the Convention as well as, where appropriate, the amount of any benefit which could be claimed, without applying the provisions of Articles 28 to 33 of the Convention, solely for the periods completed under the legislation it applies. The

form, which should also contain information concerning appeals procedure including time-limits, shall then be returned to the examining institution.

3 If there are two or more other institutions involved, each institution shall complete the form submitted to it in accordance with the provisions of paragraph 1 of this article, indicating the periods of insurance or residence completed under the legislation it applies, and return the form to the examining institution. That institution shall send the completed form to the other institutions involved, each of which shall determine entitlement under the legislation it applies in accordance with the provisions of Article 28 of the Convention and indicate on the form the theoretical and actual amounts of any benefit calculated in accordance with the provisions of paragraphs 2, 3, 4 or 5 of Article 29 of the Convention as well as, where appropriate, the amount of any benefit which could be claimed, without applying the provisions of Articles 28 to 33 of the Convention, solely for the periods completed under the legislation it applies. The form, which should also contain information concerning appeals procedure, including time-limits, shall then be returned to the examining institution.

4 When the examining institution has received all the information referred to in paragraphs 2 or 3 of this article, it shall determine entitlement under the legislation it applies, having regard to the provisions of Article 28 of the Convention, and shall calculate the theoretical and actual amounts of the benefit, in accordance with the provisions of paragraphs 2, 3, 4 or 5 of Article 29 of the Convention as well as, where appropriate, the amount of any benefit which could be claimed without applying the provisions of Articles 28 to 33 of the Convention, solely for the periods completed under the legislation it applies.

5 Should the examining institution, upon receiving the information referred to in paragraphs 2 or 3 of this article, find it is necessary to apply the provisions of Article 31, paragraphs 2 or 3, Article 32, paragraphs 2, 4 or 5, Article 34, paragraph 1, of the Convention, it shall so inform the other institutions concerned.

#### *Article 39*

1 If the examining institution finds that the claimant is entitled to benefit under the legislation it applies, without reference to the periods of insurance or residence completed under the legislation of the other Contracting Parties to which the person concerned or the deceased person was subject, it shall make an immediate payment of this benefit on a provisional basis.

2 Each institution which, in accordance with the provisions of Article 29, paragraph 5, of the Convention, may calculate directly the benefit or partial benefit due to the claimant, shall pay him such benefit immediately. If an institution other than the examining institution pays benefit directly to the claimant, it shall immediately inform the examining institution accordingly and retain any arrears due having regard to the application of the provisions of paragraph 7 of this article, in favour of any institution which may have paid in excess of the amount due.



3 Where the examining institution pays benefit under paragraph 1 of this article, it shall deduct from the amount of such benefit the amount of benefit paid by any other institution in accordance with the preceding paragraph, as soon as it knows the amount in question.

4 If, while a claim is being examined, an institution other than the examining institution finds that the claimant is entitled to benefit in accordance with the legislation it applies without needing to take account of periods of insurance or residence completed under the legislation of the other Contracting Parties to which the person concerned or the deceased person was subject, it shall at once advise the examining institution, which shall immediately make a provisional payment of such benefit on behalf of the first institution, without prejudice, however, to the provisions of paragraphs 2 and 3 of this article.

5 Where the examining institution is required to pay benefit under paragraphs 1 and 4 of this article, it shall pay only the highest rate of benefit, without prejudice, however, to the provisions of paragraphs 2 and 3 of this article.

6 Where the examining institution does not pay benefit under paragraphs 1, 2 or 4 of this article, and in cases where there might be delay, it shall make the person concerned a recoverable advance determined in accordance with the provisions of Article 29, paragraphs 1 to 4, of the Convention.

7 When the final settlement of the benefit claim is in process, the examining institution and the other institutions concerned shall adjust their accounts as regards the amount of any provisional benefit paid or the advances made in accordance with the provisions of paragraphs 1, 3, 4, 5 and 6 of this article. Sums overpaid by the said institutions may be deducted from the amount of benefits they are required to pay to the person concerned.

#### *Article 40*

1 In the case referred to in Article 34, paragraph 2, of the Convention, the examining institution shall calculate the final amount of the supplement which each institution concerned has to pay and advise them accordingly.

2 For the purpose of applying the provisions of Article 34 of the Convention, amounts expressed in different national currencies shall be converted at the official rate of exchange prevailing on the first day of the month in which the final payment of the benefit due is made.

#### *Article 41*

For the purpose of applying the provisions of Article 33, paragraphs 2 and 3, of the Convention, the provisions of Articles 38 and 40 of this Agreement shall apply, *mutatis mutandis*.

*Article 42*

1 Each of the institutions concerned shall advise the claimant of the decision regarding his claim for benefit as soon as that decision can be taken as final after consultation with the examining institution. Each institution shall at the same time advise the examining institution. Every decision shall indicate that it relates only to part of the total benefit that may be due, and shall also contain information concerning appeals procedure, including time-limits, prescribed by the legislation concerned.

2 After the benefit claim has been finally settled, the examining institution shall send the claimant a copy of all decisions taken by the institutions concerned.

*Article 43*

In order to expedite the settlement of benefit claims, the following rules shall be observed:

- a where a person, formerly subject to the legislation of one or more Contracting Parties, is subject to the legislation of another Contracting Party, the competent institution of the latter Party shall apply to the liaison body of the other Contracting Party or Parties for all relevant information, particularly regarding the institutions to which the person concerned was affiliated, and for his registration numbers if any;
- b at the request of the person concerned or of the institution to which he is affiliated, the institutions concerned shall begin, to the extent possible, to reconstitute his case-history as from one year prior to the date on which he will reach pensionable age.

*Administrative and medical supervision*

*Article 44*

- 1 If a recipient of:
  - a an invalidity benefit;
  - b an old-age benefit awarded on grounds of incapacity for work;
  - c an old-age benefit awarded to an unemployed person;
  - d an old-age benefit awarded on retirement from gainful employment,
  - e a survivors' benefit awarded on grounds of invalidity or incapacity for work,
  - f a benefit awarded subject to a means test,

temporarily resides, or resides, in the territory of a Contracting Party other than the competent State, administrative and medical supervision shall be exercised at the request of the competent institution by the institution of the place of temporary residence or residence, in accordance with the rules laid down by the leg-

isolation which the latter institution applies. However, the competent institution may have the recipient examined by a doctor of its choice at its own expense.

2 If the supervision referred to in the preceding paragraph reveals that a person receiving benefit is employed or has means in excess of the prescribed limit, the institution of the place of temporary residence or residence shall report to the competent institution which requested the supervision. The report shall contain the information requested and shall state in particular the nature of the employment, the amount of the earnings or other income received by the beneficiary during the last full quarter and the normal remuneration paid in the same area to a worker in the occupational category to which the person concerned belonged in the occupation he followed before he became an invalid, over a reference period to be specified by the competent institution. Where applicable, a medical opinion as to the state of health of the person concerned shall also be given.

#### *Article 45*

If, after suspension of the benefit he had been receiving, a person requalifies for benefit while residing in the territory of a Contracting Party other than the competent State, the institutions concerned shall exchange all the information necessary to enable payment of benefit to be resumed.

#### *Payment of benefits*

#### *Article 46*

1 Where the competent institution of a Contracting Party does not pay benefit directly to a beneficiary residing in the territory of another Contracting Party, such benefit shall be paid at the competent institution's request by the liaison body of the latter Party or by the institution of the place of residence, in accordance with the procedure laid down in Articles 47 to 51 of this Agreement. Where the competent institution pays benefit directly to such beneficiaries it shall so notify the institution of the place of residence.

2 The provisions of earlier agreements relating to the payment of benefit, which are applicable on the day preceding the entry into force of this Agreement, shall continue to apply provided that they are listed in Annex 5

#### *Article 47*

The institution responsible for paying benefit shall forward to the liaison body of the Contracting Party in whose territory the beneficiary resides, or to the institution of the place of residence – hereinafter called the “paying agency” – a statement in duplicate setting out the benefit due; this statement must reach the said agency at least twenty days before the date on which the benefit is payable.

*Article 48*

1 Ten days before the date on which the benefit is payable, the institution responsible for payment shall remit, in the currency of the Contracting Party in whose territory it is situated, the amount of the benefit due as shown on the statement referred to in Article 47 above. Payment shall be made through the national bank or through another bank of that Contracting Party to the account opened in the name of the national bank or in the name of another bank of the Contracting Party in the territory in which the paying agency is situated, to the latter's order. Such payment shall discharge liability. The institution responsible for payment shall at the same time notify the paying agency of the payment.

2 The bank to which the amount has been transferred shall credit the paying agency with the equivalent amount in the currency of the Contracting Party in whose territory that agency is situated.

3 The names and addresses of the banks referred to in paragraph 1 of this article shall be listed in Annex 6.

*Article 49*

1 The benefit due, as shown in the statement referred to in Article 47 of this Agreement, shall be paid to the beneficiary by the paying agency on behalf of the competent institution in accordance with the procedure prescribed by the legislation which the paying agency applies.

2 The sum payable to the beneficiary shall be converted into the currency of the Contracting Party in whose territory he resides, at the rate of exchange at which, in accordance with the provisions of Article 48 of this Agreement, it was credited to the paying agency.

3 If the paying agency, or any other agency it may designate, becomes aware of any matter justifying the suspension or suppression of benefit, it shall immediately cease payment. This shall also be done when the beneficiary transfers his residence to the territory of a Contracting Party other than that in which the paying agency is situated.

4 The paying agency shall advise the institution responsible for payment of any reason for non-payment and inform it of the date of any event justifying such action.

*Article 50*

1 The payments referred to in Article 49, paragraph 1, of this Agreement shall be examined at the end of each payment period in order to determine the amounts actually paid to the beneficiaries or their legal or appointed representatives and the amounts outstanding.

2 The total amount of the actual payments, expressed in figures and in words in the currency of the Contracting Party in whose territory the institution responsi-

ble for payment is situated, shall be stated as agreeing with the payments effected by the paying agency and this statement shall be counter-signed by the latter's representative.

3 The paying agency shall vouch for the fact that the payments shown are in order.

4 Any difference between the amounts paid by the responsible institution, as expressed in the currency of the Contracting Party on whose territory it is situated, and the value, expressed in the same currency, of payments vouched for by the paying agency, shall be entered against subsequent sums due to be paid by the said responsible institution.

#### *Article 51*

Costs incurred in paying benefit, such as postal and banking charges, may be recovered from the beneficiary by the paying agency in accordance with the legislation which it applies.

#### *Article 52*

When the recipient of benefit payable under the legislation of one or more Contracting Parties transfers his residence from the territory of one Contracting Party to that of another Contracting Party, he shall notify the competent institution or institutions responsible for the payment of such benefit and also, where appropriate, the paying agency.

### ***Chapter 3 – Occupational injuries and diseases***

#### **General provisions**

#### **Application of Article 38 of the Convention**

#### *Article 53*

1 In order to receive the benefits in kind provided for in Article 38, paragraph 1, sub-paragraph a, of the Convention, the worker shall submit to the institution of his place of residence a certificate that he is entitled to such benefits. This certificate shall be issued by the competent institution on the basis of information supplied, where appropriate, by the employer. In addition, where the legislation of the competent State so provides, the worker shall submit to the institution of his place of residence an acknowledgement of the notification of his occupational injury or disease. If he fails to submit these documents, the institution of the place of residence shall apply for them to the competent institution and, meanwhile, shall provide the benefits in kind available in case of sickness if the worker concerned is entitled to such benefits.

2 The certificate referred to in the preceding paragraph shall be valid until such time as the institution of the place of residence receives notice of its cancellation.

3 In the case of seasonal workers, the certificate referred to in paragraph 1 of this article shall remain valid for the expected duration of the seasonal work, unless in the meantime the competent institution notifies the institution of the place of residence of its cancellation.

4 For any claim for benefits in kind, the worker shall submit the supporting documents normally required for the provision of benefits in kind under the legislation of the Contracting Party in whose territory he resides.

5 In the event of hospitalisation, the institution of the place of residence shall notify the competent institution, as soon as this information is available, of the date of entry, the probable duration of hospitalisation and the date of discharge.

6 The worker shall advise the institution of his place of residence of any change in his circumstances which might affect his entitlement to benefits in kind, in particular of any cessation or change of employment or occupational activity, or any change in his residence or temporary residence. The competent institution shall likewise inform the institution of the place of residence when a worker's entitlement to benefit ceases. The institution of the place of residence may at any time request the competent institution to supply any information relating to the worker's entitlement to benefit.

7 In the case of frontier workers, any medicines, bandages, spectacles, minor appliances, laboratory analyses and examinations shall only be provided or carried out in the territory of the Contracting Party in which they have been prescribed, and in accordance with the provisions of the legislation of that Party.

#### *Article 54*

1 In order to receive the cash benefits other than pensions provided for in Article 38, paragraph 1, sub-paragraph b, of the Convention, the worker shall apply to the institution of his place of residence within three days of becoming incapable of work, and submit a certificate to the effect that he has ceased to work or, if the legislation applied by the competent institution or by the institution of the place of residence so requires, a certificate of incapacity for work issued by the doctor attending him. He shall also submit any other documents required by the legislation of the competent State, according to the type of benefit claimed.

2 If doctors in the country of residence do not issue certificates of incapacity for work, the worker shall apply directly to the institution of the place of residence, within the time-limit set by the legislation it applies. That institution shall at once seek medical confirmation of incapacity for work and issue the certificate referred to in the preceding paragraph.

3 The institution of the place of residence shall immediately transmit to the competent institution the documents referred to in the preceding paragraphs of this article, indicating at the same time the probable duration of incapacity for work.

4 As soon as possible, the institution of the place of residence shall undertake a medical examination of the worker and make the necessary administrative enquiries regarding his case, as if the said worker were insured by it, and shall notify the competent institution without delay of the findings. The competent institution may, if it so desires, have the worker concerned examined by a doctor of its choice at its own expense. Where this institution decides to refuse benefit on the grounds that the worker has failed to comply with the rules relating to the investigation of his case, it shall notify him of this decision, and at the same time send a copy of the decision to the institution of the place of residence.

5 Termination of incapacity for work shall be notified without delay to the worker by the institution of the place of residence, which shall at the same time notify the competent institution. When this latter institution itself decides that the worker is again capable of work, it shall notify him of its decision and at the same time send a copy of the decision to the institution of the place of residence.

6 Where, in the same case, two different dates are set by the institution of the place of residence and by the competent institution for the termination of incapacity for work, the date set by the competent institution shall apply.

7 When the worker resumes work, he shall notify the competent institution, if so required by the legislation which that institution applies.

8 The competent institution shall pay cash benefits by any appropriate means, for example by international money order, and shall advise the institution of the place of residence of such payments. Where benefit is paid by the institution of the place of residence on behalf of the competent institution, the competent institution shall inform the worker of his entitlement in the manner prescribed by the legislation which it applies, and shall also advise him of the institution charged with paying the benefits. It shall at the same time inform the institution of the place of residence of the amount of benefit payable, the dates of payment and the maximum period for which it is payable under the legislation of the competent State. The amount of benefit payable by the institution of the place of residence shall be converted at the official rate of exchange prevailing on the first day of the month in which benefit is paid.

