

No. 21609

MULTILATERAL

European Agreement concerning the provision of medical care to persons during temporary residence (with procès-verbaux of rectification dated 24 January and 5 July 1983). Concluded at Geneva on 17 October 1980

Authentic texts: English, French, German, Russian and Spanish.

Registered by the International Labour Organisation on 25 February 1983.

MULTILATÉRAL

Accord européen concernant l'octroi des soins médicaux aux personnes en séjour temporaire (avec procès-verbaux de rectification en date des 24 janvier et 5 juillet 1983). Conclu à Genève le 17 octobre 1980

Textes authentiques : anglais, français, allemand, russe et espagnol.

Enregistré par l'Organisation internationale du Travail le 25 février 1983.

EUROPEAN AGREEMENT¹ CONCERNING THE PROVISION OF MEDICAL CARE TO PERSONS DURING TEMPORARY RESIDENCE

The States signatory to this Agreement,

Considering the pertinent clauses of the Final Act of the Conference on Security and Co-operation in Europe²,

Recalling the recommendations of the European Regional Conferences of the International Labour Organisation on the development of co-operation in the field of social security,

Bearing in mind the importance of the problems of social security requiring solutions in the light of the expansion of mutual links among those States and of the number of persons temporarily resident in the territory of a State other than the one whose legislation entitles them to medical care,

Have agreed on the following provisions:

Article 1. For the purposes of this Agreement:

(a) The term “Contracting Party” means any State which has deposited an instrument of ratification;

(b) The term “legislation” means any laws, regulations and other statutory instruments which are in force at the time of signature of this Agreement or may enter into force subsequently in the whole or any part of the territory of each Contracting Party and which relate to social security schemes governing the provision of medical care, including national health services;

(c) The term “social security convention” means any bilateral or multilateral agreement by which, in the field of medical care, two or more Contracting Parties are, or may subsequently be, bound exclusively, and any multilateral agreement by which at least two Contracting Parties and one or more other States are, or may subsequently be, bound;

(d) The term “competent authority” means the minister, ministers or other corresponding authority responsible for the application of the legislation of each Contracting Party in all or any part of the territory of that Party;

(e) The term “competent institution” means:

(i) In relation to a social insurance scheme, the institution of the Contracting Party to which the person concerned is able to prove that he is entitled to

¹ Came into force in respect of the following States on 1 February 1983, i.e., the first day of the second month following that in which the second instrument of ratification had been deposited with the Director-General of the International Labour Office, in accordance with article 13 (2) and (3). Instruments were deposited with the Director-General of the International Labour Office as indicated hereinafter:

<i>State</i>	<i>Date of deposit of the instrument of ratification</i>
Hungary	16 September 1981
Netherlands	6 December 1982

² *International Legal Materials*, vol. 14 (1975), p. 1292 (American Society of International Law).

receive medical care or would be able to prove that he is so entitled if he were in the territory of that Party;

(ii) In relation to a scheme other than a social insurance scheme, the institution designated by the competent authority of the Contracting Party in question;

(f) The term “competent State” means the Contracting Party in whose territory the competent institution is situated;

(g) The term “temporary residence” means a temporary stay in the territory of a Contracting Party other than the competent State within the limits of such period as may be prescribed by the national regulations of the first Party, should such exist;

(h) The term “institution of the place of temporary residence” means the institution empowered to provide medical care at the place where the person concerned is temporarily resident, according to the legislation of the Contracting Party which this institution applies;

(i) The term “medical care” covers medical care required in cases of accident, illness or pregnancy;

(j) The term “cases of absolute urgency” means cases where the provision of medical care [or allied benefits]¹ cannot be deferred without endangering the life or health of the person concerned.

Article 2. 1. The provisions of this Agreement shall be applicable to all persons who can claim medical care under the legislation of a Contracting Party or who would be able to claim such care under that legislation if they were in the territory of that Party.

2. However, if the legislation of a Contracting Party embraces several medical care systems, that Party may specify in Annex I the medical care systems covered by its legislation and to which this Agreement is applicable, in its relations with any other Contracting Party with whom it has agreed to apply the provisions of Article 6, paragraph 1, subparagraphs (b) or (c).

