

No. 8950

**BELGIUM
and
POLAND**

**General Convention on social security. Signed at Brussels,
on 26 November 1965**

Official texts: French, Dutch and Polish.

Registered by Belgium on 30 January 1968.

**BELGIQUE
et
POLOGNE**

**Convention générale sur la sécurité sociale. Signée à Bruxelles,
le 26 novembre 1965**

Textes officiels français, néerlandais et polonais.

Enregistrée par la Belgique le 30 janvier 1968.

[TRANSLATION — TRADUCTION]

No. 8950. GENERAL CONVENTION¹ BETWEEN THE KINGDOM OF BELGIUM AND THE POLISH PEOPLE'S REPUBLIC ON SOCIAL SECURITY. SIGNED AT BRUSSELS, ON 26 NOVEMBER 1965

His Majesty the King of the Belgians and
the Council of State of the Polish People's Republic,

Desirous of guaranteeing the benefits of the legislative provisions concerning social security in force in the two Contracting States to the persons to whom these legislative provisions apply or have been applied,

Have resolved to conclude a Convention and for this purpose have appointed as their plenipotentiaries:

His Majesty the King of the Belgians:

Mr. Hervé Brouhon, Minister of Social Welfare;

The Council of State of the Polish People's Republic:

Mr. Aleksander Burski, Chairman of the Committee on Labour and Wages;

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

TITLE I

GENERAL PROVISIONS

Article 1

Belgian or Polish nationals who are employed persons or persons treated as such under the legislative provisions concerning social security set out in article 2 of this Convention shall be subject to the said legislative provisions in force, respectively, in Poland or Belgium and shall enjoy the benefits thereof under the same conditions as the nationals of the State concerned.

Article 2

Paragraph 1. The legislative provisions concerning social security to which this Convention applies shall be:

¹ Came into force on 1 October 1967, the first day of the month after the month following the exchange of the instruments of ratification, which took place at Warsaw on 10 August 1967, in accordance with article 40 (2).

1. In Belgium:

- (a) The legislation concerning sickness and invalidity insurance for wage-earners, salaried employees and miners;
- (b) The legislation concerning retirement and survivors' pensions for wage-earners and salaried employees;
- (c) The legislation concerning retirement and survivors' pensions for miners and persons treated as such;
- (d) The legislation concerning family allowances for employed persons;
- (e) The legislation concerning industrial accidents;
- (f) The legislation concerning occupational diseases.

2. In Poland:

- (a) The general legislation concerning sickness and maternity insurance;
- (b) The legislation concerning family insurance;
- (c) The general legislation concerning insurance for workers against old age, invalidity and death;
- (d) The special legislation concerning insurance for miners against old age, invalidity and death.

Paragraph 2. This Convention shall also apply to any laws or regulations which have amended or supplemented, or which may in future amend or supplement, the legislative provisions referred to in paragraph 1 of this article.

The above notwithstanding, the Convention shall not apply to:

- (a) Laws or regulations covering a new branch of social security, unless an arrangement to that effect is agreed upon between the Contracting States;
- (b) Laws or regulations extending existing schemes to new classes of beneficiaries if the Government of the State concerned lodges an objection with the Government of the other State within a period of three months after the official publication of the said laws or regulations.

Article 3

The provisions of this Convention shall not apply to:

- Career diplomatic and consular officers, including officials on the staff of chancelleries;
- Merchant seamen;
- Workers other than employed persons or persons treated as such.

Article 4

Paragraph 1. Employed persons or persons treated as such under the legislation applicable in each contracting country, who are employed in either country, shall be subject to the legislation in force at their place of employment.

Paragraph 2. The following exceptions shall be made to the principle laid down in paragraph 1 of this article:

- (a) Employed persons or persons treated as such who are employed in a country other than that of their normal residence by an enterprise having, in the country of such residence, an establishment to which the persons concerned normally belong shall remain subject to the legislation in force in the country in which they are normally employed, provided that the duration of their employment within the territory of the second country does not exceed twelve months; where, for unforeseeable reasons, this employment is extended beyond the period originally contemplated and exceeds twelve months, the application of the legislation in force in the country in which the said persons are normally employed may, as an exceptional measure, be continued with the agreement of the competent authorities of the country in which the temporary place of employment is situated. The application for extension must be submitted before the twelve-month period expires;
- (b) Employed persons or persons treated as such who belong to public or private transport enterprises in either contracting country and are employed in the other country, whether permanently or temporarily or as travelling personnel, shall be subject exclusively to the provisions in force in the country in which the enterprise has its head office;
- (c) Employed persons or persons treated as such who belong to official administrative departments and are posted by one contracting country for service in the other contracting country shall be subject to the provisions in force in the country by which they are so posted.

