

No. 7301

---

**NETHERLANDS  
and  
SPAIN**

**Convention (with Final Protocol) on social security. Signed  
at Madrid, on 17 December 1962**

*Official texts: Dutch and Spanish.*

*Registered by the Netherlands on 8 June 1964.*

---

**PAYS-BAS  
et  
ESPAGNE**

**Convention (avec Protocole final) sur la sécurité sociale.  
Signée à Madrid, le 17 décembre 1962**

*Textes officiels néerlandais et espagnol.*

*Enregistrée par les Pays-Bas le 8 juin 1964.*

## [TRANSLATION — TRADUCTION]

No. 7301. CONVENTION<sup>1</sup> BETWEEN THE KINGDOM OF  
THE NETHERLANDS AND THE SPANISH STATE ON  
SOCIAL SECURITY. SIGNED AT MADRID, ON 17  
DECEMBER 1962

---

Her Majesty the Queen of the Netherlands and  
His Excellency the Head of the Spanish State,  
Desiring to regulate relations between the two States in the matter of social  
security;

Have decided to conclude a convention with this object and, for this purpose,  
have appointed as their plenipotentiaries :

Her Majesty the Queen of the Netherlands :

Jonkheer W. E. van Panhuys, Ambassador Extraordinary and Plenipoten-  
tiary at Madrid;

His Excellency the Head of the Spanish State :

His Excellency Mr. Fernando María Castiella y Maíz, Minister for Foreign  
Affairs,

Who, having exchanged their full powers, found in good and due form,  
have agreed on the following provisions :

## TITLE I

## GENERAL PROVISIONS

*Article 1*

1. This Convention shall apply :

(a) In Spain, to the legislation concerning :

1. Sickness, maternity and death (funeral benefit) insurance;
2. Invalidity, old age and survivors' insurance;
3. Industrial accident and occupational disease insurance;
4. Family allowances, widows', orphans' and educational allowances, and  
bonuses for marriage, birth and motherhood;
5. The special schemes for particular categories of employed persons, in so far  
as relates to the risks or benefits covered by the legislation specified above;

---

<sup>1</sup> Came into force on 1 November 1963, the first day of the month following the exchange of the instruments of ratification which took place at The Hague on 31 October 1963, in accordance with the provisions of articles 44 and 45.

6. Unemployment insurance;
7. The workers' mutual benefit scheme (Mutualismo Laboral).

(b) In the Netherlands, to the legislation concerning :

1. Sickness insurance (benefits in cash and in kind in respect of sickness and maternity);
2. Invalidity, old age and early death insurance for employed persons, including annuity increments;
3. General old age insurance;
4. General widows' and orphans' insurance;
5. Industrial accident and occupational disease insurance, including annuity increments;
6. Unemployment insurance;
7. Family allowances;
8. The special schemes for persons employed by coal-mining enterprises.

The term "legislation" shall, where appropriate, be construed to include regulations and ordinances.

2. This Convention shall also apply to all laws or regulations by which the legislation specified in paragraph 1 of this article has been or may be amended or supplemented.

This Convention shall also apply to :

- (a) Laws or regulations covering a new branch of social insurance, provided that an agreement to that effect is concluded between the Contracting Parties;
- (b) Laws or regulations extending existing schemes to new categories of beneficiaries, provided that the Government of the Contracting Party concerned raises no objection within a period of three months after the date of notification of the official publication of such laws or regulations.

## *Article 2*

1. The provisions of this Convention shall apply to employed persons or persons treated as such who are or have been subject to the legislation of one of the Contracting Parties and are nationals of one of the Parties, and to the members of their families and their survivors.

2. The provisions of this Convention shall not apply to members of diplomatic or consular missions or to chancellery officials, if any, provided that they are nationals of the sending State.

*Article 3*

Nationals of one of the Contracting Parties to whom the provisions of this Convention apply shall be subject to the requirements and entitled to the advantages of the legislation specified in article 1 on the same conditions as nationals of the other Party.

*Article 4*

1. Subject to the provisions of article 25, pensions or annuities, including increments, acquired under the legislation of one of the Contracting Parties shall not be reduced, modified, suspended, discontinued or withheld on the ground that the beneficiary is resident in the territory of the Contracting Party other than that in whose territory the institution liable for the benefit is situated.