3. Each Contracting Party concerned shall, in accordance with the provisions of Article 18, paragraph 1, notify any amendment to Annex I.

Article 3. 1. In the relations between Contracting Parties, this Agreement replaces the corresponding provisions of any social security convention, provided that such provisions, by mutual agreement between the Contracting Parties concerned, are mentioned in Annex II.

2. The Contracting Parties concerned, by mutual agreement, shall give notice, in respect of themselves, in accordance with the provisions of Article 18, paragraph 1, of any amendment to be made to Annex II.

¹ In accordance with a procès-verbal dated 5 July 1983 and communicated by the Director-General of the International Labour Office to all States entitled to become Parties to the Agreement, the words “or allied benefits” have been added — Conformément à un procès-verbal en date du 5 juillet 1983 et communiqué par le Directeur général du Bureau international du Travail aux Etats appelés à devenir Parties à l’Accord, les mots «or allied benefits» ont été ajoutés.

Article 4. 1. Persons covered by the provisions of this Agreement and whose condition, on medical advice, necessitates immediate medical care during temporary residence [in the territory of a Contracting Party other than the competent State]¹ shall receive the medical care required by their condition, as if they were entitled to such care under the legislation of [that]¹ Party. Such care shall be provided by the institution of the place of temporary residence in accordance with the provisions of the legislation applied by that institution, as if the persons concerned were covered by it, until their recovery or until their state of health permits them, on medical advice, to return or be repatriated to the territory of the Contracting Party where they reside, in accordance with the provisions of paragraph 3.

2. However, in the relations between institutions which apply the provisions of Article 6, paragraph 1, subparagraph (b), the supply of prosthetic appliances, major aids and other major benefits in kind to be specified by mutual agreement by the competent authorities of the Contracting Parties concerned shall be conditional upon authorisation by the competent institution. However, such authorisation is not required in cases of absolute urgency.

3. If the condition of a person referred to in paragraph 1 does not permit him to return without help to the territory of the State where he resides, but nevertheless does not prevent his being moved, the institution of the place of temporary residence shall make the necessary arrangements for his repatriation to the territory of that State, in co-operation with the competent institution, provided that an agreement has been concluded for this purpose between the Contracting Parties concerned or their competent authorities.

4. Where the legislation applied by the institution of the place of temporary residence provides for several medical care schemes, the rules to be applied in respect of the provision of medical care by virtue of the provisions of paragraph 1 shall be those of the general scheme or, failing that, of the scheme for employed persons in industry.

5. Without prejudice to the provisions of paragraph 1, the provisions of this Agreement are not applicable to persons who go to the territory of a Contracting Party other than the competent State for the purpose of receiving medical care.

Article 5. 1. In order to receive the medical care provided for in Article 4, paragraph 1, the person concerned shall submit proof of his entitlement to medical care under the legislation of a Contracting Party other than the one in whose territory he is present.

¹ In accordance with a procès-verbal dated 24 January 1983 and communicated by the Director-General of the International Labour Office to all States entitled to become Parties to the Agreement, the words "in the territory of another Contracting Party" have been replaced by "in the territory of a Contracting Party other than the competent State", and the words "under the legislation of the latter Party" by "under the legislation of that Party"—Conformément à un procès-verbal en date du 24 janvier 1983 et communiqué par le Directeur général du Bureau international du Travail aux Etats appelés à devenir Parties à l'Accord, les mots «in the territory of another Contracting Party» ont été remplacés par «in the territory of a Contracting Party other than the competent State» et les mots «under the legislation of the latter Party» par les mots «under the legislation of that Party».

2. The proof referred to in paragraph 1 is given by means of a certificate delivered by the competent institution on a form agreed by the competent authorities of the Contracting Parties.

3. Where the person concerned is entitled to medical care under the legislation of a Contracting Party which guarantees such entitlement to all nationals or all residents of that Party, the person concerned may be permitted to submit, instead of the certificate referred to in paragraph 2, his passport or another identity document recognised as equivalent if the competent authorities of the Contracting Parties concerned have so decided by mutual agreement.