Paragraph 3. The supreme administrative authorities of the Contracting States may provide, by mutual agreement, for exceptions to the rules laid down in paragraph 1 of this article. They may also agree that the exceptions provided for in paragraph 2 shall not apply in specific cases.

Article 5

The provisions of article 4, paragraph 1, shall be applicable to employed persons or persons treated as such, whatever their nationality, who are employed in the diplomatic or consular offices of Belgium or Poland or who are in the personal employ of officers of the diplomatic or consular service of those countries.

Nevertheless, employed persons or persons treated as such who are nationals of the State represented by the diplomatic or consular office may opt between the legislation of their country of origin and the legislation of their place of employment.

TITLE II

SPECIAL PROVISIONS

Chapter I

SICKNESS AND MATERNITY BENEFITS

Article 6

Employed persons and persons treated as such who go from Belgium to Poland or vice versa shall, together with the legally entitled members of their family living with them in the country of the new place of employment, be eligible for sickness insurance benefits in that country if:

1. They have been in employment for wages or in equivalent employment in that country;
2. The sickness has become apparent after their entry into the territory of that country;
3. They fulfil the conditions required for eligibility for benefit under the legislation of the country of their new place of employment, account being taken of the period of insurance in the country they have left and the period which has elapsed since they took up employment in the other country.

Article 7

Employed persons or persons treated as such who go from Belgium to Poland or vice versa shall, together with the legally entitled members of their family living with them in the country of their new place of employment, be eligible for maternity insurance benefits in that country if:

1. They have been in employment for wages or in equivalent employment in that country;
2. They fulfil the conditions required for eligibility for benefit under the legislation of the country of their new place of employment, account being taken of the period of insurance in the country they have left and the period which has elapsed since they took up employment in the other country.

Article 8

The periods mentioned in article 6 (3) and article 7 (2) shall be aggregated only if employment is taken up in the country of the new place of employment within one month from the termination of employment in the country of the former place of employment.

Article 9

Persons to whom an invalidity, old-age, survivor's or family pension has been granted, either under the provisions of this Convention or solely under the legislation of either contracting country, shall, together with the legally entitled members of their family living with them, be eligible for sickness and maternity benefits in kind in the country of residence if they fulfil the conditions for the granting of such benefits as laid down in the legislation of that country. The cost of such benefits shall be borne by the competent agencies of the country of residence.

*Chapter II**INVALIDITY BENEFITS OTHER THAN THOSE PROVIDED IN CASE OF INDUSTRIAL ACCIDENT
OR OCCUPATIONAL DISEASE**Article 10*

Paragraph 1. In the case of Belgian or Polish nationals who are employed persons or persons treated as such and who have been insured, successively or alternately, in the two contracting countries under one or more invalidity insurance schemes, the insurance periods completed under these schemes or the periods recognized as equivalent to insurance periods by virtue of the said schemes shall be aggregated in accordance with the conditions laid down in article 16, paragraphs 1 and 2, for the purposes both of the determination of the right to benefits in cash or in kind and of the maintenance or recovery of this right.

Paragraph 2. Invalidity insurance benefits in cash shall be paid in accordance with the provisions of the legislation which was applicable to the person concerned at the time of the first medical diagnosis of the disease or the accident, and the cost shall be borne by the competent agency in accordance with the said legislation.

Paragraph 3. Nevertheless, any invalidity resulting from a disease noted less than one year after the employed person's arrival in a country shall not entitle him to any cash benefits from that country. If the person concerned was previously covered by an invalidity insurance scheme in the other country, he shall be entitled to the cash benefits prescribed by the legislation of that country under the conditions specified in that legislation.