2. Social insurance benefits of one of the Contracting Parties shall be paid to nationals of the other Contracting Party resident in the territory of a third State on the same conditions and to the same extent as to nationals of the first-mentioned Party resident in the territory of that third State.

*Article 5*

1. The provisions of this Convention shall not operate to confer or maintain any right to receive, under the legislation of the Contracting Parties, more than one benefit of the same nature or more than one benefit relating to the same insurance period or equivalent period, save where, under the invalidity, old age and death (pensions) insurance schemes, liability for payment is divided between the institutions of both Contracting Parties.

2. The provisions of the legislation of one Contracting Party concerning the reduction or suspension of benefits in the event that the beneficiary is simultaneously in receipt of other social security benefits or other income or carries on an occupation shall apply to him even where the benefits in question are payable under a scheme of the other Contracting Party or where the income is received or the occupation carried on in the territory of the other Contracting Party.

3. Where the application of this rule results in the reduction or suspension of the benefits payable under the legislation of both Contracting Parties, the amount of each such benefit affected by the reduction or suspension shall not exceed one half of the amount which is not to be paid.

4. The provisions of the preceding paragraph shall not, however, apply in cases where benefits of the same nature are payable under articles 18 and 19 of this Convention.

5. Where the application of paragraph 2 results in the reduction or suspension of a benefit awarded under articles 18 and 19, account shall be taken, for the purpose of such reduction or suspension, only of such part of the benefits, income or remuneration as is determined in proportion to the duration of the periods completed in accordance with the provisions of article 19, paragraph 1, sub-paragraph (b).

## TITLE II

### PROVISIONS TO DETERMINE WHICH LEGISLATION IS APPLICABLE

#### *Article 6*

Subject to the provisions of this title, an employed person or a person treated as such who is employed in the territory of one of the Contracting Parties shall be subject to the legislation of that Party, even if he is still deemed to be resident in the territory of the other Party or his employer or the principal place of business of the enterprise which employs him is in the territory of the other Party.

#### *Article 7*

The principle laid down in the preceding article shall be subject to the following exceptions :

- (a) An employed person or a person treated as such who is resident in the territory of one of the Contracting Parties and is sent to the territory of the other Contracting Party by the enterprise which normally employs him in the territory of the first-mentioned Party shall remain subject to the legislation of the first-mentioned Party, as though he were employed in its territory, for the first twelve months of his employment in the territory of the other Party; if the duration of such employment exceeds twelve months, the legislation of the first-mentioned Party shall continue to apply for a further period of not more than twelve months, provided that the competent authority of the other Party has given its consent before the end of the first twelve-month period;
- (b) An employed person or a person treated as such who is in the service of an enterprise engaged, on behalf of others or on its own account, in the transport of passengers or goods by rail, road, air or water or in maritime fishing, with its principal place of business in the territory of one of the Contracting Parties, and who is employed in a travelling or sea-going capacity shall be subject to the legislation of the Contracting Party in whose territory the enterprise has its principal place of business; if, however, the enterprise has a branch or a permanent agency in the territory of the other

Contracting Party, persons employed by such branch or permanent agency shall be subject to the legislation of the Contracting Party in whose territory the branch or permanent agency is situated.

#### *Article 8*

1. Subject to the provisions of article 2, paragraph 2, the provisions of article 6 shall apply to employed persons or persons treated as such who are employed at the diplomatic or consular missions of the Contracting Parties or are in the personal employ of the officers of such missions.

2. However, an employed person as specified in paragraph 1 of this article who is a national of the Contracting Party represented by the diplomatic or consular mission in question may, within a period of three months after the start of his employment or the entry into force of this Convention, elect to be subject to the legislation of the sending State.

#### *Article 9*

The competent authorities of the Contracting Parties may, by agreement, make exceptions to the provisions of articles 6 to 8 of this Convention, for specific employed persons or groups of employed persons, as regards the applicable legislation.

### TITLE III

## SPECIAL PROVISIONS

### *Chapter 1*

#### SICKNESS, MATERNITY AND DEATH (FUNERAL BENEFIT)

#### *Article 10*

For the purposes of the acquisition, maintenance or recovery of the right to benefits, where an employed person or a person treated as such has been subject successively or alternately to the legislation of both Contracting Parties, the insurance periods and equivalent periods completed under the legislation of each of the Contracting Parties shall be aggregated, provided that they do not overlap.