4. In cases of absolute urgency medical care shall not be withheld from the person concerned on the ground that he cannot submit at the appropriate time the certificate referred to in paragraph 2 or one of the documents referred to in paragraph 3. However, in such case, the institution of the place of temporary residence shall ask the competent institution to determine whether the person concerned is entitled to benefit from the provisions of this Agreement.

Notwithstanding the provisions of paragraph 1 of Article 2, the Contracting Parties which have agreed to apply the provisions of subparagraph (b) or subparagraph (c) of paragraph 1 of Article 6 may resolve, through mutual agreement, difficulties arising from the application of the preceding sentence of this paragraph.

5. If the life or health of a person needing medical care is seriously in danger, or the person hospitalised is under 18 and away from his family, it would be desirable, in the interest of the person concerned, that the consular authority of the Contracting Party in whose territory that person is resident should be informed.

Article 6. 1. The costs of medical care []¹ borne by the institution of the place of temporary residence by virtue of the provisions of Article 4:

- (a) Shall not give rise to any refunds by the competent institution;
- (b) Shall be refunded in full by the competent institution on the presentation of proof of the actual expenditure, excluding administrative costs;
- (c) Shall be refunded by the competent institution, in accordance with special arrangements;

depending on whether the Contracting Parties concerned have agreed to apply the provisions of subparagraph (a) or subparagraph (b) or subparagraph (c) of this paragraph.

2. In the relations between Contracting Parties which have agreed to apply the provisions of paragraph 1, subparagraph (b), the competent institution shall refund the actual amount of the costs of medical care borne by the

¹ In accordance with a procès-verbal dated 24 January 1983 and communicated by the Director-General of the International Labour Office to all States entitled to become Parties to the Agreement, the words "and repatriation" have been deleted — Conformément à un procès-verbal en date du 24 janvier 1983 et communiqué par le Directeur général du Bureau international du Travail aux Etats appelés à devenir Parties à l'Accord, les mots «and repatriation» ont été supprimés.

institution of the place of temporary residence, by virtue of the provisions of Article 4, as shown in the accounts of that institution. The amount of the costs to be refunded may not exceed the actual amount for identical medical care that would have been provided to beneficiaries normally covered by the institution of the place of temporary residence.

3. In the relations between Contracting Parties which have agreed to apply the provisions of paragraph 1, subparagraph (c), the competent institution shall refund the amount of the costs of medical care borne by the institution of the place of temporary residence, by virtue of the provisions of Article 4, in accordance with the specific arrangements reached between these Parties, notably on the basis of lump-sum payments determined by mutual agreement between the competent authorities of the Contracting Parties concerned, from all the appropriate references drawn from the data available.

Article 7. 1. Where, under this Agreement, the institution of one Contracting Party is liable to pay sums in refund of costs borne by the institution of another Contracting Party, its liability shall be expressed in currency of the second Party. The first institution may validly discharge its liability in that currency, unless the Contracting Parties concerned have agreed on other arrangements.

2. Transfers of funds which result from the application of this Agreement shall be effected, if such exist, in accordance with the relevant agreements in force between the Contracting Parties concerned at the date of transfer. Where no such arrangements exist, specific agreements should be concluded between the Parties concerned.

Article 8. 1. The competent authorities of the Contracting Parties shall communicate to each other:

- [(a) All information of use in the application of this Agreement;
- (b) All information regarding measures taken by them for the application of this Agreement;]¹
- (c) All information regarding changes made in their legislation which may affect the application of this Agreement.

2. For the purpose of applying this Agreement the authorities and institutions of the Contracting Parties shall assist one another as if it were a matter of applying their own legislation. In principle the administrative assistance furnished by the said authorities and institutions to one another shall be free of charge. However, the competent authorities of the Contracting Parties may agree to reimburse certain expenses.

3. The authorities and institutions of the Contracting Parties may, for the purpose of applying this Agreement, communicate directly.