#### **Application of Article 40 of the Convention**

##### *Article 55*

1 In order to receive benefits in kind, the worker referred to in Article 15, paragraph 1, sub-paragraph a. i, or paragraph 2, sub-paragraph a, of the Convention shall submit to the institution of his place of temporary residence the certificate prescribed in Article 12, paragraph 1, of this Agreement. When he has submitted this certificate, he shall be presumed to have satisfied the conditions for entitlement to benefits in kind.

2 In order to receive benefits in kind, the worker referred to in Article 15, paragraph 1, sub-paragraph b. i of the Convention, employed in the territory of a

Contracting Party other than the competent State, shall submit as promptly as possible to the institution of the place of temporary residence a statement issued by the employer or his agent within the two preceding calendar months. This statement shall indicate the date on which he began to work for that employer, and the name and address of the competent institution. When he has produced the above-mentioned statement he shall be presumed to have satisfied the conditions for entitlement to benefits in kind. If he is unable to apply to the institution of the place of temporary residence before commencing medical treatment, he shall nevertheless receive such treatment on presentation of the said statement, as if he were insured with that institution.

3 The institution of the place of temporary residence shall apply without delay to the competent institution to ascertain whether the worker referred to in paragraph 1 or 2 of this article, as the case may be, satisfies the conditions for entitlement to benefits in kind. The institution of the place of temporary residence shall provide the said benefits until a reply has been received from the competent institution, but for not longer than thirty days.

4 The competent institution shall reply to the institution of the place of temporary residence within ten days of receiving that institution's enquiry. If the reply is in the affirmative, the competent institution shall indicate the maximum period, if any, during which the benefits in kind may be provided under the legislation which it applies, and the institution of the place of temporary residence shall continue to provide the said benefits.

5 Instead of the certificate or statement referred to respectively in paragraphs 1 and 2 of this article, the worker may submit to the institution of the place of temporary residence the certificate referred to in Article 56, paragraph 1, of this Agreement. In that case, the provisions of the preceding paragraphs of this article shall not apply.

6 The provisions of Article 53, paragraph 5, of this Agreement shall apply, *mutatis mutandis*.

#### Article 56

1 In order to receive the benefits in kind provided for in Article 40, paragraph 1, sub-paragraph a. i, of the Convention, except in cases where the presumption in Article 55, paragraphs 1 and 2, of this Agreement is operative, the worker shall submit to the institution of his place of temporary residence a certificate that he is entitled to such benefits. This certificate, issued by the competent institution at the worker's request before he leaves the territory of the Contracting Party in which he resides, shall indicate the maximum period, if any, during which benefits in kind may be provided under the legislation of the competent State. If the worker does not submit such a certificate, the institution of the place of temporary residence shall apply for it to the competent institution.



2 The provisions of Article 53, paragraph 5, of this Agreement shall apply, *mutatis mutandis*.

#### Article 57

1 In order to receive the benefits in kind provided for in Article 40, paragraph 1, sub-paragraph b, of the Convention, the worker shall submit to the institution of his place of residence a certificate that he is authorised to continue receiving such benefits. This certificate, issued by the competent institution, shall indicate the maximum period, if any, during which such benefits may continue to be provided under the legislation of the competent State. The competent institution shall send a copy of the certificate to the body designated by the competent authority of the Contracting Party to whose territory the worker concerned has returned or transferred his residence. The certificate may be issued after the worker's departure, at his request, when, for reasons outside his control, it could not have been prepared earlier.

2 The provisions of Article 53, paragraph 5, of this Agreement shall apply, *mutatis mutandis*.

3 The provisions of the preceding paragraphs of this article shall apply, *mutatis mutandis*, in the case covered by Article 40, paragraph 1, sub-paragraph c. i of the Convention.

#### Article 58

1 In order to receive cash benefits other than pensions provided for in Article 40, paragraph 1, sub-paragraph a. ii, of the Convention, the worker shall apply to the institution of his place of temporary residence within three days of becoming incapable of work, and submit a certificate of incapacity for work issued by the doctor attending him, if so required by the legislation applied by the competent institution or by the institution of the place of temporary residence. He shall also indicate his address in the country of temporary residence and the name and address of the competent institution.

2 If doctors in the country of temporary residence do not issue certificates of incapacity for work, the provisions of Article 54, paragraph 2, of this Agreement shall apply, *mutatis mutandis*.

3 The institution of the place of temporary residence shall without delay transmit to the competent institution the documents referred to in the preceding paragraphs of this article indicating in particular the probable duration of incapacity for work.

4 Workers other than those referred to in Article 15, paragraph 1, sub-paragraph a.i, or paragraph 2, sub-paragraph a, of the Convention, whose state of health is found by medical examination to be such as not to prevent them from returning to the territory of the Contracting Party where they reside shall immediately be notified to this effect by the institution of the place of temporary res-

idence, which shall also send a copy of the notification to the competent institution.

5 In addition, the provisions of Article 54, paragraphs 4 to 8, of this Agreement shall apply, *mutatis mutandis*.

### **Application of Articles 38 to 40 of the Convention**

#### *Article 59*

1 If an occupational injury or disease should occur in the territory of a Contracting Party other than the competent State, it should be declared in accordance with the provisions of the legislation of the competent State, without prejudice to any existing legal provisions in the territory of the Contracting Party where the injury or disease occurred, the application of which is mandatory in the case. This declaration shall be sent to the competent institution and, if necessary, a copy to the institution of the place of residence.

2 The institution of the Contracting Party in whose territory the occupational injury or disease occurred shall send in duplicate to the competent institution the medical certificates issued in that territory and, at the request of the latter institution, all relevant information.

3 The certificate indicating that the victim of the injury or disease has fully recovered or that his condition has stabilised must where appropriate give a detailed description of his condition and contain information on the final consequences of the occupational injury or disease. Any costs incurred shall be met by the institution of the place of residence or by the institution of the place of temporary residence, as the case may be, at the rate applied by that institution and at the expense of the competent institution.

4 The competent institution shall notify the institution of the place of residence or the institution of the place of temporary residence, as the case may be, of the date of recovery of the worker or of the stabilisation of his condition and also, if relevant, of any decision regarding an award of a pension.

#### *Article 60*

1 If, in a case covered by Article 38, paragraph 1, or Article 40, paragraph 1, of the Convention, the institution concerned questions whether the legislation relating to occupational injuries or diseases is applicable, it shall immediately inform the institution of the place of residence or the institution of the place of temporary residence which has provided benefits in kind. These benefits shall be regarded as benefits relating to sickness and shall continue to be so provided if the worker concerned is entitled to such benefits.

2 When a final decision on the question has been reached, the institution concerned shall immediately notify the institution of the place of residence or the institution of the place of temporary residence which has provided the benefit in

kind. If an occupational injury or disease is not involved, that institution shall continue to provide the benefits in kind as in the case of sickness, if the worker concerned is entitled to such benefits. On the other hand, if it is an occupational accident or disease, any benefits the worker has received as if for sickness shall be regarded as benefits relating to an occupational injury or disease.

#### **Application of Article 43, paragraph 4, of the Convention**

##### *Article 61*

1 To enable the degree of incapacity to be assessed, for the purposes of Article 43, paragraph 4, of the Convention, the worker shall provide the competent institution of the Contracting Party to whose legislation he was subject when the occupational injury or disease occurred with full information concerning any previous occupational injuries or diseases he suffered while subject to the legislation of any other Contracting Party, whatever the degree of incapacity caused by such previous occupational injuries or diseases.

2 The competent institution may apply to any other institution previously competent for whatever information it considers necessary.

#### **Application of Article 44, paragraph 2, of the Convention**

##### *Article 62*

For the application of the provisions of Article 44, paragraph 2, of the Convention, the institution of any Contracting Party required to provide benefits may, as necessary, ask the institution of any other Contracting Party for information regarding the length of time for which the latter institution has already provided benefit for the same occupational injury or disease.

#### **Application of Article 45, paragraph 3, of the Convention**

##### *Article 63*

In order to benefit from the provisions of Article 45, paragraph 3, of the Convention, the claimant shall submit to the competent institution a certificate regarding members of his family residing in the territory of a Contracting Party other than the competent State. This certificate shall be issued either by the institution of the place of residence of these members of the family which is competent in relation to sickness or by any other institution designated by the competent authority of the Contracting Party in whose territory these members of the family reside. In addition, the provisions of Article 25, paragraphs 2 and 3, of this Agreement shall apply, *mutatis mutandis*.

### **Application of Article 46 of the Convention**

#### *Article 64*

1 In the case covered by Article 46, paragraph 1, of the Convention, the declaration notifying an occupational disease shall be sent either to the institution, competent in respect of occupational disease, of the Contracting Party under whose legislation the worker was last engaged in an occupation liable to cause the disease under consideration, or to the institution of the place of residence, which shall transmit the declaration to the first-mentioned institution.

2 If the institution receiving the declaration considers that an occupation liable to cause the disease in question was last followed under the legislation of another Contracting Party, it shall transmit the declaration and the accompanying documents to the corresponding institution of that Party and inform at the same time the person concerned.

3 If the institution of the Contracting Party under whose legislation the worker was last engaged in an occupation liable to cause the disease in question finds that he or his survivors fail to satisfy the conditions of that legislation, taking into account the provisions of Article 46, paragraphs 2, 3 and 4, of the Convention, the institution in question:

- a shall immediately send to the institution of the Contracting Party under whose legislation the worker was previously engaged in an occupation liable to cause the disease in question the declaration and all accompanying documents, including the findings and reports of medical examinations carried out by the former institution, together with a copy of the decision referred to in the following sub-paragraph;
- b shall, at the same time, inform the person concerned of its decision, stating the grounds on which benefit is refused, the procedure and time-limits for appeal, and the date on which the records of the case were transmitted to the institution referred to in the preceding sub-paragraph.

4 If necessary the case shall be referred back, following the same procedure, to the corresponding institution of the Contracting Party under whose legislation the worker was first engaged in an occupation liable to cause the disease in question.

#### *Article 65*

1 If an appeal is made against rejection of a claim by the institution of one of the Contracting Parties under whose legislation the worker was engaged in an occupation liable to cause the disease under consideration, that institution shall inform the institution to which the declaration, if any, was transmitted, in accordance with the procedure prescribed in Article 64, paragraph 3, of this Agreement, and subsequently inform it of the final decision taken.

2 Where entitlement to benefit is established under the legislation applied by the institution to which the declaration was transmitted in accordance with the procedure prescribed in Article 64, paragraph 3, of this Agreement, account being taken of the provisions of Article 46, paragraphs 2, 3 and 4, of the Convention, that institution shall make advance payments to the person concerned, the amounts being determined in consultation with the institution against whose decision the appeal was lodged. If, following the appeal, the latter institution is obliged to provide benefits, it shall refund to the former institution the advance payments made, deducting an equivalent amount from the benefit payable to the person concerned.

### **Application of Article 47 of the Convention**

#### *Article 66*

In the case referred to in Article 47 of the Convention, the worker shall provide the institution of the Contracting Party from which he claims benefit with full information on any benefits previously received by him in respect of the occupational disease in question and on any occupations he has followed since the award of these benefits. That institution may request such information as it considers necessary from any other previously competent institution.

### **Submission and examination of claims for pensions**

#### *Article 67*

1 If a pension or allowance to supplement a pension awarded under the legislation of one Contracting Party is claimed by a worker or his survivors residing in the territory of another Contracting Party, the claim shall be submitted either to the competent institution or to the institution of the place of residence which shall then transmit it to the competent institution. The claim must comply with the following rules:

- a it must be accompanied by the requisite supporting documents and shall be submitted on the forms prescribed by the legislation of the competent State;
- b the accuracy of the information supplied by the claimant must be substantiated by official documents attached to the claim form or corroborated by the competent authorities of the Contracting Party in whose territory he resides.

2 The competent institution shall convey its decision directly to the claimant or through the liaison body of the competent State; it shall send a copy of the decision to the liaison body of the Contracting Party in whose territory the claimant resides.

*Administrative and medical supervision*

*Article 68*

If the recipient of a pension temporarily resides or resides in the territory of a Contracting Party other than the competent State, administrative and medical supervision and also such medical examinations as are necessary for the revision of pensions shall be carried out at the request of the competent institution by the institution of the place of temporary residence or residence in accordance with the rules laid down in the legislation which the latter institution applies. However, the competent institution may have the recipient examined by a doctor of its choice at its own expense.

*Payment of pensions*

*Article 69*

Pensions payable by the institution of a Contracting Party to claimants residing in the territory of another Contracting Party shall be paid in accordance with the provisions of Articles 46 to 51 of this Agreement.

***Chapter 4 – Death (grants)***

**Application of Articles 49 and 50 of the Convention**

*Article 70*

Where a person residing in the territory of one Contracting Party claims a death grant under the legislation of another Contracting Party, he shall submit his claim either to the competent institution, or to the institution of the place of residence, together with the supporting documents required under the legislation applied by the competent institution. The accuracy of the information supplied by the claimant shall be substantiated by official documents attached to the claim form or corroborated by the competent authorities of the Contracting Party in whose territory he resides.

*Article 71*

1 In order to benefit from the provisions of Article 49 of the Convention, the person concerned shall submit to the competent institution a certificate setting out the periods of insurance or of residence completed by the person in respect of whom the death grant is payable under the legislation of the Contracting Party to which he was last subject.

2 The certificate referred to in the preceding paragraph shall be issued, at the request of the person concerned, by the institution competent in relation to sickness or old age, as the case may be, of the Contracting Party to whose legislation the person in respect of whom the death grant is payable was last subject. If

the person concerned does not submit this certificate, the competent institution shall apply to the latter institution for it.

3 Where it is necessary to take into account periods of insurance or of residence completed previously under the legislation of any other Contracting Party in order to satisfy the conditions prescribed by the legislation of the competent State, the provisions of the preceding paragraphs of this article shall apply, *mutatis mutandis*.

## **Chapter 5 – Unemployment**

### **Application of Article 51 of the Convention**

#### *Article 72*

1 In order to benefit from the provisions of Article 51, paragraph 1 or 2, of the Convention, the person concerned shall submit to the competent institution a certificate setting out the periods of insurance, employment or other occupational activity, completed under the legislation of the Contracting Party to which he was previously last subject, and he shall supply any additional information required under the legislation applied by that institution.

2 The certificate referred to in the preceding paragraph shall be issued, at the request of the person concerned, either by the institution, competent in relation to unemployment, of the Contracting Party to whose legislation he was previously last subject, or by another institution designated by the competent authority of that Party. If the person concerned does not submit such a certificate, the competent institution shall apply for it to one of these institutions, unless the institution competent in relation to sickness can send a copy of the certificate provided for in Article 16, paragraph 1, of this Agreement.

3 Where it is necessary to take into account periods of insurance, employment or other occupational activity previously completed under the legislation of any other Contracting Party in order to satisfy the conditions prescribed by the legislation of the competent State, the provisions of the preceding paragraphs of this article shall apply, *mutatis mutandis*.