#### *Article 11*

1. An employed person or a person treated as such who has completed insurance periods or equivalent periods under the legislation of one of the Contracting Parties and who moves to the territory of the other Contracting Party shall be entitled, for himself and for such members of his family as are

in that territory, to the benefits provided for by the legislation of the latter Contracting Party, provided that :

- (a) He was fit for employment when he last entered the territory of the latter Contracting Party;
- (b) He has been subject to compulsory insurance since he last entered that territory;
- (c) He satisfies the conditions imposed by the legislation of the latter Contracting Party, account being taken of the aggregation of periods referred to in the preceding article.

2. Where, in the cases specified in paragraph 1 of this article, an employed person or a person treated as such does not satisfy the conditions laid down in sub-paragraphs (a), (b) and (c) of that paragraph, and where he would still be entitled to benefits under the legislation of the Contracting Party in whose territory he was last insured before his change of residence if he were in that territory, he shall remain entitled to benefits for a period of twenty-one days from the last day on which he was subject to the compulsory insurance scheme of that Party. The institution of that Party may request the institution of the place of residence to provide benefits in kind in accordance with the legislation applied by the latter institution.

#### *Article 12*

1. An employed person or a person treated as such who is insured with an institution of one of the Contracting Parties and is resident in the territory of that Party shall be entitled to benefits during a temporary stay in the territory of the other Contracting Party if his state of health necessitates immediate medical treatment, including admission to hospital.

2. An employed person or a person treated as such who has acquired the right to benefits from an institution of one of the Contracting Parties and who is resident in the territory of that Party shall retain that right if he transfers his residence to the territory of the other Contracting Party; before transferring his residence, however, he must obtain the consent of the competent institution, which shall take due account of the reasons for the transfer.

3. Where an employed person or a person treated as such is entitled to benefits under the provisions of the preceding paragraphs, benefits in kind shall be provided by the institution of his new or temporary place of residence in accordance with the provisions of the legislation applied by that institution, particularly as regards the scale of such benefits and the manner of providing them; the duration of such benefits shall, however, be that prescribed by the legislation of the competent country.

4. In the cases specified in paragraphs 1 and 2 of this article, the provision of prosthesis, of large prosthetic appliances and of other major benefits in kind

shall be subject, except in cases of unmistakable urgency, to prior authorization by the competent institution.

5. In the cases specified in paragraphs 1 and 2 of this article, cash benefits shall be paid in accordance with the legislation of the competent country. Such benefits may be paid by the institution of the other country as agent for the competent institution according to rules to be laid down in an administrative agreement.

6. The provisions of the preceding paragraphs shall apply *mutatis mutandis* to family members in cases where they are staying temporarily in the territory of the other Contracting Party or where they transfer their residence to the territory of the other Contracting Party after falling sick or becoming pregnant.

#### Article 13

1. Members of the family of an employed person or of a person treated as such who is insured with an institution of one of the Contracting Parties shall, when resident in the territory of the other Contracting Party, be entitled to benefits in kind as though the employed person were insured with the institution of their place of residence. The scale and duration of such benefits and the manner of providing them shall be determined in accordance with the provisions of the legislation applied by the latter institution.

2. Where family members transfer their residence to the territory of the competent country, they shall be entitled to benefits in accordance with the provisions of the legislation of that country. This rule shall also apply where the family members have already received, in respect of the same case of sickness or the same pregnancy, benefits provided by the institutions of the Contracting Party in whose territory they were resident before the transfer; if the legislation applied by the competent institution prescribes a maximum duration for the provision of benefits, the period for which benefits were provided immediately before the transfer of residence shall be taken into account.

3. The provisions of this article shall not apply to family members as specified in paragraph 1 of this article who carry on an occupation in their country of residence or who receive a pension or annuity which entitles them to benefits in kind.

#### Article 14

Where the application of this chapter would entitle an employed person or a person treated as such, or a member of his family, to maternity benefits under the legislation of both Contracting Parties, the beneficiary shall be subject to the legislation in force in the territory of the Contracting Party in which



the birth takes place, account being taken, so far as necessary, of the aggregation of periods referred to in article 10 of this Convention.

#### *Article 15*

1. Where a person in receipt of pensions or annuities payable under the legislation of both Contracting Parties is resident in the territory of one of the Contracting Parties and is entitled to benefits in kind under the legislation of that Party, such benefits shall be provided for him and for members of his family by the institution of his place of residence as though he were in receipt of a pension or annuity payable solely under the legislation of his country of residence. The cost of such benefits shall be borne by the institution of the place of residence.