¹ In accordance with a procès-verbal dated 24 January 1983 and communicated by the Director-General of the International Labour Office to all States entitled to become Parties to the Agreement, the order of subparagraphs (a) and (b) has been inverted — Conformément à un procès-verbal en date du 24 janvier 1983 et communiqué par le Directeur général du Bureau international du Travail aux Etats appelés à devenir Parties à l'Accord, l'ordre des alinéas a et b a été inversé.

4. The authorities and institutions of the Contracting Parties may also communicate directly with the persons concerned or their representatives, in the interests of the persons entitled to benefit from the provisions of this Agreement.

5. The competent authorities of the Contracting Parties shall make whatever arrangements may be necessary to facilitate settlement of certain particular cases concerning individuals or groups, in the interests of the persons covered by the provisions of this Agreement.

Article 9. 1. Any exemption from, or reduction of, taxes, stamp duty, legal dues or registration fees provided for in the legislation of one Contracting Party in connection with certificates or documents required to be produced for the purposes of the legislation of that Party shall be extended to similar certificates and documents required to be produced for the purposes of the legislation of another Contracting Party or of this Agreement.

2. All official instruments, documents or certificates of any kind that are required to be produced for the purposes of this Agreement shall be exempt from authentication or any similar formality.

Article 10. Any claim or appeal that, under the legislation of a Contracting Party, should have been submitted within a specified time to an institution of that Party shall be admissible if it is submitted within the same period to a corresponding institution of another Contracting Party. In such event the institution receiving the claim or appeal shall forward it without delay to the institution of the First Party competent to deal with it either directly or through the intermediary of the competent authorities of the Contracting [Parties]¹ concerned. The date on which any claim or appeal was submitted to an institution of the second [] Party shall be deemed to be the date of its submission to the institution competent to deal with it.

The claims, declarations, appeals and other papers submitted to an authority or to an institution of a Contracting Party with a view to application of this Agreement shall not be rejected on the ground that they are drafted in an official language of another Contracting Party.

Article 11. Any dispute arising between two or more Contracting Parties in connection with the interpretation or application of this Agreement shall be settled by direct negotiation between the competent authorities of the Contracting Parties concerned. If there is a question which affects all the Contracting Parties, the Director-General of the International Labour Office may submit the dispute, at the request of these authorities and after consultation with the competent authorities of the other Contracting Parties, to a meeting of representatives of the competent authorities of all the Contracting Parties, which will give an opinion on the question.

¹ In accordance with a procès-verbal dated 24 January 1983 and communicated by the Director-General of the International Labour Office to all States entitled to become Parties to the Agreement, the penultimate word "Party" in the second sentence of article ten, paragraph 1, has been replaced by "Parties" and the word "Contracting" between the words "second" and "Party" in the last sentence has been deleted — Conformément à un procès-verbal en date du 24 janvier 1983 et communiqué par le Directeur général du Bureau international du Travail aux Etats appelés à devenir Parties à l'Accord, l'avant dernier mot «Party» dans la deuxième phrase du premier paragraphe de l'article 10 a été remplacé par «Parties» et le mot «Contracting» entre les mots «second» et «Party» dans la dernière phrase a été supprimé.

Article 12. The annexes referred to in Article 2, paragraph 2, and Article 3, paragraph 1, and any subsequent amendments made to these annexes, shall be an integral part of this Agreement.

Article 13. 1. This Agreement shall be open for signature by any European State at the International Labour Office.

2. This Agreement shall be subject to ratification. The instruments of ratification shall be deposited with the Director-General of the International Labour Office.

3. This Agreement shall come into force on the first day of the second month following that in which the second instrument of ratification is deposited.

4. In the case of any State that subsequently ratifies the Agreement, this Agreement shall come into force on the first day of the second month following that in which its instrument of ratification is deposited.

Article 14. 1. After the expiry of a period of two years from the date on which this Agreement first comes into force, any non-European Member of the International Labour Organisation may accede to said Agreement.

2. However, the Contracting Parties to this Agreement shall be allowed a period of six months from the date on which the instrument of ratification of any acceding State is deposited, in accordance with paragraph 5, for notifying their objection to such accession, in accordance with the provisions of Article 18, paragraph 1.