### **Application of Article 52 of the Convention**

#### *Article 73*

1 In order to benefit from the provisions of Article 52 of the Convention, the person concerned shall submit to the institution of his new place of residence a certificate that he satisfies the conditions prescribed by the legislation of the competent State for entitlement to benefits in respect of the completion of periods of insurance, employment, occupational activity or residence, and he shall supply any additional information required by the legislation applied by that institution.

2 The certificate referred to in the preceding paragraph shall be issued by the competent institution, at the request of the person concerned, before he changes his place of residence. That institution shall send a copy of it to the institution designated by the competent authority of the Contracting Party to whose territory the person concerned is transferring his residence. If the person concerned does not submit this certificate or if the institution of the new place of residence has not received a copy, that institution shall apply for it to the competent institution.

### **Application of Article 53 of the Convention**

#### *Article 74*

1 In the cases covered by Article 53, paragraph 1, sub-paragraphs a. ii and b. ii, of the Convention, the institution of the place of residence shall be regarded as the competent institution for applying the provisions of Article 72 of this Agreement.

2 In the case covered by Article 53, paragraph 1, sub-paragraph b. iii, of the Convention, the provisions of Article 73 of this Agreement shall apply, *mutatis mutandis*.

3 For the application of the provisions of Article 53, paragraph 2, of the Convention, the institution of the place of residence shall apply to the competent institution for all necessary information regarding the rights of the person concerned in relation to that institution.

#### Application of Article 54 of the Convention

#### *Article 75*

For the application of the provisions of Article 54 of the Convention, the competent institution shall, where appropriate, indicate in the certificate mentioned in Article 73, paragraph 1, of this Agreement the length of time for which it has paid benefit since entitlement to such benefit was last established.

### **Application of Article 55 of the Convention**

#### *Article 76*

For the purpose of calculating benefits to be paid by an institution referred to in Article 55, paragraph 1, of the Convention in cases where the person concerned was not last employed for at least four weeks in the territory of the Contracting Party in which that institution is situated, he shall submit to it a statement of the nature of his last employment for at least four weeks in the territory of another Contracting Party, and indicate in what branch of the economy he was employed.



If the worker does not submit such a statement, the institution in question shall apply for it either to the institution competent in relation to unemployment of that Party, or to any other institution designated by the competent authority of that Party.

#### *Article 77*

In order to benefit from the provisions of Article 55, paragraph 2, of the Convention, the person concerned shall submit to the competent institution a certificate regarding the members of his family residing in the territory of a Contracting Party other than the competent State. That certificate shall be issued either by the institution of the place of residence of such members of the family, which is competent in relation to sickness, or by any other institution designated by the competent authority of the Contracting Party in whose territory those members of the family reside. In addition, the provisions of paragraphs 2 and 3 of Article 25 of this Agreement shall apply, *mutatis mutandis*.

### **Chapter 6 – Family benefits**

#### **Application of Article 57 of the Convention**

#### *Article 78*

1 In order to benefit from the provisions of Article 57 of the Convention, the person concerned shall submit to the competent institution a certificate setting out the periods of employment, other occupational activity or residence completed under the legislation of the Contracting Party to which he was previously last subject, and he shall supply any additional information required under the legislation applied by that institution.

2 The certificate referred to in the preceding paragraph shall be issued, at the request of the person concerned, either by the institution competent in relation to family benefits of the Contracting Party to whose legislation he was previously last subject or by any other institution designated by the competent authority of that party. If the person concerned does not submit such a certificate, the competent institution shall apply for it to one of these institutions, unless the institution competent in relation to sickness can send a copy of the certificate provided for in Article 16, paragraph 1, of this Agreement.

3 Where it is necessary to take into account periods of employment, other occupational activity or residence previously completed under the legislation of any other Contracting Party in order to satisfy the conditions prescribed by the legislation of the competent State, the provisions of the preceding paragraphs of this article shall apply, *mutatis mutandis*.

### **Application of Articles 59 and 60 of the Convention**

#### *Article 79*

1 In order to benefit from the provisions of Article 59 of the Convention, the person concerned shall apply to the competent institution, if necessary through his employer.

2 When Article 59, paragraph 3, of the Convention is to be applied, the competent institution, in order to make the comparison provided for in paragraph 4 of that article, shall obtain information through the competent authority to which it is responsible regarding the amount of family allowances payable under the legislation of the Contracting Party in which the children reside or are being brought up. That authority shall apply at the end of each quarter to the competent authority of the Contracting Party in question for such information. This information shall be based on the legislation applicable on the 15th day of the last month of the last quarter under consideration, and shall constitute the valid basis for payment of family allowances relating to the following quarter.

3 In support of his claim, the person concerned shall submit a certificate as to his family status issued by the competent registration authorities in the territory of the Contracting Party in which the children reside or are being brought up, if such certificate is normally issued by the above-mentioned authorities; and if not, by the institution designated by the competent authority of that Contracting Party. This certificate shall be renewed annually.

4 The person concerned shall also, where appropriate and at the request of the competent institution, supply information identifying the person to whom family allowances are to be paid in the territory of the Contracting Party where the children reside or are being brought up.

5 The person concerned shall inform the competent institution, if necessary through his employer, of any change in the circumstances of his children which might affect their entitlement to family allowances, and in particular of any change of residence and any alteration in the number of children in respect of whom family allowances are payable.

6 The provisions of paragraphs 1, 3 and 5 of this article shall apply in the case referred to in Article 59, paragraph 5, of the Convention.

#### *Article 80*

1 If the person concerned has been employed or has engaged in other occupational activity or has been resident during any calendar month or quarter in the territory of two Contracting Parties, the family allowances he may claim under the legislation of each of these Parties shall correspond to the number of daily allowances payable under the respective legislations concerned. If one or other of these legislations provides for the payment of monthly or quarterly allowances, one twenty-sixth part of the total monthly allowance or one seventy-

eighth part of the total quarterly allowance shall be paid for each day of employment, other occupational activity or residence completed in the territory of the Contracting Party concerned and for each day assimilated thereto by the legislation of that Party.

2 If the institution of one Contracting Party has paid family allowances for a month or part of a month, and they should have been paid by the institution of another Contracting Party, the incorrect payments of allowances shall be adjusted between the two institutions.

### **Application of Article 61 of the Convention**

#### *Article 81*

1 In order to receive family benefit in the territory of the Contracting Party in which they reside, the members of the family referred to in Article 61, paragraph 1, of the Convention shall register with the institution of their place of residence, submitting the supporting documents normally required for the award of family benefit under the legislation applied by that institution and also a certificate stating that the person concerned satisfies the conditions for entitlement to benefit. This certificate shall include the following information:

- a if the legislation of the competent State does not make entitlement to benefit conditional upon any employment or other occupational activity, the certificate shall simply state that the person concerned is subject to the legislation of that State;
- b if the legislation of the competent State makes entitlement to benefit conditional upon the completion of a specified period of employment or other occupational activity, the certificate shall state that this condition has been satisfied;
- c if the legislation of the competent State provides that the duration of entitlement to benefit shall correspond to the duration of periods of employment or other occupational activity, the certificate shall state the duration of employment or other occupational activity completed during the period under consideration.

This certificate shall be issued by the competent institution, at the request of the person concerned, as soon as he satisfies the prescribed conditions. If the members of the family do not submit this certificate, the institution of their place of residence shall apply for it to the competent institution.

2 In the case mentioned in sub-paragraphs a and b of the preceding paragraph, the certificate referred to shall remain valid until the institution of the place of residence is notified of its cancellation. In the case mentioned in sub-paragraph c, however, the certificate shall remain valid for three months from the date of issue only, and shall be renewed *ex officio* every three months by the competent institution.

3 If the person concerned is a seasonal worker, the certificate referred to in paragraph 1 of this article shall remain valid during the whole expected duration of the seasonal work, unless the competent institution notifies its cancellation in the meantime to the institution of the place of residence.

4 If the legislation of the Contracting Party in whose territory the members of the family reside provides for monthly or quarterly payment of benefit, and the legislation of the competent State provides that the duration of entitlement to benefit shall correspond to the duration of periods of employment or other occupational activity completed in that State, benefit shall be provided for a period corresponding to the ratio of that period to the total length of time prescribed by the legislation of the country of residence of the members of the family.

5 If the legislation of the Contracting Party in whose territory the members of the family reside provides for the payment of benefit for a number of days corresponding to the number of days of employment or other occupational activity completed, and the legislation of the competent State provides that entitlement shall be for a period of a month or a quarter, benefit shall be paid monthly or quarterly.

6 In the cases covered by paragraphs 4 and 5 of this article, if periods of employment or other occupational activity completed under the legislation of the competent State are expressed in units other than those used in calculating benefit under the legislation of the Contracting Party in whose territory the members of the family reside, they shall be converted as provided in Article 15, paragraph 3, of this Agreement.

7 The competent institution shall immediately inform the institution of the place of residence of members of the family of the date on which the person concerned ceases to be entitled to benefit or transfers his residence from the territory of one Contracting Party to that of another. The institution of the place of residence of the members of the family may at any time ask the competent institution for all necessary information regarding entitlement to benefit of the person concerned.

8 The members of the family shall inform the institution of their place of residence of any change in their circumstances which might affect their entitlement to benefit, and in particular of any change of residence.

#### *Article 82*

If members of a family transfer their residence from the territory of one Contracting Party to that of another during the course of a calendar month or quarter, the family benefit paid to them under the legislation of each of those Parties shall correspond to the number of daily benefits payable under the legislations concerned. If either of these legislations provides for the payment of benefit, monthly or quarterly, benefit shall be paid proportionately to the duration of

residence in the territory of the Party in question during the month or quarter concerned.

### **Application of Article 62 of the Convention**

#### *Article 83*

1 In order to receive family benefit in the territory of the Contracting Party in which they reside, the members of the family referred to in Article 62 of the Convention shall submit to the institution of their place of residence a certificate stating that the person concerned receives unemployment benefit under the legislation of another Contracting Party, and would be entitled to family benefits if he lived with the members of his family in the territory of the competent State. This certificate shall be issued either by the institution competent in relation to unemployment in the latter State or by any other institution designated by the competent authority of that State. If the members of the family do not submit this certificate, the institution of their place of residence shall apply for it to the competent institution.

2 The provisions of Articles 81 and 82 of this Agreement shall apply, *mutatis mutandis*.

### **Title VI – Miscellaneous provisions**

#### *Article 84*

The institution of the place of residence of a person who has received benefits that were not payable to him, or the institution designated by the competent authority of the Contracting Party in whose territory that person resides, shall cooperate with the institution of any other Contracting Party which has paid such benefits, should the latter institution seek recovery from the person in question.

#### *Article 85*

1 If, during the assessment or the revision of invalidity, old-age, or death (pensions) benefits under the provisions of Chapter 2 of Title III of the Convention, the institution of a Contracting Party has paid to a beneficiary a sum in excess of his entitlement, it may request the institution of any other Contracting Party responsible for the payment of corresponding benefits to that person to deduct the amount overpaid from any arrears payable to him. The latter institution shall transfer the amount so withheld to the creditor institution. If recovery cannot be made in this way, the provisions of the following paragraph shall apply.

2 If the institution of a Contracting Party has paid to a beneficiary a sum in excess of his entitlement, that institution may, under the conditions and to the extent permissible under the legislation it applies, request the institution of any other Contracting Party responsible for payment of benefits to that person to deduct the amount overpaid from the payments it is making to him. The latter institution shall withhold that amount to the extent to which such a deduction is

permissible under the legislation it applies, as if the overpayment had been made by it, and transfer the amount so withheld to the creditor institution.

3 If the institution of a Contracting Party has made an advance payment of benefits for a period during which the beneficiary was entitled to corresponding benefits under the legislation of another Contracting Party, it may request the institution of the other Contracting Party to deduct the amount of the advance from the payments due to him for the same period. The latter institution shall withhold the amount and transfer it to the creditor institution.

*Article 86*

If a person has received social assistance payments in the territory of a Contracting Party during a period when he was entitled to receive benefit under the legislation of another Contracting Party, the authority which provided the social assistance may, if it is entitled to recover such assistance payments from benefits due to the person concerned, request the institution of any other Contracting Party responsible for paying benefits to him, to withhold the amount of the social assistance granted during that period from the benefit payable to him. The latter institution shall withhold that amount and transfer it to the creditor authority.

*Article 87*

1 If entitlement to benefits is not recognised by the institution stated to be the competent one, the cost of the benefits in kind provided by the institution of the place of temporary residence under the presumption in Article 20, paragraph 2, or Article 55, paragraph 2, of this Agreement shall be refunded by the first mentioned institution.

2 If the person concerned is not entitled to benefits in kind, expenditure incurred by the institution of the place of residence or temporary residence in respect of benefits in kind provided under Article 60, paragraph 1, of this Agreement shall be refunded by the institution designated by the competent authority of the Contracting Party concerned.

3 If an institution has refunded benefits incorrectly paid, in accordance with the provisions of paragraphs 1 or 2 of this article, it shall remain the creditor of the recipient for the amount of the benefit incorrectly paid.

*Article 88*

In the event of a dispute between the institutions or competent authorities of two or more Contracting Parties concerning either the legislation applicable under Title II of the Convention or the institution which is to provide benefit, the person who would have been able to claim benefit in the absence of such a dispute shall provisionally receive the benefit prescribed by the legislation which the institution of the place of residence applies or, where the person concerned

does not reside in the territory of one of the Contracting Parties concerned, by the legislation of the Contracting Party to which he was previously last subject. After settlement of the dispute, the cost of the benefits paid provisionally shall be borne by the institution declared as liable to pay the benefits.

*Article 89*

If, in order to apply its national legislation, or the Convention, in specific cases, the competent institution of a Contracting Party considers it necessary to conduct an enquiry in the territory of another Contracting Party, it may appoint an investigator for that purpose, subject to the agreement of the competent authorities of the two Parties concerned. The competent authority of the Contracting Party in whose territory the enquiry is to take place shall give every assistance to the investigator and appoint a person to assist him in consulting the records and all other documents relevant to the case.

*Article 90*

If the legislation of a Contracting Party regards as members of the family or household of the person concerned only such persons as live with him, the institution which applies that legislation may require evidence that the members of the family who do not fulfil that condition are mainly dependent on the person concerned, by means of documents showing that he contributes substantially to their maintenance.

*Article 91*

Any agreements concluded under Article 26, paragraph 1, Article 32, paragraph 3 or 6, Article 41, Article 42, paragraph 3, Article 46, paragraph 5, Article 56, paragraph 1, Article 58, paragraph 1, Article 67, paragraph 2, Article 69, paragraph 3, or Article 70, paragraph 2 or 3, of the Convention, or under Article 5 of this Agreement, shall be communicated to the Secretary General of the Council of Europe within three months of the date of their entry into force.

*Article 92*

1 The annexes referred to in Article 4 of this Agreement shall be an integral part thereof.

2 Any amendment of the annexes to this Agreement shall be notified by the Contracting Party or Parties concerned to the Secretary General of the Council of Europe.

