

No. 21965

**SPAIN
and
URUGUAY**

**Administrative Agreement on social security. Signed at
Madrid on 21 June 1979**

Authentic text: Spanish.

Registered by Spain on 27 June 1983.

**ESPAGNE
et
URUGUAY**

**Accord administratif de sécurité sociale. Signé à Madrid
le 21 juin 1979**

Texte authentique : espagnol.

Enregistré par l'Espagne le 27 juin 1983.

[TRANSLATION — TRADUCTION]

ADMINISTRATIVE AGREEMENT¹ BETWEEN SPAIN AND URUGUAY ON SOCIAL SECURITY

The Government of Spain and the Government of the Eastern Republic of Uruguay, signatories to this Administrative Agreement,

Considering that the Ibero-American Social Security Convention of Quito, of 26 January 1978, ratified by both States, has the purpose of bringing about closer unity between the countries to which that instrument applies, in particular by accelerating efforts for international co-operation,

Considering that the Ibero-American Social Security Convention provides, in article 17, that the Contracting Parties may draw up administrative agreements defining the area of application of that Convention and the scope, between two or more States, of the protective action envisaged in it,

Affirming the principle of equality of treatment among persons affiliated to the social security systems of the States signatory to the Convention and the principle of preserving the rights or expectations of those persons deriving from the social security legislation in cases of movement of protected persons from the territory of one Contracting Party to that of another Party to the Convention,

Agree as follows:

TITLE I. GENERAL PROVISIONS

Article 1. 1. For the purposes of this Agreement:

- (a) "Contracting Parties" means Spain and the Eastern Republic of Uruguay;
- (b) "Legislation" means the laws, regulations and other provisions specified in article 2 which are in force in the territory of each Contracting Party;
- (c) "Competent authority" means in relation to Spain, the Ministry of Health and Social Security; in relation to Uruguay, the Ministry of Labour and Social Security;
- (d) "Administrative agency" means the body which in each case and in accordance with the applicable legislation is responsible for the administration of one or more social security, social welfare or social insurance schemes;
- (e) "Liaison body" means the institution responsible for identification, referral and information activities between the administrative agencies of the Contracting Parties for the purpose of facilitating implementation of the Agreement, and for the provision of information to the persons concerned on their rights and obligations under the Agreement;
- (f) "Insurance period" means a period of contribution or equivalent period;
- (g) "Contribution period" means a period for which contributions to cover the corresponding benefits have been paid or are treated as having been paid under the legislation of either Contracting Party;
- (h) "Equivalent period" means a period regarded as equivalent to a contribution period under the legislation of either Party;
- (i) "Pension, allowance, annuity, compensation" means the cash benefits designated as such by the applicable legislation, including payments made from public funds

¹ Came into force on 1 December 1979, i.e., the first day of the month following the month in which it was officially published by both Contracting Parties, in accordance with the first of the final provisions of the Agreement.

and all supplements and increments specified in that legislation, as well as lump-sum payments in lieu of pensions or annuities.

2. Any other expressions and terms used in this Agreement have the meanings assigned to them in the pertinent legislation.

Article 2. 1. This Administrative Agreement shall apply to the rights to medical and health care and to old-age, invalidity and survivors' benefits provided under the general and special social security schemes in force in the Contracting States at the time of the entry into force of this Agreement.

2. This Agreement shall apply also to legislation which supplements or amends the benefits or schemes referred to in paragraph 1 above.

3. However, it shall not apply to legislation which extends the existing schemes to new occupational categories or establishes a new branch of social security not envisaged in the Agreement if one Contracting Party notifies the other of its objection, not later than three months from the date on which the official publication thereof has been communicated to it.

Article 3. The rules laid down in this Agreement shall be applicable to workers who are or have been subject to the social security legislation of one of the Contracting Parties and to the members of their families and their survivors.