2. Where a person in receipt of a pension or annuity payable under the legislation of one of the Contracting Parties is resident in the territory of the other Contracting Party, any benefits in kind to which he may be entitled under the legislation of the first-mentioned Party shall be provided for him and for members of his family by the institution of his place of residence.

3. If the legislation of one Contracting Party provides, in order to cover the cost of benefits in kind, for contributory deductions from the amounts payable to a pensioner or annuitant, the institution which is liable for the pension or annuity and for the cost of the benefits in kind shall be empowered to make such deductions in the cases specified in this article.

#### *Article 16*

1. The cost of benefits in kind provided under article 11, paragraph 2, article 12, paragraphs 1, 2 and 6, article 13, paragraph 1, and article 15, paragraph 2, of this Convention shall be repaid by the competent institutions to the institutions which provided the said benefits.

2. The amount due shall be determined and repaid according to rules to be laid down in an administrative agreement; the repayment may be made in lump sums.

#### *Article 17*

1. Where an employed person or a person treated as such who is subject to the legislation of one Contracting Party, or a person in receipt of a pension or annuity, or a member of the family of such person, dies in the territory of the other Party, the death shall be deemed to have occurred in the territory of the first-mentioned Party.

2. The competent institution shall assume liability for the death benefit even if the beneficiary is in the territory of the other Contracting Party.

*Chapter 2*

## INVALIDITY, OLD AGE AND DEATH (PENSIONS)

## Section 1

## GENERAL PROVISIONS

*Article 18*

1. For the purposes of the acquisition, maintenance or recovery of the right to benefits, where an insured person has been subject successively or alternately to the legislation of both Contracting Parties, the insurance periods and equivalent periods completed under the legislation of each of the Contracting Parties shall be aggregated, provided that they do not overlap.

2. Where the legislation of one Contracting Party makes it a condition for the award of particular benefits that the insurance periods should be completed in an occupation which is subject to a special scheme, only the periods completed under the corresponding schemes of the other Contracting Party and the periods completed in the same occupation under other schemes of the latter Contracting Party shall be aggregated, provided that they do not overlap, for the purpose of qualification for such benefits. If, despite the aggregation of such periods, the insured person does not satisfy the conditions for entitlement to such benefits, the periods in question shall nevertheless be aggregated for the purpose of qualification for benefits under the general scheme of the Contracting Parties.

3. If the insurance periods and equivalent periods under the legislation of one of the Contracting Parties amount in all to less than six months, no benefit shall be payable under that legislation; in such case, the said periods shall be taken into account for the purposes of the acquisition, maintenance and recovery of the right to benefits from the other Contracting Party, but not for the purpose of determining the proportionate amount due under article 19, paragraph 1, sub-paragraph (b), of this Convention. This provision shall not, however, apply if the right to benefits was acquired under the legislation of the first-mentioned Contracting Party solely on the basis of periods completed under that legislation.

*Article 19*

1. The benefits to which an insured person as specified in article 18 of this Convention or his survivors may be entitled in virtue of the legislation of the Contracting Parties under which the insured person has completed insurance periods or equivalent periods shall be determined in the following manner :

- (a) The institution of each of the Contracting Parties shall determine in accordance with its own legislation, taking into account the aggregation of periods referred to in the preceding article, whether the person concerned satisfies the conditions for entitlement to the benefits provided for by that legislation;
- (b) Where the right to benefit is established in accordance with the preceding sub-paragraph, the said institution shall first calculate the amount of the benefit to which the person concerned would be entitled if all the insurance periods or equivalent periods, aggregated in the manner specified in the preceding article, had been completed exclusively under its own legislation; on the basis of that amount, the institution shall determine the amount of benefit due according to the proportion which the duration of the periods completed under that legislation, before the contingency materialized, bears to the total duration of the periods completed under the legislation of both Contracting Parties before the contingency materialized; the latter amount shall represent the benefit payable to the person concerned by the institution in question;
- (c) Where at a given time, account being taken of the aggregation of periods referred to in the preceding article, the person concerned does not satisfy the conditions imposed by the bodies of legislation applicable to him but satisfies the conditions imposed by one of those bodies of legislation, the amount of the benefit shall be determined in accordance with the provisions of sub-paragraph (b) of this paragraph;
- (d) Where, at a given time, the person concerned does not satisfy the conditions imposed by the bodies of legislation applicable to him but satisfies the conditions imposed by one of those bodies of legislation irrespective of the periods completed under the other body of legislation, the amount of the benefit shall be determined exclusively in accordance with the legislation which confers the entitlement, account being taken only of the periods completed under the last-mentioned legislation;
- (e) In the cases specified in sub-paragraphs (c) and (d) of this paragraph, the benefits already determined shall be revised in accordance with the provisions of sub-paragraph (b) of this paragraph as and when the conditions imposed by the other body of legislation are satisfied, account being taken of the aggregation of periods referred to in the preceding article.