3 In the case of an amendment of Annex 5 to this Agreement, the procedure prescribed in Article 73, paragraphs 2 and 3, of the Convention shall apply, *mutatis mutandis*.

## **Title VII – Transitional and final provisions**

### *Article 93*

The submission of a claim for invalidity, old-age or survivors' benefits to the institution of a Contracting Party after the entry into force of the Convention shall automatically entail the revision, in accordance with the provisions of the Convention, of benefits awarded for the same contingency by the institution or institutions of one or more other Contracting Parties before its entry into force.

### *Article 94*

1 This Agreement shall be open to signature by the member States of the Council of Europe which have signed the Convention and which may become Parties to it either by:

- a signature without reservation in respect of ratification or acceptance; or
- b signature with reservation in respect of ratification or acceptance, followed by ratification or acceptance.

2 Any State which signs this Agreement without reservation in respect of ratification or acceptance or which ratifies or accepts it must, at the same time, ratify or accept the Convention.

3 Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.

### *Article 95*

1 This Agreement shall enter into force on the same date as the Convention.

2 As regards any member States which shall subsequently sign the Agreement without reservation in respect of ratification or acceptance, or which shall ratify or accept it, the Agreement shall enter into force three months after the date of such signature or after the date of deposit of the instrument of ratification or acceptance.

### *Article 96*

1 Any State not a member of the Council of Europe which shall accede to the Convention upon invitation by the Committee of Ministers of the Council of Europe in accordance with Article 77 thereof must, at the same time, accede to this Agreement.

2 Accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect three months after the date of its deposit.

### *Article 97*

1 This Agreement shall have the same duration as the Convention.



2 No Contracting Party may denounce this Agreement without denouncing, at the same time, the Convention under the conditions provided for in Article 78 thereof.

3 Such denunciation shall take effect six months after the date of receipt by the Secretary General of the Council of Europe of its notification.

*Article 98*

The Secretary General of the Council of Europe shall, within one month, notify the Contracting Parties, signatory States and the Director General of the International Labour Office of:

- a any signature without reservation in respect of ratification or acceptance;
- b any signature with reservation in respect of ratification or acceptance;
- c the deposit of any instrument of ratification, acceptance or accession;
- d any date of entry into force of this Agreement in accordance with Articles 95 and 96;
- e any notification of denunciation received in pursuance of the provisions of Article 97 and the date on which denunciation takes effect;
- f any communication or notification received in pursuance of the provisions of Article 91 and Article 92, paragraph 2, of this Agreement.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Supplementary Agreement.

Done at Paris, this 14th day of December 1972, in English and in French, both texts being equally authoritative, in a single copy, which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatory and acceding States.

**Annexes**

(text not reproduced here)



**European Treaty Series – No. 35**

**European Social Charter**

*Turin, 18.X.1961*

**Preamble**

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is the achievement of greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms;

Considering that in the European Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950, and the Protocol thereto signed at Paris on 20th March 1952, the member States of the Council of Europe agreed to secure to their populations the civil and political rights and freedoms therein specified;

Considering that the enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin;

Being resolved to make every effort in common to improve the standard of living and to promote the social well-being of both their urban and rural populations by means of appropriate institutions and action,

Have agreed as follows:

**Part I**

The Contracting Parties accept as the aim of their policy, to be pursued by all appropriate means, both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

- 1 Everyone shall have the opportunity to earn his living in an occupation freely entered upon.
- 2 All workers have the right to just conditions of work.
- 3 All workers have the right to safe and healthy working conditions.

- 4 All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families.
- 5 All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests.
- 6 All workers and employers have the right to bargain collectively.
- 7 Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed.
- 8 Employed women, in case of maternity, and other employed women as appropriate, have the right to a special protection in their work.
- 9 Everyone has the right to appropriate facilities for vocational guidance with a view to helping him choose an occupation suited to his personal aptitude and interests.
- 10 Everyone has the right to appropriate facilities for vocational training.
- 11 Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.
- 12 All workers and their dependents have the right to social security.
- 13 Anyone without adequate resources has the right to social and medical assistance.
- 14 Everyone has the right to benefit from social welfare services.
- 15 Disabled persons have the right to vocational training, rehabilitation and resettlement, whatever the origin and nature of their disability.
- 16 The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development.
- 17 Mothers and children, irrespective of marital status and family relations, have the right to appropriate social and economic protection.
- 18 The nationals of any one of the Contracting Parties have the right to engage in any gainful occupation in the territory of any one of the others on a footing of equality with the nationals of the latter, subject to restrictions based on cogent economic or social reasons.
- 19 Migrant workers who are nationals of a Contracting Party and their families have the right to protection and assistance in the territory of any other Contracting Party.

## **Part II**

The Contracting Parties undertake, as provided for in Part III, to consider themselves bound by the obligations laid down in the following articles and paragraphs.

### *Article 1 – The right to work*

With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake:

- 1 to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
- 2 to protect effectively the right of the worker to earn his living in an occupation freely entered upon;
- 3 to establish or maintain free employment services for all workers;
- 4 to provide or promote appropriate vocational guidance, training and rehabilitation.

### *Article 2 – The right to just conditions of work*

With a view to ensuring the effective exercise of the right to just conditions of work, the Contracting Parties undertake:

- 1 to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;
- 2 to provide for public holidays with pay;
- 3 to provide for a minimum of two weeks annual holiday with pay;
- 4 to provide for additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations as prescribed;
- 5 to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest.

### *Article 3 – The right to safe and healthy working conditions*

With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Contracting Parties undertake:

- 1 to issue safety and health regulations;
- 2 to provide for the enforcement of such regulations by measures of supervision;

3 to consult, as appropriate, employers' and workers' organisations on measures intended to improve industrial safety and health.

*Article 4 – The right to a fair remuneration*

With a view to ensuring the effective exercise of the right to a fair remuneration, the Contracting Parties undertake:

- 1 to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;
- 2 to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;
- 3 to recognise the right of men and women workers to equal pay for work of equal value;
- 4 to recognise the right of all workers to a reasonable period of notice for termination of employment;
- 5 to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

*Article 5 – The right to organise*

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

*Article 6 – The right to bargain collectively*

With a view to ensuring the effective exercise of the right to bargain collectively, the Contracting Parties undertake:

- 1 to promote joint consultation between workers and employers;
- 2 to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisa-

tions, with a view to the regulation of terms and conditions of employment by means of collective agreements;

3 to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise:

4 the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

*Article 7 – The right of children and young persons to protection*

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

1 to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;

2 to provide that a higher minimum age of admission to employment shall be fixed with respect to prescribed occupations regarded as dangerous or unhealthy;

3 to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;

4 to provide that the working hours of persons under 16 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;

5 to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;

6 to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;

7 to provide that employed persons of under 18 years of age shall be entitled to not less than three weeks' annual holiday with pay;

8 to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;

9 to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;

10 to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

*Article 8 – The right of employed women to protection*

With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:

- 1 to provide either by paid leave, by adequate social security benefits or by benefits from public funds for women to take leave before and after childbirth up to a total of at least 12 weeks;
- 2 to consider it as unlawful for an employer to give a woman notice of dismissal during her absence on maternity leave or to give her notice of dismissal at such a time that the notice would expire during such absence;
- 3 to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;
- 4 a to regulate the employment of women workers on night work in industrial employment;  
b to prohibit the employment of women workers in underground mining, and, as appropriate, on all other work which is unsuitable for them by reason of its dangerous, unhealthy, or arduous nature.

*Article 9 – The right to vocational guidance*

With a view to ensuring the effective exercise of the right to vocational guidance, the Contracting Parties undertake to provide or promote, as necessary, a service which will assist all persons, including the handicapped, to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity: this assistance should be available free of charge, both to young persons, including school children, and to adults.

*Article 10 – The right to vocational training*

With a view to ensuring the effective exercise of the right to vocational training, the Contracting Parties undertake:

- 1 to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;
- 2 to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;
- 3 to provide or promote, as necessary:



- a adequate and readily available training facilities for adult workers;
  - b special facilities for the re-training of adult workers needed as a result of technological development or new trends in employment;
- 4 to encourage the full utilisation of the facilities provided by appropriate measures such as:
- a reducing or abolishing any fees or charges;
  - b granting financial assistance in appropriate cases;
  - c including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;
  - d ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

*Article 11 – The right to protection of health*

With a view to ensuring the effective exercise of the right to protection of health, the Contracting Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia:

- 1 to remove as far as possible the causes of ill-health;
- 2 to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
- 3 to prevent as far as possible epidemic, endemic and other diseases.

*Article 12 – The right to social security*

With a view to ensuring the effective exercise of the right to social security, the Contracting Parties undertake:

- 1 to establish or maintain a system of social security;
- 2 to maintain the social security system at a satisfactory level at least equal to that required for ratification of International Labour Convention (No. 102) Concerning Minimum Standards of Social Security;
- 3 to endeavour to raise progressively the system of social security to a higher level;
- 4 to take steps, by the conclusion of appropriate bilateral and multilateral agreements, or by other means, and subject to the conditions laid down in such agreements, in order to ensure:
  - a equal treatment with their own nationals of the nationals of other Contracting Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever move-

ments the persons protected may undertake between the territories of the Contracting Parties;

- b the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Contracting Parties.

*Article 13 – The right to social and medical assistance*

With a view to ensuring the effective exercise of the right to social and medical assistance, the Contracting Parties undertake:

- 1 to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;
- 2 to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;
- 3 to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;
- 4 to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Contracting Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11th December 1953.

*Article 14 – The right to benefit from social welfare services*

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Contracting Parties undertake:

- 1 to promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment;
- 2 to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.

*Article 15 - The right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement*

With a view to ensuring the effective exercise of the right of the physically or mentally disabled to vocational training, rehabilitation and resettlement, the Contracting Parties undertake:

- 1 to take adequate measures for the provision of training facilities, including, where necessary, specialised institutions, public or private;

2 to take adequate measures for the placing of disabled persons in employment, such as specialised placing services, facilities for sheltered employment and measures to encourage employers to admit disabled persons to employment.

*Article 16 – The right of the family to social, legal and economic protection*

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Contracting Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married, and other appropriate means.

*Article 17 – The right of mothers and children to social and economic protection*

With a view to ensuring the effective exercise of the right of mothers and children to social and economic protection, the Contracting Parties will take all appropriate and necessary measures to that end, including the establishment or maintenance of appropriate institutions or services.

*Article 18 - The right to engage in a gainful occupation in the territory of other Contracting Parties*

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Contracting Party, the Contracting Parties undertake:

- 1 to apply existing regulations in a spirit of liberality;
  - 2 to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;
  - 3 to liberalise, individually or collectively, regulations governing the employment of foreign workers;
- and recognise:
- 4 the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Contracting Parties.

*Article 19 – The right of migrant workers and their families to protection and assistance*

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

- 1 to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;

2 to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;

3 to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;

4 to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:

- a remuneration and other employment and working conditions;
- b membership of trade unions and enjoyment of the benefits of collective bargaining;
- c accommodation;

5 to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;

6 to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;

7 to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;

8 to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;

9 to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;

10 to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply.

### **Part III**

#### *Article 20 – Undertakings*

1 Each of the Contracting Parties undertakes:

- a to consider Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part;
- b to consider itself bound by at least five of the following articles of Part II of this Charter: Articles 1, 5, 6, 12, 13, 16 and 19;

c in addition to the articles selected by it in accordance with the preceding sub-paragraph, to consider itself bound by such a number of articles or numbered paragraphs of Part II of the Charter as it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than 10 articles or 45 numbered paragraphs.

2 The articles or paragraphs selected in accordance with sub-paragraphs b and c of paragraph 1 of this article shall be notified to the Secretary General of the Council of Europe at the time when the instrument of ratification or approval of the Contracting Party concerned is deposited.

3 Any Contracting Party may, at a later date, declare by notification to the Secretary General that it considers itself bound by any articles or any numbered paragraphs of Part II of the Charter which it has not already accepted under the terms of paragraph 1 of this article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification or approval, and shall have the same effect as from the thirtieth day after the date of the notification.

4 The Secretary General shall communicate to all the signatory governments and to the Director General of the International Labour Office any notification which he shall have received pursuant to this part of the Charter.

5 Each Contracting Party shall maintain a system of labour inspection appropriate to national conditions.

#### **Part IV**

##### *Article 21 – Reports concerning accepted provisions*

The Contracting Parties shall send to the Secretary General of the Council of Europe a report at two-yearly intervals, in a form to be determined by the Committee of Ministers, concerning the application of such provisions of Part II of the Charter as they have accepted.

##### *Article 22 – Reports concerning provisions which are not accepted*

The Contracting Parties shall send to the Secretary General, at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or approval or in a subsequent notification. The Committee of Ministers shall determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.

##### *Article 23 – Communication of copies*

1 Each Contracting Party shall communicate copies of its reports referred to in Articles 21 and 22 to such of its national organisations as are members of the international organisations of employers and trade unions to be invited under

Article 27, paragraph 2, to be represented at meetings of the Sub-committee of the Governmental Social Committee.

2 The Contracting Parties shall forward to the Secretary General any comments on the said reports received from these national organisations, if so requested by them.

*Article 24 – Examination of the reports*

The reports sent to the Secretary General in accordance with Articles 21 and 22 shall be examined by a Committee of Experts, who shall have also before them any comments forwarded to the Secretary General in accordance with paragraph 2 of Article 23.

*Article 25 – Committee of Experts*

1 The Committee of Experts shall consist of not more than seven members appointed by the Committee of Ministers from a list of independent experts of the highest integrity and of recognised competence in international social questions, nominated by the Contracting Parties.

2 The members of the committee shall be appointed for a period of six years. They may be reappointed. However, of the members first appointed, the terms of office of two members shall expire at the end of four years.

3 The members whose terms of office are to expire at the end of the initial period of four years shall be chosen by lot by the Committee of Ministers immediately after the first appointment has been made.

4 A member of the Committee of Experts appointed to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

*Article 26 – Participation of the International Labour Organisation*

The International Labour Organisation shall be invited to nominate a representative to participate in a consultative capacity in the deliberations of the Committee of Experts.

*Article 27 – Sub-committee of the Governmental Social Committee*

1 The reports of the Contracting Parties and the conclusions of the Committee of Experts shall be submitted for examination to a sub-committee of the Governmental Social Committee of the Council of Europe.

2 The sub-committee shall be composed of one representative of each of the Contracting Parties. It shall invite no more than two international organisations of employers and no more than two international trade union organisations as it may designate to be represented as observers in a consultative capacity at its meetings. Moreover, it may consult no more than two representatives of inter-

national non-governmental organisations having consultative status with the Council of Europe, in respect of questions with which the organisations are particularly qualified to deal, such as social welfare, and the economic and social protection of the family.

3 The sub-committee shall present to the Committee of Ministers a report containing its conclusions and append the report of the Committee of Experts.