3. Likewise, any European State ratifying this Agreement after the expiry of the two-year period provided for in paragraph 1 of this Article may, at the time when such instruments of ratification are deposited, avail itself of the same right of objection against any Contracting Party which has acceded prior to the date of such deposit, by notifying it in accordance with the provisions of Article 18, paragraph 1.

4. The acceding States shall become Contracting Parties only in relation to those Contracting Parties which have not lodged any opposition to their accession.

5. The instruments of ratification of the adhering States shall be deposited with the Director-General of the International Labour Office.

Article 15. 1. In the relations between an acceding State and a Contracting Party which has not expressed objection to the accession of that State, this Agreement shall come into force on the first day of the second month following that in which expires the six-month period available to that Party, by virtue of Article 14, paragraph 2, to lodge an objection or, with regard to a European State to which Article 14, paragraph 3 applies, on the first day of the second month following that in which its instrument of ratification is deposited.

2. The Contracting Parties shall give notice, in accordance with the provisions of Article 18, paragraph 1, which of the provisions of subparagraph

(a), of subparagraph (b) or of subparagraph (c) of paragraph 1 of Article 6, they have agreed to apply in their relations with one another.

3. If two or more Contracting Parties have not, when this Agreement comes into force in relation to them, concluded an arrangement on the application of the provisions referred to in the preceding paragraph and, as the case may be, an agreement of the type referred to in paragraph 2 of Article 7, the Agreement shall not take effect between those Parties until such arrangements become applicable in their relations with one another.

4. In the cases referred to in the preceding paragraph of this Article, the Contracting Parties concerned shall give notice, in accordance with the provisions of Article 18, paragraph 1, of the date on which this Agreement will take effect between them.

Article 16. 1. This Agreement shall remain in force indefinitely.

2. However, any Contracting Party may denounce this Agreement after the expiry of a period of five years from the date on which the said Agreement first comes into force by giving notice in accordance with the provisions of Article 18, paragraph 1. Such denunciation shall not take effect until six months after it has been registered by the Director-General of the International Labour Office.

Article 17. 1. After the expiry of a period of five years from the date on which this Agreement first comes into force, any Contracting Party may request the Director-General of the International Labour Office to convene a meeting to consider its possible revision.

2. On receipt of a request to this effect, the Director-General of the International Labour Office shall inform the other Contracting Parties thereof and, after consultation with the competent authorities of the Contracting Parties, may convene a meeting of representatives of the Contracting Parties and the signatory States.

Article 18. 1. The notifications referred to in Article 2, paragraph 3, Article 3, paragraph 2, Article 14, paragraphs 2 and 3, Article 15, paragraphs 2 and 4, and Article 16, paragraph 2, shall be addressed to the Director-General of the International Labour Office.

2. The Director-General of the International Labour Office shall notify the Contracting Parties and the signatory States of:

- (a) The deposit of any instrument of ratification;
- (b) The dates of coming into force and of taking effect of this Agreement in accordance with the provisions of Article 15; and
- (c) Any notification received in pursuance of the provisions of paragraph 1 of this Article.

Article 19. 1. As soon as this Agreement first comes into force, a certified copy shall be provided by the Director-General of the International Labour Office to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations.

2. In accordance with Article 102 of the Charter of the United Nations, the Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration, any ratification and any denunciation of which he has been notified.

Article 20. 1. Two or more Contracting Parties may conclude bilateral or multilateral arrangements for the application of this Agreement.

2. The International Labour Office shall prepare a model arrangement to help in concluding the administrative arrangements referred to in the preceding paragraph.

Article 21. An original of each of the English, French, German, Russian and Spanish texts of this Agreement shall be deposited in the archives of the International Labour Office. The English and French texts are equally authoritative.

IN WITNESS WHEREOF the undersigned, having deposited their respective credentials, have signed this Agreement.

DONE at Geneva this seventeenth day of October 1980 in five original copies in English, French, German, Russian and Spanish.

The Director-General of the International Labour Office shall transmit certified copies of the text of this Agreement to the governments of each of the Signatory States.

A. SCHULER
President of the Governmental Conference

W. FRONCZAK
Vice-President of the Governmental Conference