2. Where the amount of the benefit to which, but for the application of the provisions of article 18, the person concerned might be entitled solely on the basis of the insurance periods and equivalent periods completed under the legislation of one Contracting Party is greater than the total benefits which accrue from the application of the preceding paragraph of this article, he shall be entitled to receive from the institution of that Contracting Party an additional amount equal to the difference.

3. Subject to the provisions of paragraph 1, sub-paragraph (*d*), of this article and the provisions of article 22, persons who avail themselves of the provisions of this chapter may not elect to receive a pension solely under the provisions of the legislation of one Contracting Party.

## Section 2

### SPECIAL PROVISIONS

#### *Article 20*

1. An employed person or a person treated as such who is insured under the Netherlands legislation concerning general old age insurance and general widows' and orphans' insurance shall, throughout any period of temporary or permanent disability due to sickness, industrial accident or occupational disease which entitles him to a cash benefit from the Netherlands, continue to be insured if the degree of disability is not less than 50 per cent, even if he transfers his residence to Spanish territory, provided that he does not become employed or self-employed in Spain.

2. A married woman, resident in Spain and under sixty-five years of age, whose husband is insured under the Netherlands legislation concerning general old age insurance, shall also be insured, except for any period during which :

- (a) She has simultaneously completed insurance periods, contribution periods or equivalent periods under a Spanish compulsory scheme of old age insurance;
- (b) She is in receipt of an old age pension under such a scheme.

#### *Article 21*

The Netherlands institutions may calculate pensions under the general old age insurance scheme and annuities under the invalidity, old age and early death insurance scheme for employed persons, including percentage increments in such annuities, directly and exclusively on the basis of the insurance periods and equivalent periods completed under the relevant legislation.

#### *Article 22*

1. Where an employed person or a person treated as such was subject successively or alternately to the bodies of legislation specified in article 1, list (*a*), item 2, and list (*b*), item 4, his survivors shall be entitled only to the benefits provided for by the legislation to which such person was subject at the time of his death.

2. If the employed person was last subject to the Spanish legislation specified in article 1, list (a), item 2, the insurance periods and equivalent periods completed under the Netherlands legislation specified in article 1, list (b), item 4, and under the Netherlands legislation specified in article 1, list (b), item 2, shall also be taken into account, provided that they were prior to 1 October 1959, for the purpose of determining entitlement to benefit under the Spanish legislation.

#### *Article 23*

1. The interim pensions provided by the Netherlands legislation concerning general old age insurance for persons who had reached the age of sixty-five years on 1 January 1957 shall be granted to Spanish nationals on the same conditions as to Netherlands nationals.

2. The interim advantages provided by the Netherlands legislation concerning general old age insurance for persons who were between fifteen and sixty-five years of age on 1 January 1957 shall be granted to Spanish nationals on the same conditions as to Netherlands nationals.

#### *Article 24*

The advantages afforded by the transitional provisions of the Netherlands legislation concerning general widows' and orphans' insurance in cases where a death occurred before 1 October 1959 shall be granted to Spanish nationals on the same conditions as to Netherlands nationals.

#### *Article 25*

The provisions of article 4, paragraph 1, of this Convention shall not apply to :

- (a) Interim pensions granted under article 23, paragraph 1, of this Convention;
- (b) Interim advantages, as specified in the preceding articles, which are granted to Netherlands nationals.

#### *Article 26*

Where an employed person or a person treated as such has been compulsorily insured under the Spanish legislation before reaching the age of thirty-five years and subsequently becomes an employed person or a person treated as such in the Netherlands :

- (a) He shall not be excluded from insurance under the legislation specified in article 1, list (b), item 2, provided that he has not reached the age of sixty-five

- years, is not earning remuneration which would entitle him to claim exemption from that insurance, and is not exempted from that insurance by any other provision of the said legislation;
- (b) For the purpose of determining the right to a benefit under the said legislation, he shall be treated as having become insured under that legislation before the age of thirty-five years;
- (c) For the purpose of calculating the amount of a benefit under that legislation, he shall be treated as having become insured on the date on which he reached the age of thirty-five years.