*Article 28 – Consultative Assembly*

The Secretary General of the Council of Europe shall transmit to the Consultative Assembly the conclusions of the Committee of Experts. The Consultative Assembly shall communicate its views on these conclusions to the Committee of Ministers.

*Article 29 – Committee of Ministers*

By a majority of two-thirds of the members entitled to sit on the Committee, the Committee of Ministers may, on the basis of the report of the sub-committee, and after consultation with the Consultative Assembly, make to each Contracting Party any necessary recommendations.

**Part V**

*Article 30 – Derogations in time of war or public emergency*

1 In time of war or other public emergency threatening the life of the nation any Contracting Party may take measures derogating from its obligations under this Charter to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

2 Any Contracting Party which has availed itself of this right of derogation shall, within a reasonable lapse of time, keep the Secretary General of the Council of Europe fully informed of the measures taken and of the reasons therefor. It shall likewise inform the Secretary General when such measures have ceased to operate and the provisions of the Charter which it has accepted are again being fully executed.

3 The Secretary General shall in turn inform other Contracting Parties and the Director General of the International Labour Office of all communications received in accordance with paragraph 2 of this article.

*Article 31 – Restrictions*

1 The rights and principles set forth in Part I when effectively realised, and their effective exercise as provided for in Part II, shall not be subject to any restrictions or limitations not specified in those parts, except such as are prescribed by law and are necessary in a democratic society for the protection of the rights and

freedoms of others or for the protection of public interest, national security, public health, or morals.

2 The restrictions permitted under this Charter to the rights and obligations set forth herein shall not be applied for any purpose other than that for which they have been prescribed.

*Article 32 - Relations between the Charter and domestic law or international agreements*

The provisions of this Charter shall not prejudice the provisions of domestic law or of any bilateral or multilateral treaties, conventions or agreements which are already in force, or may come into force, under which more favourable treatment would be accorded to the persons protected.

*Article 33 – Implementation by collective agreements*

1 In member States where the provisions of paragraphs 1, 2, 3, 4 and 5 of Article 2, paragraphs 4, 6 and 7 of Article 7 and paragraphs 1, 2, 3 and 4 of Article 10 of Part II of this Charter are matters normally left to agreements between employers or employers' organisations and workers' organisations, or are normally carried out otherwise than by law, the undertakings of those paragraphs may be given and compliance with them shall be treated as effective if their provisions are applied through such agreements or other means to the great majority of the workers concerned.

2 In member States where these provisions are normally the subject of legislation, the undertakings concerned may likewise be given, and compliance with them shall be regarded as effective if the provisions are applied by law to the great majority of the workers concerned.

*Article 34 – Territorial application*

1 This Charter shall apply to the metropolitan territory of each Contracting Party. Each signatory government may, at the time of signature or of the deposit of its instrument of ratification or approval, specify, by declaration addressed to the Secretary General of the Council of Europe, the territory which shall be considered to be its metropolitan territory for this purpose.

2 Any Contracting Party may, at the time of ratification or approval of this Charter or at any time thereafter, declare by notification addressed to the Secretary General of the Council of Europe, that the Charter shall extend in whole or in part to a non-metropolitan territory or territories specified in the said declaration for whose international relations it is responsible or for which it assumes international responsibility. It shall specify in the declaration the articles or paragraphs of Part II of the Charter which it accepts as binding in respect of the territories named in the declaration.



3 The Charter shall extend to the territory or territories named in the aforesaid declaration as from the thirtieth day after the date on which the Secretary General shall have received notification of such declaration.

4 Any Contracting Party may declare at a later date, by notification addressed to the Secretary General of the Council of Europe, that, in respect of one or more of the territories to which the Charter has been extended in accordance with paragraph 2 of this article, it accepts as binding any articles or any numbered paragraphs which it has not already accepted in respect of that territory or territories. Such undertakings subsequently given shall be deemed to be an integral part of the original declaration in respect of the territory concerned, and shall have the same effect as from the thirtieth day after the date of the notification.

5 The Secretary General shall communicate to the other signatory governments and to the Director General of the International Labour Office any notification transmitted to him in accordance with this article.

*Article 35 – Signature, ratification and entry into force*

1 This Charter shall be open for signature by the members of the Council of Europe. It shall be ratified or approved. Instruments of ratification or approval shall be deposited with the Secretary General of the Council of Europe.

2 This Charter shall come into force as from the thirtieth day after the date of deposit of the fifth instrument of ratification or approval.

3 In respect of any signatory government ratifying subsequently, the Charter shall come into force as from the thirtieth day after the date of deposit of its instrument of ratification or approval.

4 The Secretary General shall notify all the members of the Council of Europe and the Director General of the International Labour Office of the entry into force of the Charter, the names of the Contracting Parties which have ratified or approved it and the subsequent deposit of any instruments of ratification or approval.

*Article 36 – Amendments*

Any member of the Council of Europe may propose amendments to this Charter in a communication addressed to the Secretary General of the Council of Europe. The Secretary General shall transmit to the other members of the Council of Europe any amendments so proposed, which shall then be considered by the Committee of Ministers and submitted to the Consultative Assembly for opinion. Any amendments approved by the Committee of Ministers shall enter into force as from the thirtieth day after all the Contracting Parties have informed the Secretary General of their acceptance. The Secretary General shall notify all the members of the Council of Europe and the Director General of the International Labour Office of the entry into force of such amendments.

*Article 37 – Denunciation*

1 Any Contracting Party may denounce this Charter only at the end of a period of five years from the date on which the Charter entered into force for it, or at the end of any successive period of two years, and, in each case, after giving six months notice to the Secretary General of the Council of Europe who shall inform the other Parties and the Director General of the International Labour Office accordingly. Such denunciation shall not affect the validity of the Charter in respect of the other Contracting Parties provided that at all times there are not less than five such Contracting Parties.

2 Any Contracting Party may, in accordance with the provisions set out in the preceding paragraph, denounce any article or paragraph of Part II of the Charter accepted by it provided that the number of articles or paragraphs by which this Contracting Party is bound shall never be less than 10 in the former case and 45 in the latter and that this number of articles or paragraphs shall continue to include the articles selected by the Contracting Party among those to which special reference is made in Article 20, paragraph 1, sub-paragraph b.

3 Any Contracting Party may denounce the present Charter or any of the articles or paragraphs of Part II of the Charter, under the conditions specified in paragraph 1 of this article in respect of any territory to which the said Charter is applicable by virtue of a declaration made in accordance with paragraph 2 of Article 34.

*Article 38 – Appendix*

The appendix to this Charter shall form an integral part of it.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Charter.

Done at Turin, this 18th day of October 1961, in English and French, both texts being equally authoritative, in a single copy which shall be deposited within the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the Signatories.

**Appendix to the Social Charter**

*Scope of the Social Charter in terms of persons protected*

1 Without prejudice to Article 12, paragraph 4, and Article 13, paragraph 4, the persons covered by Articles 1 to 17 include foreigners only insofar as they are nationals of other Contracting Parties lawfully resident or working regularly within the territory of the Contracting Party concerned, subject to the understanding that these articles are to be interpreted in the light of the provisions of Articles 18 and 19.

This interpretation would not prejudice the extension of similar facilities to other persons by any of the Contracting Parties.

2 Each Contracting Party will grant to refugees as defined in the Convention relating to the Status of Refugees, signed at Geneva on 28th July 1951, and lawfully staying in its territory, treatment as favourable as possible, and in any case not less favourable than under the obligations accepted by the Contracting Party under the said Convention and under any other existing international instruments applicable to those refugees.

Part I, paragraph 18, and Part II, Article 18, paragraph 1

It is understood that these provisions are not concerned with the question of entry into the territories of the Contracting Parties and do not prejudice the provisions of the European Convention on Establishment, signed at Paris on 13th December 1955.

## **Part II**

### *Article 1, paragraph 2*

This provision shall not be interpreted as prohibiting or authorising any union security clause or practice.

### *Article 4, paragraph 4*

This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

### *Article 4, paragraph 5*

It is understood that a Contracting Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exceptions being those persons not so covered.

### *Article 6, paragraph 4*

It is understood that each Contracting Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article 31.

### *Article 7, paragraph 8*

It is understood that a Contracting Party may give the undertaking required in this paragraph if it fulfils the spirit of the undertaking by providing by law that the great majority of persons under 18 years of age shall not be employed in night work.

*Article 12, paragraph 4*

The words “and subject to the conditions laid down in such agreements” in the introduction to this paragraph are taken to imply inter alia that with regard to benefits which are available independently of any insurance contribution a Contracting Party may require the completion of a prescribed period of residence before granting such benefits to nationals of other Contracting Parties.

*Article 13, paragraph 4*

Governments not Parties to the European Convention on Social and Medical Assistance may ratify the Social Charter in respect of this paragraph provided that they grant to nationals of other Contracting Parties a treatment which is in conformity with the provisions of the said Convention.

*Article 19, paragraph 6*

For the purpose of this provision, the term “family of a foreign worker” is understood to mean at least his wife and dependent children under the age of 21 years.

**Part III**

It is understood that the Charter contains legal obligations of an international character, the application of which is submitted solely to the supervision provided for in Part IV thereof.

*Article 20, paragraph 1*

It is understood that the “numbered paragraphs” may include articles consisting of only one paragraph.

**Part V**

*Article 30*

The term “in time of war or other public emergency” shall be so understood as to cover also the threat of war.

**European Treaty Series – No. 163**

**European Social Charter (revised)**

*Strasbourg, 3.V.1996*

**Preamble**

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is the achievement of greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms;

Considering that in the European Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950, and the Protocols thereto, the member States of the Council of Europe agreed to secure to their populations the civil and political rights and freedoms therein specified;

Considering that in the European Social Charter opened for signature in Turin on 18 October 1961 and the Protocols thereto, the member States of the Council of Europe agreed to secure to their populations the social rights specified therein in order to improve their standard of living and their social well-being;

Recalling that the Ministerial Conference on Human Rights held in Rome on 5 November 1990 stressed the need, on the one hand, to preserve the indivisible nature of all human rights, be they civil, political, economic, social or cultural and, on the other hand, to give the European Social Charter fresh impetus;

Resolved, as was decided during the Ministerial Conference held in Turin on 21 and 22 October 1991, to update and adapt the substantive contents of the Charter in order to take account in particular of the fundamental social changes which have occurred since the text was adopted;

Recognising the advantage of embodying in a Revised Charter, designed progressively to take the place of the European Social Charter, the rights guaranteed by the Charter as amended, the rights guaranteed by the Additional Protocol of 1988 and to add new rights,

Have agreed as follows:

## **Part I**

The Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

- 1 Everyone shall have the opportunity to earn his living in an occupation freely entered upon.
- 2 All workers have the right to just conditions of work.
- 3 All workers have the right to safe and healthy working conditions.
- 4 All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families.
- 5 All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests.
- 6 All workers and employers have the right to bargain collectively.
- 7 Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed.
- 8 Employed women, in case of maternity, have the right to a special protection.
- 9 Everyone has the right to appropriate facilities for vocational guidance with a view to helping him choose an occupation suited to his personal aptitude and interests.
- 10 Everyone has the right to appropriate facilities for vocational training.
- 11 Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.
- 12 All workers and their dependents have the right to social security.
- 13 Anyone without adequate resources has the right to social and medical assistance.
- 14 Everyone has the right to benefit from social welfare services.
- 15 Disabled persons have the right to independence, social integration and participation in the life of the community.
- 16 The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development.
- 17 Children and young persons have the right to appropriate social, legal and economic protection.
- 18 The nationals of any one of the Parties have the right to engage in any gainful occupation in the territory of any one of the others on a footing of equality

with the nationals of the latter, subject to restrictions based on cogent economic or social reasons.

19 Migrant workers who are nationals of a Party and their families have the right to protection and assistance in the territory of any other Party.

20 All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.

21 Workers have the right to be informed and to be consulted within the undertaking.

22 Workers have the right to take part in the determination and improvement of the working conditions and working environment in the undertaking.

23 Every elderly person has the right to social protection.

24 All workers have the right to protection in cases of termination of employment.

25 All workers have the right to protection of their claims in the event of the insolvency of their employer.

26 All workers have the right to dignity at work.

27 All persons with family responsibilities and who are engaged or wish to engage in employment have a right to do so without being subject to discrimination and as far as possible without conflict between their employment and family responsibilities.

28 Workers' representatives in undertakings have the right to protection against acts prejudicial to them and should be afforded appropriate facilities to carry out their functions.

29 All workers have the right to be informed and consulted in collective redundancy procedures.

30 Everyone has the right to protection against poverty and social exclusion.

31 Everyone has the right to housing.

## **Part II**

The Parties undertake, as provided for in Part III, to consider themselves bound by the obligations laid down in the following articles and paragraphs.

### *Article 1 - The right to work*

With a view to ensuring the effective exercise of the right to work, the Parties undertake:

- 1 to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
- 2 to protect effectively the right of the worker to earn his living in an occupation freely entered upon;
- 3 to establish or maintain free employment services for all workers;
- 4 to provide or promote appropriate vocational guidance, training and rehabilitation.

*Article 2 - The right to just conditions of work*

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

- 1 to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;
- 2 to provide for public holidays with pay;
- 3 to provide for a minimum of four weeks' annual holiday with pay;
- 4 to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;
- 5 to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;
- 6 to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;
- 7 to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

*Article 3 - The right to safe and healthy working conditions*

With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers' and workers' organisations:

- 1 to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring



in the course of work, particularly by minimising the causes of hazards inherent in the working environment;

- 2 to issue safety and health regulations;
- 3 to provide for the enforcement of such regulations by measures of supervision;
- 4 to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions.

*Article 4 - The right to a fair remuneration*

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

- 1 to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;
- 2 to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;
- 3 to recognise the right of men and women workers to equal pay for work of equal value;
- 4 to recognise the right of all workers to a reasonable period of notice for termination of employment;
- 5 to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

*Article 5 - The right to organise*

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

*Article 6 - The right to bargain collectively*

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

- 1 to promote joint consultation between workers and employers;
  - 2 to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
  - 3 to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;
- and recognise:
- 4 the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

*Article 7 - The right of children and young persons to protection*

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

- 1 to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;
- 2 to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;
- 3 to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;
- 4 to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;
- 5 to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;
- 6 to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;
- 7 to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks' annual holiday with pay;

8 to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;

9 to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;

10 to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

*Article 8 - The right of employed women to protection of maternity*

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake:

1 to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks;

2 to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;

3 to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;

4 to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants;

5 to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining and all other work which is unsuitable by reason of its dangerous, unhealthy or arduous nature and to take appropriate measures to protect the employment rights of these women.

*Article 9 - The right to vocational guidance*

With a view to ensuring the effective exercise of the right to vocational guidance, the Parties undertake to provide or promote, as necessary, a service which will assist all persons, including the handicapped, to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity: this assistance should be available free of charge, both to young persons, including schoolchildren, and to adults.