Article 4. 1. If a person is gainfully employed, his liability to contribute to the social security system shall be determined by the legislation of the Contracting Party in whose territory he is employed; a worker employed in the territory of one Party shall be subject to the legislation of that Party.

2. The competent authorities of both Contracting Parties may, by mutual agreement, establish criteria to interpret the application of the general principle laid down in the previous paragraph.

3. Protected persons of one Contracting Party who become subject to the legislation of the other Party shall, in the territory of the latter Party, have the same rights and obligations as nationals of the latter Party.

Article 5. 1. Unless otherwise provided for in this Agreement, the pensions, allowances, annuities and monetary compensation received by virtue of the legislation of one Contracting Party shall not be subject to any reduction, modification, suspension or withholding by reason of the fact that the beneficiary resides in the territory of the other Party.

2. Social security benefits due from one Contracting Party shall be paid to beneficiaries who are nationals of the other Party residing in a third country on the same conditions and to the same extent as to beneficiaries who are nationals of the first Party residing in that third country.

TITLE II. SPECIAL PROVISIONS

Chapter I. MEDICAL AND HEALTH BENEFITS

Article 6. For the purposes of the acquisition, maintenance or recovery of the right to medical and health benefits, where a worker has been subject, successively or alternately to the legislation of both Contracting Parties, the insurance periods completed under the legislation of each of them shall be aggregated, provided that they do not overlap.

Chapter II. OLD-AGE, INVALIDITY AND SURVIVORS' BENEFITS

Article 7. For the purposes of the acquisition, maintenance or recovery of old-age, invalidity or survivors' benefits envisaged under this Agreement, where a worker has been subject to the legislation of both Contracting Parties, the insurance periods completed

under the legislation of each Party shall be aggregated, provided that they do not overlap, and subject to the following rules:

First. Where a period of compulsory contribution completed in one Contracting State coincides with a period of voluntary contribution credited in the other State, the latter period shall not be aggregated.

Second. Where a period of compulsory or voluntary contribution completed in one Contracting State coincides with an equivalent period credited in the other State, only the contribution period shall be taken into consideration.

Third. If two periods of voluntary contribution which were completed, respectively, in each of the Contracting States coincide, only the one corresponding to the legislation under which a previous compulsory insurance period has been reported shall be aggregated.

Where compulsory insurance periods have been reported in both Contracting States, the voluntary insurance period to be aggregated from among concurrent periods shall be the one completed under the same legislation which governed the compulsory insurance period nearest in time to that voluntary period.

Where no previous compulsory contribution periods have been reported in either Contracting State, the voluntary contribution period to be aggregated from among concurrent periods shall be the one completed under the same legislation under which a compulsory contribution period is first completed following that voluntary period.

Fourth. If two equivalent periods, which were completed, respectively, in each Contracting State coincide, only the one credited in the State under whose legislation a contribution period was previously completed shall be aggregated.

Where previous contribution periods have been reported in both Contracting States, the equivalent period to be aggregated from among concurrent periods shall be the one completed under the same legislation which governed the insurance period nearest in time to that equivalent period.

Where no previous contribution periods have been reported in either Contracting State, the equivalent period to be aggregated from among concurrent periods shall be the one completed under the legislation under which a contribution period is first completed following that equivalent period.

Article 8. 1. The benefits referred to in the previous article to which an insured person or his beneficiaries may be entitled in accordance with the legislation of the Contracting Parties under which the insured person has completed the insurance periods or equivalent periods shall be provided in the following way:

(a) The competent administrative agency of each Contracting Party shall determine, in accordance with its national legislation, whether the person concerned satisfies the requirements for entitlement to the benefits provided for under that legislation, bearing in mind, as appropriate, the aggregated periods referred to in the previous article.

(b) If the right has been acquired by virtue of the provisions of the previous paragraph, the competent administrative agency shall separately determine the amount of benefits to which the insured person would be entitled if all the insurance periods or aggregated equivalent periods had been completed exclusively under its national legislation. The agency shall reduce that amount on the basis of the proportion which the periods covered by the contributor under that legislation bear to the aggregated periods credited in the two Contracting States.