### *Chapter 3*

#### INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

##### *Article 27*

Where, for the purpose of assessing the degree of disability in a case of industrial accident or occupational disease, the legislation of one of the Contracting Parties explicitly or implicitly provides that previous industrial accidents or occupational diseases shall be taken into account, industrial accidents sustained and occupational diseases contracted at an earlier date under the legislation of the other Contracting Party shall also be taken into account as though they had been sustained or contracted under the legislation of the first-mentioned Party.

##### *Article 28*

Where an employed person or a person treated as such who has received compensation for an occupational disease from the competent institution of one of the Contracting Parties claims compensation for an occupational disease of the same nature under the legislation of the other Party, he must furnish the competent institution of the latter Party with the necessary particulars concerning the benefits previously granted in compensation for the occupational disease in question.

The institution liable for the new benefits shall take the previous benefits into account as though they had been paid on its responsibility.

### *Chapter 4*

#### UNEMPLOYMENT

##### *Article 29*

For the purposes of the acquisition, maintenance or recovery of the right to benefits, where an insured person has been subject successively or alternately to the legislation of both Contracting Parties, the insurance periods and equivalent periods completed under the legislation of each of the Contracting Parties shall be aggregated, provided that they do not overlap.

*Article 30*

An employed person or a person treated as such who has completed insurance periods or equivalent periods under the legislation of one of the Contracting Parties and who moves to the territory of the other Contracting Party shall be entitled, while in that territory, to the unemployment benefits provided for by the legislation of the latter Contracting Party, provided that :

- (a) He has been subject to compulsory unemployment insurance since he last entered that territory;
- (b) He satisfies the conditions imposed by the legislation of the latter Contracting Party, account being taken of the aggregation of periods referred to in the preceding article.

*Chapter 5*

## FAMILY ALLOWANCES

*Article 31*

Where the legislation of one of the Contracting Parties makes the acquisition of the right to family allowances conditional upon the completion of insurance periods or equivalent periods, the competent institution of that Party shall take into account, to such extent as may be necessary, all periods completed in the territory of each of the Contracting Parties.

*Article 32*

1. An employed person or a person treated as such who is insured under the legislation of one of the Contracting Parties and who has children residing or being educated in the territory of the other Party shall be entitled, account being taken, where applicable, of the aggregation of periods referred to in the preceding article, to family allowances for such children under the legislation of the first-mentioned Contracting Party even if he is deemed to be resident in the territory of the other Party.

2. Supplementary benefits granted to the dependants of employed persons, pursuant to the legislation of one of the Contracting Parties, under the family allowances scheme shall likewise be granted to the dependants of employed persons who are nationals of the other Party and are subject to the said scheme, even if they are deemed to be resident in the territory of the latter Contracting Party.

3. Where the legislation of one of the Contracting Parties provides family allowances for persons in receipt of a pension or annuity, pensioners or annuitants who are deemed to be resident in the territory of the other Party shall likewise be entitled to such allowances.

4. Where, in the course of a particular period, family allowances are payable in respect of the same child under the legislation of both Contracting Parties, only the family allowance payable under the legislation of the Contracting Party in whose territory the child is residing or being educated shall be paid.

5. Family allowances to which a Spanish employed person in the Netherlands, whose children are in Spain, is entitled under the Netherlands legislation shall be paid through the liaison agencies of the two countries to the person in charge of the children in Spain.

### *Chapter 6*

#### WORKERS' MUTUAL BENEFIT SCHEME (MUTUALISMO LABORAL)

##### *Article 33*

1. A Netherlands employed person who is employed in Spain shall enjoy the advantages of the workers' mutual benefit scheme on the same conditions as a Spanish employed person, provided that he satisfies :

- (a) The conditions laid down in the general regulations governing the workers' mutual benefit scheme and in the supplementary general provisions relating to the said scheme;
- (b) The conditions laid down in the statutes of the workers' mutual benefit fund with which, in virtue of his occupation, he is registered and insured.