*Article 10 - The right to vocational training*

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

- 1 to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;
- 2 to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;
- 3 to provide or promote, as necessary:
  - a adequate and readily available training facilities for adult workers;
  - b special facilities for the retraining of adult workers needed as a result of technological development or new trends in employment;
- 4 to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed;
- 5 to encourage the full utilisation of the facilities provided by appropriate measures such as:
  - a reducing or abolishing any fees or charges;
  - b granting financial assistance in appropriate cases;
  - c including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;
  - d ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

*Article 11 - The right to protection of health*

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia:

- 1 to remove as far as possible the causes of ill-health;
- 2 to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
- 3 to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

*Article 12 - The right to social security*

With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

- 1 to establish or maintain a system of social security;
- 2 to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security;
- 3 to endeavour to raise progressively the system of social security to a higher level;
- 4 to take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure:
  - a equal treatment with their own nationals of the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Parties;
  - b the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Parties.

*Article 13 - The right to social and medical assistance*

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

- 1 to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;
- 2 to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;
- 3 to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;
- 4 to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.

*Article 14 - The right to benefit from social welfare services*

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake:

- 1 to promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment;
- 2 to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.

*Article 15 - The right of persons with disabilities to independence, social integration and participation in the life of the community*

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

- 1 to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private;
- 2 to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services;
- 3 to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.

*Article 16 - The right of the family to social, legal and economic protection*

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

*Article 17 - The right of children and young persons to social, legal and economic protection*

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

- 1 a to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;
- b to protect children and young persons against negligence, violence or exploitation;
- c to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;
- 2 to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

*Article 18 - The right to engage in a gainful occupation in the territory of other Parties*

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:

- 1 to apply existing regulations in a spirit of liberality;
- 2 to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;
- 3 to liberalise, individually or collectively, regulations governing the employment of foreign workers;

and recognise:

- 4 the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties.

*Article 19 - The right of migrant workers and their families to protection and assistance*

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

- 1 to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate

information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;

2 to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;

3 to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;

4 to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:

- a remuneration and other employment and working conditions;
- b membership of trade unions and enjoyment of the benefits of collective bargaining;
- c accommodation;

5 to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;

6 to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;

7 to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;

8 to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;

9 to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;

10 to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply;

11 to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families;

12 to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.



*Article 20 - The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex*

With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:

- a access to employment, protection against dismissal and occupational reintegration;
- b vocational guidance, training, retraining and rehabilitation;
- c terms of employment and working conditions, including remuneration;
- d career development, including promotion.

*Article 21 - The right to information and consultation*

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

- a to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and
- b to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

*Article 22 - The right to take part in the determination and improvement of the working conditions and working environment*

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

- a to the determination and the improvement of the working conditions, work organisation and working environment;
- b to the protection of health and safety within the undertaking;
- c to the organisation of social and socio-cultural services and facilities within the undertaking;

d to the supervision of the observance of regulations on these matters.

*Article 23 - The right of elderly persons to social protection*

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

- to enable elderly persons to remain full members of society for as long as possible, by means of:
  - a adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;
  - b provision of information about services and facilities available for elderly persons and their opportunities to make use of them;
- to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:
  - a provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;
  - b the health care and the services necessitated by their state;
- to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.

*Article 24 - The right to protection in cases of termination of employment*

With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:

- a the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;
- b the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.

To this end the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.

*Article 25 - The right of workers to the protection of their claims in the event of the insolvency of their employer*

With a view to ensuring the effective exercise of the right of workers to the protection of their claims in the event of the insolvency of their employer, the Parties undertake to provide that workers' claims arising from contracts of

employment or employment relationships be guaranteed by a guarantee institution or by any other effective form of protection.

*Article 26 - The right to dignity at work*

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations:

- 1 to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;
- 2 to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

*Article 27 - The right of workers with family responsibilities to equal opportunities and equal treatment*

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:

- 1 to take appropriate measures:
  - a to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;
  - b to take account of their needs in terms of conditions of employment and social security;
  - c to develop or promote services, public or private, in particular child day-care services and other childcare arrangements;
- 2 to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;
- 3 to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.

*Article 28 - The right of workers' representatives to protection in the undertaking and facilities to be accorded to them*

With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

- a they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;
- b they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

*Article 29 - The right to information and consultation in collective redundancy procedures*

With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

*Article 30 - The right to protection against poverty and social exclusion*

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

- a to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;
- b to review these measures with a view to their adaptation if necessary.

*Article 31 - The right to housing*

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

- 1 to promote access to housing of an adequate standard;
- 2 to prevent and reduce homelessness with a view to its gradual elimination;
- 3 to make the price of housing accessible to those without adequate resources.

### **Part III**

#### *Article A - Undertakings*

- 1 Subject to the provisions of Article B below, each of the Parties undertakes:
  - a to consider Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part;
  - b to consider itself bound by at least six of the following nine articles of Part II of this Charter: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20;
  - c to consider itself bound by an additional number of articles or numbered paragraphs of Part II of the Charter which it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than sixteen articles or sixty-three numbered paragraphs.
- 2 The articles or paragraphs selected in accordance with sub-paragraphs b and c of paragraph 1 of this article shall be notified to the Secretary General of the Council of Europe at the time when the instrument of ratification, acceptance or approval is deposited.
- 3 Any Party may, at a later date, declare by notification addressed to the Secretary General that it considers itself bound by any articles or any numbered paragraphs of Part II of the Charter which it has not already accepted under the terms of paragraph 1 of this article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification, acceptance or approval and shall have the same effect as from the first day of the month following the expiration of a period of one month after the date of the notification.
- 4 Each Party shall maintain a system of labour inspection appropriate to national conditions.

#### *Article B - Links with the European Social Charter and the 1988 Additional Protocol*

- 1 No Contracting Party to the European Social Charter or Party to the Additional Protocol of 5 May 1988 may ratify, accept or approve this Charter without considering itself bound by at least the provisions corresponding to the provisions of the European Social Charter and, where appropriate, of the Additional Protocol, to which it was bound.
- 2 Acceptance of the obligations of any provision of this Charter shall, from the date of entry into force of those obligations for the Party concerned, result in the corresponding provision of the European Social Charter and, where appropriate, of its Additional Protocol of 1988 ceasing to apply to the Party concerned in the event of that Party being bound by the first of those instruments or by both instruments.

#### **Part IV**

##### *Article C - Supervision of the implementation of the undertakings contained in this Charter*

The implementation of the legal obligations contained in this Charter shall be submitted to the same supervision as the European Social Charter.

##### *Article D - Collective complaints*

1 The provisions of the Additional Protocol to the European Social Charter providing for a system of collective complaints shall apply to the undertakings given in this Charter for the States which have ratified the said Protocol.

2 Any State which is not bound by the Additional Protocol to the European Social Charter providing for a system of collective complaints may when depositing its instrument of ratification, acceptance or approval of this Charter or at any time thereafter, declare by notification addressed to the Secretary General of the Council of Europe, that it accepts the supervision of its obligations under this Charter following the procedure provided for in the said Protocol.

#### **Part V**

##### *Article E - Non-discrimination*

The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.

##### *Article F - Derogations in time of war or public emergency*

1 In time of war or other public emergency threatening the life of the nation any Party may take measures derogating from its obligations under this Charter to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

2 Any Party which has availed itself of this right of derogation shall, within a reasonable lapse of time, keep the Secretary General of the Council of Europe fully informed of the measures taken and of the reasons therefor. It shall likewise inform the Secretary General when such measures have ceased to operate and the provisions of the Charter which it has accepted are again being fully executed.

##### *Article G - Restrictions*

1 The rights and principles set forth in Part I when effectively realised, and their effective exercise as provided for in Part II, shall not be subject to any restrictions or limitations not specified in those parts, except such as are prescribed by

law and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals.

2 The restrictions permitted under this Charter to the rights and obligations set forth herein shall not be applied for any purpose other than that for which they have been prescribed.

*Article H - Relations between the Charter and domestic law or international agreements*

The provisions of this Charter shall not prejudice the provisions of domestic law or of any bilateral or multilateral treaties, conventions or agreements which are already in force, or may come into force, under which more favourable treatment would be accorded to the persons protected.

*Article I - Implementation of the undertakings given*

1 Without prejudice to the methods of implementation foreseen in these articles the relevant provisions of Articles 1 to 31 of Part II of this Charter shall be implemented by:

- a laws or regulations;
- b agreements between employers or employers' organisations and workers' organisations;
- c a combination of those two methods;
- d other appropriate means.

2 Compliance with the undertakings deriving from the provisions of paragraphs 1, 2, 3, 4, 5 and 7 of Article 2, paragraphs 4, 6 and 7 of Article 7, paragraphs 1, 2, 3 and 5 of Article 10 and Articles 21 and 22 of Part II of this Charter shall be regarded as effective if the provisions are applied, in accordance with paragraph 1 of this article, to the great majority of the workers concerned.

*Article J - Amendments*

1 Any amendment to Parts I and II of this Charter with the purpose of extending the rights guaranteed in this Charter as well as any amendment to Parts III to VI, proposed by a Party or by the Governmental Committee, shall be communicated to the Secretary General of the Council of Europe and forwarded by the Secretary General to the Parties to this Charter.

2 Any amendment proposed in accordance with the provisions of the preceding paragraph shall be examined by the Governmental Committee which shall submit the text adopted to the Committee of Ministers for approval after consultation with the Parliamentary Assembly. After its approval by the Committee of Ministers this text shall be forwarded to the Parties for acceptance.

3 Any amendment to Part I and to Part II of this Charter shall enter into force, in respect of those Parties which have accepted it, on the first day of the month following the expiration of a period of one month after the date on which three Parties have informed the Secretary General that they have accepted it.

In respect of any Party which subsequently accepts it, the amendment shall enter into force on the first day of the month following the expiration of a period of one month after the date on which that Party has informed the Secretary General of its acceptance.

4 Any amendment to Parts III to VI of this Charter shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

#### **Part VI**

##### *Article K - Signature, ratification and entry into force*

1 This Charter shall be open for signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2 This Charter shall enter into force on the first day of the month following the expiration of a period of one month after the date on which three member States of the Council of Europe have expressed their consent to be bound by this Charter in accordance with the preceding paragraph.

3 In respect of any member State which subsequently expresses its consent to be bound by this Charter, it shall enter into force on the first day of the month following the expiration of a period of one month after the date of the deposit of the instrument of ratification, acceptance or approval.

##### *Article L - Territorial application*

1 This Charter shall apply to the metropolitan territory of each Party. Each signatory may, at the time of signature or of the deposit of its instrument of ratification, acceptance or approval, specify, by declaration addressed to the Secretary General of the Council of Europe, the territory which shall be considered to be its metropolitan territory for this purpose.

2 Any signatory may, at the time of signature or of the deposit of its instrument of ratification, acceptance or approval, or at any time thereafter, declare by notification addressed to the Secretary General of the Council of Europe, that the Charter shall extend in whole or in part to a non-metropolitan territory or territories specified in the said declaration for whose international relations it is responsible or for which it assumes international responsibility. It shall specify



in the declaration the articles or paragraphs of Part II of the Charter which it accepts as binding in respect of the territories named in the declaration.

3 The Charter shall extend its application to the territory or territories named in the aforesaid declaration as from the first day of the month following the expiration of a period of one month after the date of receipt of the notification of such declaration by the Secretary General.

4 Any Party may declare at a later date by notification addressed to the Secretary General of the Council of Europe that, in respect of one or more of the territories to which the Charter has been applied in accordance with paragraph 2 of this article, it accepts as binding any articles or any numbered paragraphs which it has not already accepted in respect of that territory or territories. Such undertakings subsequently given shall be deemed to be an integral part of the original declaration in respect of the territory concerned, and shall have the same effect as from the first day of the month following the expiration of a period of one month after the date of receipt of such notification by the Secretary General.

#### *Article M - Denunciation*

1 Any Party may denounce this Charter only at the end of a period of five years from the date on which the Charter entered into force for it, or at the end of any subsequent period of two years, and in either case after giving six months' notice to the Secretary General of the Council of Europe who shall inform the other Parties accordingly.

2 Any Party may, in accordance with the provisions set out in the preceding paragraph, denounce any article or paragraph of Part II of the Charter accepted by it provided that the number of articles or paragraphs by which this Party is bound shall never be less than sixteen in the former case and sixty-three in the latter and that this number of articles or paragraphs shall continue to include the articles selected by the Party among those to which special reference is made in Article A, paragraph 1, sub-paragraph b.

3 Any Party may denounce the present Charter or any of the articles or paragraphs of Part II of the Charter under the conditions specified in paragraph 1 of this article in respect of any territory to which the said Charter is applicable, by virtue of a declaration made in accordance with paragraph 2 of Article L.

#### *Article N - Appendix*

The appendix to this Charter shall form an integral part of it.

#### *Article O - Notifications*

The Secretary General of the Council of Europe shall notify the member States of the Council and the Director General of the International Labour Office of:

- a any signature;

- b the deposit of any instrument of ratification, acceptance or approval;
- c any date of entry into force of this Charter in accordance with Article K;
- d any declaration made in application of Articles A, paragraphs 2 and 3, D, paragraphs 1 and 2, F, paragraph 2, L, paragraphs 1, 2, 3 and 4;
- e any amendment in accordance with Article J;
- f any denunciation in accordance with Article M;
- g any other act, notification or communication relating to this Charter.

In witness whereof, the undersigned, being duly authorised thereto, have signed this revised Charter.

Done at Strasbourg, this 3rd day of May 1996, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to the Director General of the International Labour Office.

### **Appendix to the Revised European Social Charter**

#### *Scope of the Revised European Social Charter in terms of persons protected*

1 Without prejudice to Article 12, paragraph 4, and Article 13, paragraph 4, the persons covered by Articles 1 to 17 and 20 to 31 include foreigners only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned, subject to the understanding that these articles are to be interpreted in the light of the provisions of Articles 18 and 19.

This interpretation would not prejudice the extension of similar facilities to other persons by any of the Parties.

2 Each Party will grant to refugees as defined in the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 and in the Protocol of 31 January 1967, and lawfully staying in its territory, treatment as favourable as possible, and in any case not less favourable than under the obligations accepted by the Party under the said convention and under any other existing international instruments applicable to those refugees.

3 Each Party will grant to stateless persons as defined in the Convention on the Status of Stateless Persons done in New York on 28 September 1954 and lawfully staying in its territory, treatment as favourable as possible and in any case not less favourable than under the obligations accepted by the Party under the said instrument and under any other existing international instruments applicable to those stateless persons.

**Part I, paragraph 18, and Part II, Article 18, paragraph 1**

It is understood that these provisions are not concerned with the question of entry into the territories of the Parties and do not prejudice the provisions of the European Convention on Establishment, signed in Paris on 13 December 1955.

**Part II**

*Article 1, paragraph 2*

This provision shall not be interpreted as prohibiting or authorising any union security clause or practice.

*Article 2, paragraph 6*

Parties may provide that this provision shall not apply:

- a to workers having a contract or employment relationship with a total duration not exceeding one month and/or with a working week not exceeding eight hours;
- b where the contract or employment relationship is of a casual and/or specific nature, provided, in these cases, that its non-application is justified by objective considerations.