2. The entitlement to benefits of those who, taking into account the aggregated periods accrued, do not at the same time meet the conditions required under the legislation of the Contracting States, shall be determined in accordance with the legislation in force in each State as those conditions are met.

The persons concerned may opt for the rights to be recognized in accordance with the provisions of the previous paragraph, or separately, in accordance with the legislation of each Contracting State, regardless of the periods accrued in the other State.

Article 9. 1. A claimant who has been duly informed in advance may waive application of the provisions of this Agreement regarding aggregation and *pro rata*. If so, the benefits shall be determined separately by the administrative agency, in accordance with its national legislation, regardless of insurance periods completed in the other State.

2. This shall be a one-time option and shall have effect for all possible rights deriving from that in respect of which the option was exercised.

3. Where a claimant dies without exercising the option referred to in the previous paragraphs, the option may be exercised by the surviving spouse or, otherwise, by a family member who has been accorded the right to draw the amounts accrued and not collected which were payable to the claimant.

Article 10. 1. Benefits approved under the rules of this chapter shall be revalued at the same intervals and, except in the cases for which provision is made in the two paragraphs which follow, in the same amount as the benefits specified in the respective national legislation.

2. Where the amount of the theoretical pension referred to in article 8 is less than that of the minimum pension established at any time by the legislation of the Party that has recognized it, that minimum shall also serve as the basis for establishing the prorated pension.

3. The prorated pensions referred to in article 8 shall be brought up to date by each competent administrative agency in accordance with its national legislation, but the amount of the revaluation shall be reduced by applying the *pro rata* rule referred to in that article.

Article 11. 1. Funeral grants or death benefits shall be governed by the legislation that applied to the insured person on the date of death.

Where appropriate, benefits shall be approved and calculated by aggregating insurance periods completed by the insured person in the other Party.

2. In cases of entitlement to benefits under the legislation of both Contracting Parties, recognition of such entitlement shall be governed by the legislation of the Party in whose territory the insured person was residing.

3. If the insured person resided in a third country, the applicable legislation, in the event that he was entitled to benefits in both Contracting States, shall be that of the State in which the person was last insured.

Article 12. The competent administrative agency may make an advance payment to the insured person while his claim is being processed, which payment it may subsequently recover.

The payment of this advance shall be discretionary and shall be based principally on the need of the person concerned, on evidence of his probable entitlement to the benefit requested and on the time it takes to process his claim before a final determination is made in the case.

Chapter III. INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

Article 13. All benefits payable for industrial accidents or occupational diseases shall be exclusively payable by the competent administrative agency of the Contracting State in which the claimant was insured on the date when the accident occurred or the disease was diagnosed if the worker had carried out activities involving the risk of such disease under the legislation of that State.

TITLE III. MISCELLANEOUS PROVISIONS

Article 14. For the purposes of Spanish legislation, a worker shall be considered as being entitled to the award of benefits in accordance with the principle of aggregation and *pro rata* payment provided for in articles 7 and 8 when he is subject to the legislation of the other Contracting Party or is entitled to benefits paid by that Party.

Article 15. 1. In determining the basis on which to calculate benefits, each competent administrative agency shall apply its national legislation without under any circumstances taking into account wages or salaries received in the other Contracting State.

2. Where all or part of the contribution period chosen by the applicant for the calculation of the basis governing his benefits was completed in the other Contracting State, the competent administrative agency shall determine that basis by reference to the minimum wage prevailing during that period or to the basis chosen by the worker, if applicable, for the purpose of contribution.

In no case may the basis for calculating benefits for employed persons be lower than the average amount of the standard minimum wage prevailing during the period chosen.

Article 16. For the purpose of implementing this Agreement, the competent authorities, liaison bodies and administrative agencies of both Parties shall provide their good offices and the necessary reciprocal technical and administrative collaboration, acting, for such purposes, as if they were applying their national legislation. This assistance shall be free of charge, except as expressly provided by mutual agreement.