Article 11

By way of exception to the provisions of article 10, paragraph 2, the invalidity benefits to which employed persons covered by the special Belgian and Polish legislation concerning miners and persons treated as such are entitled shall be computed in accordance with the procedure specified in article 16, paragraph 4, when, account being taken of the aggregated periods, such employed persons fulfil the conditions laid down in the aforementioned special legislation. When the employed persons do not fulfil those conditions laid down in the special legislation of the two countries, their rights shall be computed according to the provisions of article 10.

Article 12

If, on the date when the disease which caused invalidity was contracted, an insured person as specified in article 11 was employed in the country other than that of the responsible agency, account shall be taken, in determining the amount of the invalidity pension or compensation, of the wage paid in the country of the responsible agency to employed persons of the occupational category to which the person concerned belonged on that date.

Article 13

Paragraph 1. If, after suspension of the invalidity pension or compensation, the insured person again becomes entitled to benefit, the payment of benefit shall be resumed by the agency responsible for the pension or compensation originally granted, when the invalidity is attributable to the disease or accident in respect of which the benefit or compensation was previously awarded.

Paragraph 2. If, after discontinuance of the invalidity pension or compensation, the condition of the insured person justifies the award of an invalidity pension or compensation, such pension or compensation shall be paid in accordance with the procedure specified in article 10, account being taken, where appropriate, of the provisions of article 11.

Article 14

For the purposes of eligibility for invalidity pension or compensation, the period during which the person concerned is required to have been in receipt of the cash compensation paid by virtue of sickness insurance before the award of the invalidity pension or compensation shall in all cases be that provided for by the legislation of the country in which he was employed at the time of the disease or accident which caused the invalidity.

Article 15

An invalidity pension or compensation shall, where appropriate, be converted into an old-age pension when the conditions laid down in the legislation of the Con-

tracting State whose agency is responsible for payment of the old-age pension have been fulfilled.

The provisions of chapter III below be applied, where appropriate.

Chapter III

OLD-AGE AND DEATH BENEFITS (PENSION) OTHER THAN THOSE PROVIDED IN CASE OF INDUSTRIAL ACCIDENT OR OCCUPATIONAL DISEASE

Article 16

Paragraph 1. In the case of Belgian or Polish nationals who are employed persons or persons treated as such and who have been insured, successively or alternately, in the two contracting countries under one or more old-age or survivors' (pension) insurance schemes, the insurance periods completed under these schemes or the periods recognized as equivalent to insurance periods by virtue of the said schemes shall, provided that they do not overlap, be aggregated for the purposes both of the determination of the right to benefits and of the maintenance or recovery of this right.

The periods to be taken into account as equivalent to insurance periods shall, in each country, be those regarded as such under the legislation of that country.

Any period recognized as equivalent to an insurance period under both Belgian and Polish legislation shall be taken into account, in the payment of benefits, by the agencies of the country in which the person concerned was last employed before the period in question.

Paragraph 2. In applying the special legislation concerning miners and persons treated as such, only the periods completed under that legislation shall be aggregated.

Paragraph 3. When the periods referred to in paragraph 2 do not entitle the person concerned to benefits under the special legislation, they shall be considered valid for the purpose of payment of benefits under the general legislation.

Paragraph 4. The amount of benefit which an insured person may claim from the competent agency of either country shall, in principle, be determined by reducing the amount of the benefit to which he would be entitled if the aggregate of the periods referred to in paragraphs 1 and 2 had been completed under the scheme administered by that agency, the reduction being effected in proportion to the length of the periods actually completed under that scheme.

The agency of each country, acting in accordance with the legislation applicable to that agency and taking into account the aggregate of the insurance periods irre-

spective of the contracting country in which they were completed, shall determine whether the person concerned satisfies the conditions for entitlement to benefits under the said legislation.

The said agency shall determine the amount of the benefits to which the person concerned would be entitled if the aggregate of the insurance periods had been completed exclusively under its own legislation, and shall reduce this amount in proportion to the length of the periods actually completed under that legislation.

Nevertheless, an agency shall not be responsible for a benefit where the periods completed under the legislation to which it is subject do not total one year, being a year comprising the annual minimum number of days of actual employment or of days treated as such as provided by that legislation; in that case, the agency of the other country shall assume full responsibility for the benefits to which the insured person is entitled under the legislation applicable to that agency, account being taken of the aggregate of the insurance periods.