2. A Netherlands employed person who has paid contributions to the workers' mutual benefit scheme for five years shall be entitled to a retirement pension if the period of employment fell within the seven years immediately preceding his departure from Spain, even if the said seven years did not immediately precede his attainment of retiring age.

3. In the cases specified in the preceding paragraph, a Netherlands employed person who has paid contributions for five years shall be entitled, on reaching the age of sixty years, to a retirement pension equal to five-thirtieths of the total pension. Such retirement pension shall be increased by one-thirtieth of the total pension for each year of employment in Spain in excess of five years.

The partial pension shall be calculated on the basis of the remuneration received during the last two years of employment in Spain.

The said pension shall, if the occasion arises, be adjusted by the application of a revalorization coefficient equal to that applied in Spain to pensions granted during the period of the last two full years completed by the persons concerned.

4. The partial pensions specified in the preceding paragraph shall pass to the dependants of the employed person in the proportion prescribed by Spanish law for the total pension.



5. The pension under the Spanish unified social security scheme shall not be reduced where the beneficiary is in receipt of a partial pension under the workers' mutual benefit scheme calculated in accordance with the provisions of paragraph 2.

6. Pensions or partial pensions granted to Netherlands employed persons and their dependants under the provisions of this chapter shall be adjusted<sup>2</sup> in the same proportion as those granted to Spanish nationals.

#### TITLE IV

### MISCELLANEOUS PROVISIONS

#### *Article 34*

1. The competent authorities :

1. Shall make such administrative arrangements as may be necessary for the application of this Convention;
2. Shall communicate to each other full information regarding measures taken for the application of this Convention;
3. Shall communicate to each other full information regarding any changes made in their legislation which may affect the application of this Convention.

2. If necessary the competent authorities may, by agreement, lay down special regulations for the benefit of particular categories of employed persons, especially seamen and persons employed by coal-mining enterprises.

#### *Article 35*

The authorities and institutions shall assist one another in applying this Convention; they shall act as though the matter were one affecting the application of their own legislation.

#### *Article 36*

1. Any exemption from or reduction of charges, stamp duties, court fees or registration fees provided for by the legislation of one of the Contracting Parties in respect of papers or documents required to be produced for the purposes of the legislation of that Party shall be extended to similar papers and documents required to be produced for the purposes of the legislation of the other Contracting Party or of this Convention.

2. Legalization by diplomatic or consular authorities and payment of chancery fees shall be waived in respect of all certificates, documents and papers required to be produced for the purposes of this Convention.

*Article 37*

1. Direct correspondence between institutions for the purposes of the application of this Convention shall be conducted in the French language.

2. The institutions and authorities of one of the Contracting Parties shall not reject claims or other documents addressed to them on the ground that they are drawn up in the official language of the other Contracting Party.

*Article 38*

Claims, declarations or appeals which, for the purposes of the legislation of one of the Contracting Parties, must be presented within a prescribed time-limit to an authority, institution or other agency of that Party shall be admissible if they are presented within the same time-limit to a corresponding authority, institution or other agency of the other Contracting Party. In such cases, the authority, institution or agency concerned shall transmit such claims, declarations or appeals without delay to the competent authority, institution or agency of the first-mentioned Party, either direct or through the competent authorities of the Contracting Parties.

*Article 39*

1. The institutions of one Contracting Party which are liable under this Convention for the payment of cash benefits to beneficiaries who are in the territory of the other Contracting Party shall be held to discharge their liability validly by payment in the currency of the first-mentioned Party; moneys due from such institutions to institutions which are in the territory of the other Contracting Party must be paid in the currency of the latter Party.

2. Transfers of funds required for the application of this Convention shall be effected in accordance with the relevant agreements in force between the two Contracting Parties at the time of the transfer.

*Article 40*

1. Any dispute between the Contracting Parties relating to the interpretation or application of this Convention shall be the subject of direct negotiations between the competent authorities of the Contracting Parties.

2. If the dispute cannot be resolved by that means within a period of six months from the opening of negotiations, it shall be submitted to an arbitral commission, whose composition and procedure shall be determined by agreement between the Contracting Parties.

The arbitral commission shall resolve the dispute in accordance with the fundamental principles and the spirit of this Convention. Its decisions shall be binding and final.

*Article 41*

1. Where an institution of one Contracting Party has made an advance payment to a person entitled to benefits, such institution or, at its request, the competent institution of the other Party may deduct the amount of the advance from the payments to which such person is entitled.