Article 17. The competent authorities of the two parties shall:

- (a) Monitor procedures for the implementation of this Agreement;
- (b) Decide on the respective liaison offices;
- (c) Notify each other of any legislative and regulatory provisions envisaged in article 2;
- (d) Settle, by negotiation, disputes concerning the interpretation of this Agreement and the procedures for its implementation;
- (e) Determine the functioning and designate the representatives to form the joint committee of experts established under article 20 of the Ibero-American Social Security Convention of Quito, of 26 January 1978.

Article 18. The liaison bodies of the two Contracting Parties shall:

- (a) Establish procedures for the implementation of this Agreement, and of any additional instruments signed, determining the forms and documents to be used, all of which must be communicated to the competent authorities;
- (b) Act on any communication which the administrative agencies of one Party are required to transmit to the equivalent agencies of the other Party.

Article 19. The competent administrative agencies of the two Parties shall:

- (a) Exercise technical and administrative control over the acquisition, suspension, recovery, modification or termination of the benefits referred to in this Agreement;
- (b) Collaborate in ensuring the payment of benefits on behalf of the administrative agency of the other Party in the prescribed form;
- (c) Accept and transmit to the administrative agency of the other Party any notifications, claims, notices, appeals or other documents related to the application of this Agreement and submitted to them for that purpose; and
- (d) Collaborate in any other way conducive to the application of this Agreement.

Article 20. 1. The claims, notices, appeals or other documents which must be submitted within a prescribed period to the authorities or bodies of one Party in order for its legislation to be applied shall be considered to have been submitted to them if

they have been delivered to an authority or body of the other Party within the same period.

2. Any claim for a benefit submitted under the legislation of one Party shall be deemed, where appropriate, to be a claim to the corresponding benefit under the legislation of the other Party.

Article 21. 1. Where the legislation of one Contracting Party provides that any certificate or other document submitted under the legislation of that Party shall be exempt, wholly or partly, from any taxes, legal dues, consular fees, administrative charges or similar payments, this exemption shall apply to any certificate or other document submitted under the legislation of the other Party or under this Agreement.

2. Any certificate, document or written statement to be submitted under this Agreement shall be exempt from legalization or authentication.

TRANSITIONAL AND FINAL PROVISIONS

First. This Agreement shall enter into force on the first day of the month following the month in which it was officially published by both Contracting Parties, for which purpose the competent authorities shall transmit to each other the relevant communications.

Second. This Agreement shall remain in force for one-year periods, extendable by tacit agreement, and may be denounced by the Contracting Parties at any time; such denunciation shall take effect six months after the date of its notification, but shall not affect rights already acquired.

Third. In the event of the termination of this Agreement, its provisions shall continue to apply to the rights acquired thereunder. The Contracting Parties shall agree on provisions for guaranteeing the rights acquired on the basis of insurance periods completed prior to the date of termination of the Agreement.

Fourth. In the application of this Agreement, insurance periods completed before its entry into force shall also be taken into account where the persons concerned accumulate contribution periods after it enters into force. It shall in no case provide entitlement to benefits based on this Agreement prior to the date of its entry into force.

Fifth. Payment of benefits which has been suspended in implementation of the provisions in force in one of the Contracting Parties because the insured persons are resident abroad shall resume after the first day of the month following the entry into force of this Agreement, provided that the insured persons submit their claims within two years of the date of entry into force of the Agreement; after the expiry of that period, such claims shall take effect on the date of their submission.

DONE at Madrid on 21 June 1979, in duplicate in the Spanish language, both copies being equally authentic.

For the Government
of Spain:

[Signed]

JUAN ROVIRA TARAZONA
Minister of Health
and Social Security

For the Government
of the Eastern Republic
of Uruguay:

[Signed]

JOSÉ ETCHEVERRY STIRLING
Minister of Labour
and Social Security