Paragraph 5. If, under the legislation of either contracting country, entitlement to the pension is not conditional upon the completion of a waiting period but is acquired year by year, the competent agency of that country shall calculate the pension entitlement directly and exclusively on the basis of the insurance periods completed in that country and of the periods recognized as equivalent to insurance periods by virtue of the legislation of that country; in that case, the competent agency shall apply the provisions of the legislation of that country which are applicable to insured persons who, on the date on which the decision takes effect, have attained the normal pensionable age.

Article 17

Where an insured person, account being taken of the aggregate of the periods referred to in article 16, paragraphs 1 and 2, does not simultaneously satisfy the conditions required by the legislation of both countries, his right to a pension shall be established under the legislation of each country as and when he satisfies those conditions.

Article 18

Paragraph 1. The right to receive concurrently an old-age pension and a miner's wages as provided in the Polish or Belgian special legislation shall be recognized in the case of insured persons who continue to work in the mines of the other country if they satisfy the conditions prescribed by the special legislation of that country for enjoyment of that right.

Paragraph 2. The right to receive concurrently the accelerated pension provided for in the Belgian special legislation and a miner's wages shall be recognized, under the conditions and within the limits laid down by the said legislation, only in the case of insured persons who continue to work in the Belgian coal-mines.

Paragraph 3. Notwithstanding the provisions of article 16, the grant of the accelerated pension to miners provided for in the Belgian special legislation shall be reserved for those insured persons who satisfy the conditions prescribed by the said legislation, their service in the Belgian coal-mines alone being taken into account.

Article 19

Any insured person may, upon becoming eligible for a pension, waive the benefit of the provisions of article 16 of this Convention. The benefits to which he may be entitled by virtue of the legislation of each country shall be paid separately by the competent agencies, independently of the insurance periods or the periods recognized as equivalent thereto completed in the other country.

Chapter IV

PROVISIONS COMMON TO CHAPTERS II AND III

Article 20

Where the legislation of one of the contracting countries makes the payment of invalidity pensions or compensation or old-age, survivors' and family pensions conditional upon residence qualifications, whether such pensions and compensation are payable under article 16 or are calculated solely on the basis of the insurance periods completed under that legislation, those qualifications shall not apply to Belgian or Polish nationals as long as they are resident in either of the two contracting countries.

Article 21

If, under the legislation in force in either contracting country, the average wage for the whole of the insured period or for a part thereof is taken into account for the payment of benefits, the average wage to be taken into account for the purpose of computing the benefits to be paid by that country shall be determined on the basis of the wages paid during the insured period completed in the said country.

Article 22

A claim for benefit submitted to one of the agencies with which the person concerned has been insured shall be considered valid by the other competent agencies.

Chapter V

FAMILY ALLOWANCES

Article 23

If the national legislation makes eligibility for family allowances conditional upon the completion of periods of employment or periods treated as such, account shall be taken of the periods completed in both countries.

Chapter VI

BENEFITS IN CASE OF INDUSTRIAL ACCIDENT OR OCCUPATIONAL DISEASE

Article 24

Where the legislation of one of the contracting countries makes the payment of the benefits due in case of industrial accident or occupational disease conditional upon residence qualifications, those qualifications shall not apply to Belgian or Polish nationals as long as they are resident in either of the two contracting countries.

Article 25

Benefits provided for in the Belgian legislation which are conditional upon need shall be granted only to beneficiaries who are resident in Belgium.

Article 26

Any industrial accident or occupational disease suffered by a Belgian national employed in Poland or a Polish national employed in Belgium which has resulted or is apt to result in either death or permanent incapacity, whether total or partial, must be notified by the employer or the competent agencies to the local consular authorities of the State of which the person concerned is national.

Article 27

Paragraph 1. Where an insured person who has been granted a benefit for an occupational disease in one country submits a claim for compensation for an occupational disease of the same nature under the legislation of the country of the new place of employment, he must submit to the competent agency of the latter country a statement concerning the compensation previously granted for that disease. The agency responsible for granting the new benefits shall take the previous compensation into account as though it had been paid on its responsibility.