*Article 3, paragraph 4*

It is understood that for the purposes of this provision the functions, organisation and conditions of operation of these services shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.

*Article 4, paragraph 4*

This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

*Article 4, paragraph 5*

It is understood that a Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exceptions being those persons not so covered.

*Article 6, paragraph 4*

It is understood that each Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

*Article 7, paragraph 2*

This provision does not prevent Parties from providing in their legislation that young persons not having reached the minimum age laid down may perform work in so far as it is absolutely necessary for their vocational training where such work is carried out in accordance with conditions prescribed by the competent authority and measures are taken to protect the health and safety of these young persons.

*Article 7, paragraph 8*

It is understood that a Party may give the undertaking required in this paragraph if it fulfils the spirit of the undertaking by providing by law that the great majority of persons under eighteen years of age shall not be employed in night work.

*Article 8, paragraph 2*

This provision shall not be interpreted as laying down an absolute prohibition. Exceptions could be made, for instance, in the following cases:

- a if an employed woman has been guilty of misconduct which justifies breaking off the employment relationship;
- b if the undertaking concerned ceases to operate;
- c if the period prescribed in the employment contract has expired.

*Article 12, paragraph 4*

The words “and subject to the conditions laid down in such agreements” in the introduction to this paragraph are taken to imply *inter alia* that with regard to benefits which are available independently of any insurance contribution, a Party may require the completion of a prescribed period of residence before granting such benefits to nationals of other Parties.

*Article 13, paragraph 4*

Governments not Parties to the European Convention on Social and Medical Assistance may ratify the Charter in respect of this paragraph provided that they grant to nationals of other Parties a treatment which is in conformity with the provisions of the said convention.

*Article 16*

It is understood that the protection afforded in this provision covers single-parent families.

*Article 17*

It is understood that this provision covers all persons below the age of 18 years, unless under the law applicable to the child majority is attained earlier, without

prejudice to the other specific provisions provided by the Charter, particularly Article 7.

This does not imply an obligation to provide compulsory education up to the above-mentioned age.

*Article 19, paragraph 6*

For the purpose of applying this provision, the term “family of a foreign worker” is understood to mean at least the worker’s spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker.

*Article 20*

1 It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor’s benefit, may be excluded from the scope of this article.

2 Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post-natal period, shall not be deemed to be discrimination as referred to in this article.

3 This article shall not prevent the adoption of specific measures aimed at removing *de facto* inequalities.

4 Occupational activities which, by reason of their nature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the scope of this article or some of its provisions. This provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carried out, may be reserved to persons of a particular sex.

*Articles 21 and 22*

1 For the purpose of the application of these articles, the term “workers’ representatives” means persons who are recognised as such under national legislation or practice.

2 The terms “national legislation and practice” embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers’ representatives, customs as well as relevant case law.

3 For the purpose of the application of these articles, the term “undertaking” is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.

4 It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are “undertakings” within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.

5 It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.

6 The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

#### *Article 22*

1 This provision affects neither the powers and obligations of states as regards the adoption of health and safety regulations for workplaces, nor the powers and responsibilities of the bodies in charge of monitoring their application.

2 The terms “social and socio-cultural services and facilities” are understood as referring to the social and/or cultural facilities for workers provided by some undertakings such as welfare assistance, sports fields, rooms for nursing mothers, libraries, children’s holiday camps, etc.

#### *Article 23, paragraph 1*

For the purpose of the application of this paragraph, the term “for as long as possible” refers to the elderly person’s physical, psychological and intellectual capacities.

#### *Article 24*

1 It is understood that for the purposes of this article the terms “termination of employment” and “terminated” mean termination of employment at the initiative of the employer.

2 It is understood that this article covers all workers but that a Party may exclude from some or all of its protection the following categories of employed persons:

- a workers engaged under a contract of employment for a specified period of time or a specified task;
- b workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration;
- c workers engaged on a casual basis for a short period.

3 For the purpose of this article the following, in particular, shall not constitute valid reasons for termination of employment:

- a trade union membership or participation in union activities outside working hours, or, with the consent of the employer, within working hours;
- b seeking office as, acting or having acted in the capacity of a workers' representative;
- c the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
- d race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
- e maternity or parental leave;
- f temporary absence from work due to illness or injury.

4 It is understood that compensation or other appropriate relief in case of termination of employment without valid reasons shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.

#### *Article 25*

1 It is understood that the competent national authority may, by way of exemption and after consulting organisations of employers and workers, exclude certain categories of workers from the protection provided in this provision by reason of the special nature of their employment relationship.

2 It is understood that the definition of the term “insolvency” must be determined by national law and practice.

3 The workers' claims covered by this provision shall include at least:

- a the workers' claims for wages relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or to the termination of employment;
- b the workers' claims for holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred;
- c the workers' claims for amounts due in respect of other types of paid absence relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or the termination of the employment.

4 National laws or regulations may limit the protection of workers' claims to a prescribed amount, which shall be of a socially acceptable level.

*Article 26*

It is understood that this article does not require that legislation be enacted by the Parties.

It is understood that paragraph 2 does not cover sexual harassment.

*Article 27*

It is understood that this article applies to men and women workers with family responsibilities in relation to their dependent children as well as in relation to other members of their immediate family who clearly need their care or support where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity. The terms “dependent children” and “other members of their immediate family who clearly need their care and support” mean persons defined as such by the national legislation of the Party concerned.

*Articles 28 and 29*

For the purpose of the application of this article, the term “workers’ representatives” means persons who are recognised as such under national legislation or practice.

**Part III**

It is understood that the Charter contains legal obligations of an international character, the application of which is submitted solely to the supervision provided for in Part IV thereof.

*Article A, paragraph 1*

It is understood that the numbered paragraphs may include articles consisting of only one paragraph.

*Article B, paragraph 2*

For the purpose of paragraph 2 of Article B, the provisions of the revised Charter correspond to the provisions of the Charter with the same article or paragraph number with the exception of:

- a Article 3, paragraph 2, of the revised Charter which corresponds to Article 3, paragraphs 1 and 3, of the Charter;
- b Article 3, paragraph 3, of the revised Charter which corresponds to Article 3, paragraphs 2 and 3, of the Charter;
- c Article 10, paragraph 5, of the revised Charter which corresponds to Article 10, paragraph 4, of the Charter;
- d Article 17, paragraph 1, of the revised Charter which corresponds to Article 17 of the Charter.



**Part V**

*Article E*

A differential treatment based on an objective and reasonable justification shall not be deemed discriminatory.

*Article F*

The terms “in time of war or other public emergency” shall be so understood as to cover also the threat of war.

*Article I*

It is understood that workers excluded in accordance with the appendix to Articles 21 and 22 are not taken into account in establishing the number of workers concerned.

*Article J*

The term “amendment” shall be extended so as to cover also the addition of new articles to the Charter.



**European Treaty Series – No. 144**

## **Convention on the Participation of Foreigners in Public Life at Local Level**

*Strasbourg, 5.II.1992*

### **Preamble**

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress while respecting human rights and fundamental freedoms;

Reaffirming their commitment to the universal and indivisible nature of human rights and fundamental freedoms based on the dignity of all human beings;

Having regard to Articles 10, 11, 16 and 60 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Considering that the residence of foreigners on the national territory is now a permanent feature of European societies;

Considering that foreign residents generally have the same duties as citizens at local level;

Aware of the active participation of foreign residents in the life of the local community and the development of its prosperity, and convinced of the need to improve their integration into the local community, especially by enhancing the possibilities for them to participate in local public affairs,

Have agreed as follows:

### **Part I**

#### *Article 1*

1 Each Party shall apply the provisions of Chapters A, B, and C.

However, any Contracting State may declare, when depositing its instrument of ratification, acceptance, approval or accession, that it reserves the right not to apply the provisions of either Chapter B or Chapter C or both.

2 Each Party which has declared that it will apply one or two chapters only may, at any subsequent time, notify the Secretary General that it agrees to apply the

provisions of the chapter or chapters which it had not accepted at the moment of depositing its instrument of ratification, acceptance, approval or accession.

*Article 2*

For the purposes of this Convention, the term “foreign residents” means persons who are not nationals of the State and who are lawfully resident on its territory.

***Chapter A – Freedoms of expression, assembly and association***

*Article 3*

Each Party undertakes, subject to the provisions of Article 9, to guarantee to foreign residents, on the same terms as to its own nationals:

- a the right to freedom of expression; this right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises;
- b the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of their interests. In particular, the right to freedom of association shall imply the right of foreign residents to form local associations of their own for purposes of mutual assistance, maintenance and expression of their cultural identity or defence of their interests in relation to matters falling within the province of the local authority, as well as the right to join any association.

*Article 4*

Each Party shall endeavour to ensure that reasonable efforts are made to involve foreign residents in public inquiries, planning procedures and other processes of consultation on local matters.

***Chapter B – Consultative bodies to represent foreign residents at local level***

*Article 5*

- 1 Each Party undertakes, subject to the provisions of Article 9, paragraph 1:
  - a to ensure that there are no legal or other obstacles to prevent local authorities in whose area there is a significant number of foreign residents from setting up consultative bodies or making other appropriate institutional arrangements designed:
    - i to form a link between themselves and such residents,
    - ii to provide a forum for the discussion and formulation of the opinions, wishes and concerns of foreign residents on matters which particularly affect them in relation to local public life, including the activities and responsibilities of the local authority concerned, and

- iii to foster their general integration into the life of the community;
    - b to encourage and facilitate the establishment of such consultative bodies or the making of other appropriate institutional arrangements for the representation of foreign residents by local authorities in whose area there is a significant number of foreign residents.
- 2 Each Party shall ensure that representatives of foreign residents participating in the consultative bodies or other institutional arrangements referred to in paragraph 1 can be elected by the foreign residents in the local authority area or appointed by individual associations of foreign residents.

### ***Chapter C – Right to vote in local authority elections***

#### *Article 6*

- 1 Each Party undertakes, subject to the provisions of Article 9, paragraph 1, to grant to every foreign resident the right to vote and to stand for election in local authority elections, provided that he fulfils the same legal requirements as apply to nationals and furthermore has been a lawful and habitual resident in the State concerned for the 5 years preceding the elections.
- 2 However, a Contracting State may declare, when depositing its instrument of ratification, acceptance, approval or accession, that it intends to confine the application of paragraph 1 to the right to vote only.

#### *Article 7*

Each Party may, either unilaterally or by bilateral or multilateral agreement, stipulate that the residence requirements laid down in Article 6 are satisfied by a shorter period of residence.

## **Part II**

#### *Article 8*

Each Party shall endeavour to ensure that information is available to foreign residents concerning their rights and obligations in relation to local public life.

#### *Article 9*

- 1 In time of war or other public emergency threatening the life of the nation, the rights accorded to foreign residents under Part I may be subjected to further restrictions to the extent strictly required by the exigencies of the situation, provided that such restrictions are not inconsistent with the Party's other obligations under international law.
- 2 As the right recognised by Article 3.a carries with it duties and responsibilities, it may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of dis-

order or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

3 The right recognised by Article 3.b may not be subject to any restrictions other than such as are prescribed by law and are necessary in a democratic society, in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

4 Any measure taken in accordance with the present article must be notified to the Secretary General of the Council of Europe, who shall inform the other Parties. The same procedure shall apply when such measures are revoked.

5 Nothing in this Convention shall be construed as limiting or derogating from any of the rights which may be guaranteed under the laws of any Party or under any other treaty to which it is a party.

#### *Article 10*

Each Party shall inform the Secretary General of the Council of Europe of any legislative provision or other measure adopted by the competent authorities on its territory which relates to its undertakings under the terms of this Convention.

### **Part III**

#### *Article 11*

This Convention shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

#### *Article 12*

1 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which four member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of Article 11.

2 In respect of any member State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

#### *Article 13*

1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council of

Europe to accede to this Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee.

2 In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

#### *Article 14*

Undertakings subsequently given by Parties to the Convention in accordance with Article 1, paragraph 2, shall be deemed to be an integral part of the ratification, acceptance, approval or accession of the Party so notifying, and shall have the same effect as from the first day of the month following the expiration of a period of three months after the date of the receipt of the notification by the Secretary General.

#### *Article 15*

The provisions of this Convention shall apply to all the categories of local authorities existing within the territory of each Party. However, each Contracting State may, when depositing its instrument of ratification, acceptance, approval or accession, specify the categories of territorial authorities to which it intends to confine the scope of this Convention or which it intends to exclude from its scope.

#### *Article 16*

1 Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2 Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notification by the Secretary General.

*Article 17*

No reservation may be made in respect of the provisions of this Convention, other than that mentioned in Article 1, paragraph 1.

*Article 18*

1 Any Party may at any time denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2 Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

*Article 19*

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Convention of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Convention in accordance with Articles 12, 13 and 16;
- d any notification received in application of the provisions of Article 1, paragraph 2;
- e any notification received in application of the provisions of Article 9, paragraph 4;
- f any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this 5th day of February 1992, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to accede to this Convention.



**European Treaty Series – No. 166**

## **European Convention on Nationality**

*Strasbourg, 6.XI.1997*

### **Preamble**

The member States of the Council of Europe and the other States signatory to this Convention,

Considering that the aim of the Council of Europe is to achieve greater unity between its members;

Bearing in mind the numerous international instruments relating to nationality, multiple nationality and statelessness;

Recognising that, in matters concerning nationality, account should be taken both of the legitimate interests of States and those of individuals;

Desiring to promote the progressive development of legal principles concerning nationality, as well as their adoption in internal law and desiring to avoid, as far as possible, cases of statelessness;

Desiring to avoid discrimination in matters relating to nationality;

Aware of the right to respect for family life as contained in Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Noting the varied approach of States to the question of multiple nationality and recognising that each State is free to decide which consequences it attaches in its internal law to the fact that a national acquires or possesses another nationality;

Agreeing on the desirability of finding appropriate solutions to consequences of multiple nationality and in particular as regards the rights and duties of multiple nationals;

Considering it desirable that persons possessing the nationality of two or more States Parties should be required to fulfil their military obligations in relation to only one of those Parties;

Considering the need to promote international co-operation between the national authorities responsible for nationality matters,

Have agreed as follows:

## **Chapter I – General matters**

### *Article 1 – Object of the Convention*

This Convention establishes principles and rules relating to the nationality of natural persons and rules regulating military obligations in cases of multiple nationality, to which the internal law of States Parties shall conform.

### *Article 2 – Definitions*

For the purpose of this Convention:

- a “nationality” means the legal bond between a person and a State and does not indicate the person’s ethnic origin;
- b “multiple nationality” means the simultaneous possession of two or more nationalities by the same person;
- c “child” means every person below the age of 18 years unless, under the law applicable to the child, majority is attained earlier;
- d “internal law” means all types of provisions of the national legal system, including the constitution, legislation, regulations, decrees, case-law, customary rules and practice as well as rules deriving from binding international instruments.

## **Chapter II – General principles relating to nationality**

### *Article 3 – Competence of the State*

- 1 Each State shall determine under its own law who are its nationals.
- 2 This law shall be accepted by other States in so far as it is consistent with applicable international conventions, customary international law and the principles of law generally recognised with regard to nationality.