2. Where a beneficiary has received public assistance from one Contracting Party during a period for which he is entitled to cash benefits, the institution liable for such benefits shall, at the request and for the account of the institution which granted the public assistance, withhold such benefits until the amount of the benefits paid to the beneficiary in the form of public assistance has been recovered.

## TITLE V

## TRANSITIONAL AND FINAL PROVISIONS

*Article 42*

1. This Convention shall in no case confer any right to the payment of benefits for a period before the date of its entry into force.

2. Any insurance period or equivalent period completed under the legislation of one of the Contracting Parties before the date of the entry into force of this Convention shall be taken into account for the purpose of determining the right to benefits in accordance with the provisions of this Convention.

3. Subject to the provisions of paragraph 1 of this article, a pension or annuity shall be payable under this Convention even in respect of an event which occurred before the date of its entry into force. To this end, any pension or annuity which has not been paid or which has been suspended by reason of the nationality of the person concerned or because he is resident in the territory of the other Contracting Party shall, upon his application, be paid or reinstated as from the date of the entry into force of this Convention, provided that the entitlement previously awarded has not been liquidated by a lump-sum payment.

4. With regard to the rights arising out of the application of the preceding paragraph, the legislative provisions of the Contracting Parties concerning the lapse and extinction of rights shall not apply to the beneficiary provided that the claim is presented within a period of two years from the date of the entry into force of this Convention. If the claim is presented after the expiry of that period, such right to benefit as has not lapsed or been extinguished shall be acquired as from the date of presentation of the claim, unless more favourable legislative provisions of one Contracting Party are applicable.

*Article 43*

So far as the Kingdom of the Netherlands is concerned, this Convention shall apply only to the Kingdom in Europe.

*Article 44*

This Convention shall be ratified and the instruments of ratification shall be exchanged at The Hague as soon as possible.

*Article 45*

This Convention shall enter into force on the first day of the month following the month in which the instruments of ratification are exchanged.

*Article 46*

This Convention is concluded for a term of one year. It shall be tacitly extended from year to year unless notice of termination is given not later than three months before the expiry of the current term.

*Article 47*

1. In the event of the termination of this Convention, any right acquired in accordance with its provisions shall be maintained.

2. Rights which are in process of acquisition in respect of periods completed before the date on which the termination takes effect shall not be affected by the termination; the preservation of such rights in respect of the period after termination shall be determined by agreement or, in the absence of such agreement, by the national legislation of the institution concerned.

IN WITNESS WHEREOF the aforementioned plenipotentiaries have signed this Convention.

DONE at Madrid, on 17 December 1962, in four copies, two in the Dutch and two in the Spanish language, both texts being equally authentic.

For the Kingdom of the Netherlands :

(*Signed*) W. E. VAN PANHUYNS

For the Spanish State :

(*Signed*) Fernando CASTIELLA

## FINAL PROTOCOL

On signing this day the Convention<sup>1</sup> between the Kingdom of the Netherlands and the Spanish State on social security, the plenipotentiaries of the two Contracting Parties have agreed upon the following declarations :

1. The Contracting Parties undertake to ensure that employed persons as specified in article 30 who, for reasons beyond their control, are unable to take up the employment for which they were engaged and who, for that reason, are not entitled to the unemployment insurance benefits provided for by the legislation of the Party to whose territory they have moved are suitably compensated.

2. A Netherlands national who, on the date of the entry into force of the Convention, is employed in Spain in an enterprise affiliated to a workers' mutual benefit fund shall, irrespective of his age, be subject as from that date to compulsory insurance under the workers' mutual benefit scheme on the same conditions as Spanish nationals.

3. For the purpose of the acquisition of the right to a retirement pension under the Spanish legislation, the periods during which the employed person concerned was subject to the Netherlands legislation by reason of employment in an enterprise which, if it had its principal place of business in Spain, would be affiliated to the workers' mutual benefit scheme shall be taken into account by the Spanish institutions in determining whether the condition imposed by the Spanish legislation concerning a ten-year period of employment is satisfied.

This Final Protocol shall constitute an integral part of the Convention.

DONE at Madrid, on 17 December 1962, in four copies, two in the Dutch and two in the Spanish language, both texts being equally authentic.

For the Kingdom of the Netherlands :  
(Signed) W. E. VAN PANHUYS

For the Spanish State :  
(Signed) Fernando CASTIELLA

---

<sup>1</sup> See p. 270 of this volume.