Paragraph 2. Where the person concerned is resident in a country other than that in which the employed person contracted the occupational disease, the claim for

compensation may be submitted to the competent agency of the country of residence of the person concerned. In that case, the claim must be drawn up in the form and manner prescribed by the legislation of the country which is responsible for payment.

Chapter VII

FUNERAL BENEFIT OR FUNERAL GRANT

Article 28

Paragraph 1. Employed persons or persons treated as such who go from one country to the other shall become eligible for the funeral grant provided for in the Polish legislation or the funeral benefits provided for in the Belgian legislation, in accordance with the legislation of the country of the new place of employment, if:

1. They have been in employment for wages or in equivalent employment in that country;
2. They fulfil, at the time of death, the conditions required for eligibility for benefit under the legislation of the country of their new place of employment, account being taken of the period of insurance in the country they have left and the period which has elapsed since they took up employment in the other country.

Paragraph 2. When a person in receipt of a pension from the competent agencies of both contracting countries as a result of the aggregation of insurance periods, or a member of his family, dies, the funeral grant or funeral benefit shall be payable by the competent agency of the country in which the employed person was last insured if, account being taken of the aggregated periods, the conditions prescribed by the legislation of that country are fulfilled.

Paragraph 3. When a person in receipt of a pension from the agency of only one of the contracting countries or of a benefit due under the Belgian legislation concerning industrial accidents or occupational diseases, or a member of his family, dies, the funeral grant or funeral benefit shall be payable by the competent agency of the country responsible for payment of the pension or benefit, if the conditions prescribed by the legislation of that country are fulfilled.

TITLE III

ADMINISTRATIVE CO-OPERATION

Article 29

Paragraph 1. The administrative authorities and the insurance or social security agencies of the two Contracting States shall furnish one another assistance in the same degree as if assistance was being furnished in connexion with their own social security schemes.

The authorities and agencies of each Contracting State which shall be empowered to correspond directly with each other for this purpose, and to centralize the claims for and the payment of benefits, shall be determined by virtue of an administrative arrangement.

Paragraph 2. The aforementioned authorities and agencies may, as an accessory measure, have recourse for the same purpose to the diplomatic and consular authorities of the other State.

Paragraph 3. The diplomatic and consular authorities of either State may apply directly to the administrative authorities and the national insurance or social security agencies of the other State with a view to obtaining any information required for the protection of the interests of their nationals.

Article 30

Paragraph 1. The privilege of exemption from registration or court fees stamp duties and consular charges granted by the legislation of either Contracting State in respect of documents to be produced to the authorities, agencies or courts of that State shall be extended to the corresponding documents to be produced, for the purposes of this Convention, to the authorities, agencies or courts of the other State.

Paragraph 2. For the purposes of this article and of articles 31 and 32, the term "courts" means:

In Belgium: the administrative courts;

In Poland: the courts having jurisdiction in social security matters.

Paragraph 3. Authentication by diplomatic and consular authorities shall be waived in respect of all certificates, documents and papers required to be produced for the purpose of this Convention.

Article 31

Communications which for the purposes of this Convention are sent by beneficiaries under the Convention or by authorities, agencies or courts to authorities, agencies or courts of the other State shall be drawn up in one of the official languages of the two States.

Article 32

Claims and appeals which must be lodged within a prescribed period with an authority, agency or court of either Contracting State competent to receive claims or appeals in social security matters shall be deemed admissible if they are lodged within the same period with a corresponding authority, agency or court of the other State. In such cases, the latter authority, agency or court shall transmit the claims or appeals without delay to the competent agency.

Article 33

Paragraph 1. The supreme administrative authorities of the Contracting States shall determine between themselves the detailed measures for giving effect to this Convention.

The said administrative authorities shall notify one another in due time of changes that have taken place in the legislation or regulations of their respective countries concerning the schemes enumerated in article 2.

Paragraph 2. The competent authorities or departments of the two contracting countries shall notify one another of other arrangements made for the purpose of giving effect to this Convention within their respective countries.

Article 34

For the purposes of this Convention, the supreme administrative authorities in each of the Contracting States shall be:

In Belgium: the Minister of Labour and Social Welfare;

In Poland: the Chairman of the Committee on Labour and Wages.