### *Article 4 – Principles*

The rules on nationality of each State Party shall be based on the following principles:

- a everyone has the right to a nationality;
- b statelessness shall be avoided;
- c no one shall be arbitrarily deprived of his or her nationality;
- d neither marriage nor the dissolution of a marriage between a national of a State Party and an alien, nor the change of nationality by one of the spouses during marriage, shall automatically affect the nationality of the other spouse.

*Article 5 – Non-discrimination*

1 The rules of a State Party on nationality shall not contain distinctions or include any practice which amount to discrimination on the grounds of sex, religion, race, colour or national or ethnic origin.

2 Each State Party shall be guided by the principle of non-discrimination between its nationals, whether they are nationals by birth or have acquired its nationality subsequently.

**Chapter III – Rules relating to nationality**

*Article 6 – Acquisition of nationality*

1 Each State Party shall provide in its internal law for its nationality to be acquired ex lege by the following persons:

- a children one of whose parents possesses, at the time of the birth of these children, the nationality of that State Party, subject to any exceptions which may be provided for by its internal law as regards children born abroad. With respect to children whose parenthood is established by recognition, court order or similar procedures, each State Party may provide that the child acquires its nationality following the procedure determined by its internal law;
- b foundlings found in its territory who would otherwise be stateless.

2 Each State Party shall provide in its internal law for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality. Such nationality shall be granted:

- a at birth ex lege; or
- b subsequently, to children who remained stateless, upon an application being lodged with the appropriate authority, by or on behalf of the child concerned, in the manner prescribed by the internal law of the State Party. Such an application may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years immediately preceding the lodging of the application.

3 Each State Party shall provide in its internal law for the possibility of naturalisation of persons lawfully and habitually resident on its territory. In establishing the conditions for naturalisation, it shall not provide for a period of residence exceeding ten years before the lodging of an application.

4 Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons:

- a spouses of its nationals;
- b children of one of its nationals, falling under the exception of Article 6, paragraph 1, sub-paragraph a;
- c children one of whose parents acquires or has acquired its nationality;

- d children adopted by one of its nationals;
- e persons who were born on its territory and reside there lawfully and habitually;
- f persons who are lawfully and habitually resident on its territory for a period of time beginning before the age of 18, that period to be determined by the internal law of the State Party concerned;
- g stateless persons and recognised refugees lawfully and habitually resident on its territory.

*Article 7 – Loss of nationality ex lege or at the initiative of a State Party*

1 A State Party may not provide in its internal law for the loss of its nationality ex lege or at the initiative of the State Party except in the following cases:

- a voluntary acquisition of another nationality;
- b acquisition of the nationality of the State Party by means of fraudulent conduct, false information or concealment of any relevant fact attributable to the applicant;
- c voluntary service in a foreign military force;
- d conduct seriously prejudicial to the vital interests of the State Party;
- e lack of a genuine link between the State Party and a national habitually residing abroad;
- f where it is established during the minority of a child that the preconditions laid down by internal law which led to the ex lege acquisition of the nationality of the State Party are no longer fulfilled;
- g adoption of a child if the child acquires or possesses the foreign nationality of one or both of the adopting parents.

2 A State Party may provide for the loss of its nationality by children whose parents lose that nationality except in cases covered by sub-paragraphs c and d of paragraph 1. However, children shall not lose that nationality if one of their parents retains it.

3 A State Party may not provide in its internal law for the loss of its nationality under paragraphs 1 and 2 of this article if the person concerned would thereby become stateless, with the exception of the cases mentioned in paragraph 1, sub-paragraph b, of this article.

*Article 8 – Loss of nationality at the initiative of the individual*

1 Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless.

2 However, a State Party may provide in its internal law that renunciation may be effected only by nationals who are habitually resident abroad.

*Article 9 – Recovery of nationality*

Each State Party shall facilitate, in the cases and under the conditions provided for by its internal law, the recovery of its nationality by former nationals who are lawfully and habitually resident on its territory.

**Chapter IV – Procedures relating to nationality**

*Article 10 – Processing of applications*

Each State Party shall ensure that applications relating to the acquisition, retention, loss, recovery or certification of its nationality be processed within a reasonable time.

*Article 11 – Decisions*

Each State Party shall ensure that decisions relating to the acquisition, retention, loss, recovery or certification of its nationality contain reasons in writing.

*Article 12 – Right to a review*

Each State Party shall ensure that decisions relating to the acquisition, retention, loss, recovery or certification of its nationality be open to an administrative or judicial review in conformity with its internal law.

*Article 13 – Fees*

1 Each State Party shall ensure that the fees for the acquisition, retention, loss, recovery or certification of its nationality be reasonable.

2 Each State Party shall ensure that the fees for an administrative or judicial review be not an obstacle for applicants.

**Chapter V – Multiple nationality**

*Article 14 – Cases of multiple nationality ex lege*

1 A State Party shall allow:

- a children having different nationalities acquired automatically at birth to retain these nationalities;
- b its nationals to possess another nationality where this other nationality is automatically acquired by marriage.

2 The retention of the nationalities mentioned in paragraph 1 is subject to the relevant provisions of Article 7 of this Convention.

*Article 15 – Other possible cases of multiple nationality*

The provisions of this Convention shall not limit the right of a State Party to determine in its internal law whether:

- a its nationals who acquire or possess the nationality of another State retain its nationality or lose it;
- b the acquisition or retention of its nationality is subject to the renunciation or loss of another nationality.

*Article 16 – Conservation of previous nationality*

A State Party shall not make the renunciation or loss of another nationality a condition for the acquisition or retention of its nationality where such renunciation or loss is not possible or cannot reasonably be required.

*Article 17 – Rights and duties related to multiple nationality*

1 Nationals of a State Party in possession of another nationality shall have, in the territory of that State Party in which they reside, the same rights and duties as other nationals of that State Party.

- 2 The provisions of this chapter do not affect:
- a the rules of international law concerning diplomatic or consular protection by a State Party in favour of one of its nationals who simultaneously possesses another nationality;
  - b the application of the rules of private international law of each State Party in cases of multiple nationality.

**Chapter VI – State succession and nationality**

*Article 18 – Principles*

1 In matters of nationality in cases of State succession, each State Party concerned shall respect the principles of the rule of law, the rules concerning human rights and the principles contained in Articles 4 and 5 of this Convention and in paragraph 2 of this article, in particular in order to avoid statelessness.

2 In deciding on the granting or the retention of nationality in cases of State succession, each State Party concerned shall take account in particular of:

- a the genuine and effective link of the person concerned with the State;
- b the habitual residence of the person concerned at the time of State succession;
- c the will of the person concerned;
- d the territorial origin of the person concerned.

3 Where the acquisition of nationality is subject to the loss of a foreign nationality, the provisions of Article 16 of this Convention shall apply.

*Article 19 – Settlement by international agreement*

In cases of State succession, States Parties concerned shall endeavour to regulate matters relating to nationality by agreement amongst themselves and, where

applicable, in their relationship with other States concerned. Such agreements shall respect the principles and rules contained or referred to in this chapter.

*Article 20 – Principles concerning non-nationals*

- 1 Each State Party shall respect the following principles:
  - a nationals of a predecessor State habitually resident in the territory over which sovereignty is transferred to a successor State and who have not acquired its nationality shall have the right to remain in that State;
  - b persons referred to in sub-paragraph a shall enjoy equality of treatment with nationals of the successor State in relation to social and economic rights.
- 2 Each State Party may exclude persons considered under paragraph 1 from employment in the public service involving the exercise of sovereign powers.

**Chapter VII – Military obligations in cases of multiple nationality**

*Article 21 – Fulfilment of military obligations*

- 1 Persons possessing the nationality of two or more States Parties shall be required to fulfil their military obligations in relation to one of those States Parties only.
- 2 The modes of application of paragraph 1 may be determined by special agreements between any of the States Parties.
- 3 Except where a special agreement which has been, or may be, concluded provides otherwise, the following provisions are applicable to persons possessing the nationality of two or more States Parties:
  - a Any such person shall be subject to military obligations in relation to the State Party in whose territory they are habitually resident. Nevertheless, they shall be free to choose, up to the age of 19 years, to submit themselves to military obligations as volunteers in relation to any other State Party of which they are also nationals for a total and effective period at least equal to that of the active military service required by the former State Party;
  - b Persons who are habitually resident in the territory of a State Party of which they are not nationals or in that of a State which is not a State Party may choose to perform their military service in the territory of any State Party of which they are nationals;
  - c Persons who, in accordance with the rules laid down in paragraphs a and b, shall fulfil their military obligations in relation to one State Party, as prescribed by the law of that State Party, shall be deemed to have fulfilled their military obligations in relation to any other State Party or States Parties of which they are also nationals;
  - d Persons who, before the entry into force of this Convention between the States Parties of which they are nationals, have, in relation to one of those

States Parties, fulfilled their military obligations in accordance with the law of that State Party, shall be deemed to have fulfilled the same obligations in relation to any other State Party or States Parties of which they are also nationals;

- e Persons who, in conformity with paragraph a, have performed their active military service in relation to one of the States Parties of which they are nationals, and subsequently transfer their habitual residence to the territory of the other State Party of which they are nationals, shall be liable to military service in the reserve only in relation to the latter State Party;
- f The application of this article shall not prejudice, in any respect, the nationality of the persons concerned;
- g In the event of mobilisation by any State Party, the obligations arising under this article shall not be binding upon that State Party.

*Article 22 – Exemption from military obligations or alternative civil service*

Except where a special agreement which has been, or may be, concluded provides otherwise, the following provisions are also applicable to persons possessing the nationality of two or more States Parties:

- a Article 21, paragraph 3, sub-paragraph c, of this Convention shall apply to persons who have been exempted from their military obligations or have fulfilled civil service as an alternative;
- b persons who are nationals of a State Party which does not require obligatory military service shall be considered as having satisfied their military obligations when they have their habitual residence in the territory of that State Party. Nevertheless, they should be deemed not to have satisfied their military obligations in relation to a State Party or States Parties of which they are equally nationals and where military service is required unless the said habitual residence has been maintained up to a certain age, which each State Party concerned shall notify at the time of signature or when depositing its instruments of ratification, acceptance or accession;
- c also persons who are nationals of a State Party which does not require obligatory military service shall be considered as having satisfied their military obligations when they have enlisted voluntarily in the military forces of that Party for a total and effective period which is at least equal to that of the active military service of the State Party or States Parties of which they are also nationals without regard to where they have their habitual residence.

**Chapter VIII – Co-operation between the States Parties**

*Article 23 – Co-operation between the States Parties*

1 With a view to facilitating co-operation between the States Parties, their competent authorities shall:



- a provide the Secretary General of the Council of Europe with information about their internal law relating to nationality, including instances of statelessness and multiple nationality, and about developments concerning the application of the Convention;
- b provide each other upon request with information about their internal law relating to nationality and about developments concerning the application of the Convention.

2 States Parties shall co-operate amongst themselves and with other member States of the Council of Europe within the framework of the appropriate inter-governmental body of the Council of Europe in order to deal with all relevant problems and to promote the progressive development of legal principles and practice concerning nationality and related matters.

#### *Article 24 – Exchange of information*

Each State Party may at any time declare that it shall inform any other State Party, having made the same declaration, of the voluntary acquisition of its nationality by nationals of the other State Party, subject to applicable laws concerning data protection. Such a declaration may indicate the conditions under which the State Party will give such information. The declaration may be withdrawn at any time.

### **Chapter IX – Application of the Convention**

#### *Article 25 – Declarations concerning the application of the Convention*

- 1 Each State may declare, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, that it will exclude Chapter VII from the application of the Convention.
- 2 The provisions of Chapter VII shall be applicable only in the relations between States Parties for which it is in force.
- 3 Each State Party may, at any subsequent time, notify the Secretary General of the Council of Europe that it will apply the provisions of Chapter VII excluded at the time of signature or in its instrument of ratification, acceptance, approval or accession. This notification shall become effective as from the date of its receipt.

#### *Article 26 – Effects of this Convention*

- 1 The provisions of this Convention shall not prejudice the provisions of internal law and binding international instruments which are already in force or may come into force, under which more favourable rights are or would be accorded to individuals in the field of nationality.
- 2 This Convention does not prejudice the application of:

- a the 1963 Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality and its Protocols;
  - b other binding international instruments in so far as such instruments are compatible with this Convention,
- in the relationship between the States Parties bound by these instruments.

## **Chapter X – Final clauses**

### *Article 27 – Signature and entry into force*

1 This Convention shall be open for signature by the member States of the Council of Europe and the non-member States which have participated in its elaboration. Such States may express their consent to be bound by:

- a signature without reservation as to ratification, acceptance or approval; or
- b signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2 This Convention shall enter into force, for all States having expressed their consent to be bound by the Convention, on the first day of the month following the expiration of a period of three months after the date on which three member States of the Council of Europe have expressed their consent to be bound by this Convention in accordance with the provisions of the preceding paragraph.

3 In respect of any State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of signature or of the deposit of its instrument of ratification, acceptance or approval.

### *Article 28 – Accession*

1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any non-member State of the Council of Europe which has not participated in its elaboration to accede to this Convention.

2 In respect of any acceding State, this Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

### *Article 29 – Reservations*

1 No reservations may be made to any of the provisions contained in Chapters I, II and VI of this Convention. Any State may, at the time of signature

or when depositing its instrument of ratification, acceptance, approval or accession, make one or more reservations to other provisions of the Convention so long as they are compatible with the object and purpose of this Convention.

2 Any State which makes one or more reservations shall notify the Secretary General of the Council of Europe of the relevant contents of its internal law or of any other relevant information.

3 A State which has made one or more reservations in accordance with paragraph 1 shall consider withdrawing them in whole or in part as soon as circumstances permit. Such withdrawal shall be made by means of a notification addressed to the Secretary General of the Council of Europe and shall become effective as from the date of its receipt.

4 Any State which extends the application of this Convention to a territory mentioned in the declaration referred to in Article 30, paragraph 2, may, in respect of the territory concerned, make one or more reservations in accordance with the provisions of the preceding paragraphs.

5 A State Party which has made reservations in respect of any of the provisions in Chapter VII of the Convention may not claim application of the said provisions by another State Party save in so far as it has itself accepted these provisions.

#### *Article 30 – Territorial application*

1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2 Any State may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

#### *Article 31 – Denunciation*

1 Any State Party may at any time denounce the Convention as a whole or Chapter VII only by means of a notification addressed to the Secretary General of the Council of Europe.

2 Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of notification by the Secretary General.

*Article 32 – Notifications by the Secretary General*

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any Signatory, any Party and any other State which has acceded to this Convention of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Convention in accordance with Articles 27 or 28 of this Convention;
- d any reservation and withdrawal of reservations made in pursuance of the provisions of Article 29 of this Convention;
- e any notification or declaration made under the provisions of Articles 23, 24, 25, 27, 28, 29, 30 and 31 of this Convention;
- f any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this sixth day of November 1997, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention and to any State invited to accede to this Convention.

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