TITLE IV

MISCELLANEOUS PROVISIONS

Article 35

Paragraph 1. The agencies responsible, by virtue of this Convention, for the payment of social security benefits shall be held to discharge their responsibility validly by payment in the currency of their country.

In the event of regulations being made in either contracting country with a view to imposing restrictions upon the free exchange of currency, measures shall be taken forthwith, by agreement between the two Governments, to ensure, in accordance with the provisions of this Convention, the reciprocal transfer of moneys due.

Paragraph 2. The agency responsible for the payment of annuities or pensions the monthly amount of which is less than a sum to be specified simply by an exchange of letters between the supreme administrative authorities of the two contracting countries may pay the said annuities and pensions quarterly, half-yearly or yearly.

It may also, by payment of a sum equal to their capital value, redeem those annuities or pensions the monthly amount of which is less than a sum specified in the manner provided for in the preceding paragraph.

Article 36

Paragraph 1. The transfer to Poland of the benefits due under the Belgian social security legislation to beneficiaries resident in Poland shall be carried out

through the Polish centralizing agency, by methods to be laid down in an agreement between the supreme administrative authorities of the Contracting States.

Paragraph 2. The transfer to Belgium of the benefits due under the Polish social security legislation to beneficiaries resident in Belgium shall be carried out through the Belgian centralizing agency, by methods to be laid down in an agreement between the supreme administrative authorities of the Contracting States.

Article 37

For the purpose of assessing the degree of disability, the insurance agencies of each country shall take account of the medical findings and information obtained by the insurance agencies of the other country.

They shall, however, retain the right to have the person concerned examined by a physician of their choice.

Article 38

The formalities that may be laid down by the statutory provisions or regulations of one or other of the Contracting States in respect of the payment outside its territory of the benefits distributed by its social security agencies shall also apply, under the same conditions as are applicable to nationals, to persons entitled to receive such benefits by virtue of this Convention.

Article 39

All difficulties relating to the interpretation and application of this Convention shall be resolved by agreement between the supreme administrative authorities of the Contracting States.

Article 40

Paragraph 1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible at Warsaw.

Paragraph 2. It shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged.

Article 41

Paragraph 1. The situation of former employed persons or persons treated as such and of legally entitled members of their family with regard to their right to an invalidity, old-age, survivor's or family pension shall be reviewed:

- (1) If the payment of the pension was suspended because of their nationality or place of residence;
- (2) If the pension was denied because of their nationality or place of residence or because the insurance periods or periods treated as such completed in both countries had not been aggregated;
- (3) If the pension was reduced because of their nationality or place of residence;
- (4) If the application of the Convention will result in their being granted a pension superior to the benefits they already receive or could have received if they had applied for them.

Paragraph 2. The review shall take place on application, to be submitted by the persons concerned through the competent agencies of the two contracting countries.

Applications shall take effect on the first day of the month following the month in which they are submitted.

However, if such applications are submitted within two years from the date of entry into force of this Convention, they shall take effect as from the first day of the month following the month in which the Convention is signed.

Article 42

Paragraph 1. This Convention is concluded for an indefinite period. Notice of termination may be given by either Contracting State. Such notice must be given not later than six months before the expiry of any calendar year; the Convention shall then cease to have effect at the end of that year.

Paragraph 2. If notice of termination is given, the provisions of this Convention shall continue to apply to acquired rights, notwithstanding any restrictions that may be provided for under the schemes concerned for cases where a legally entitled person resides in a foreign country or is of foreign nationality.

Paragraph 3. Any rights that are in process of acquisition in respect of insurance periods completed before the date on which this Convention ceases to have effect shall continue to be governed by the provisions of this Convention in conformity with conditions to be decided upon by mutual agreement between the Contracting States.

IN WITNESS WHEREOF the respective plenipotentiaries have signed this Convention and have thereto affixed their seals.

DONE at Brussels, on 26 November 1965, in duplicate in the French, Dutch and Polish languages, the three texts being equally authentic.

For the Kingdom
of Belgium:

Hervé BROUHON

For the Polish People's
Republic:

Aleksander BURSKI