

# European Convention on Social Security

Paris, 14.XII.1972

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The member states of the Council of Europe signatory hereto,  
Considering that the aim of the Council of Europe is to achieve greater unity between its members, in particular for the purpose of facilitating their social progress;  
Considering that multilateral co-ordination of social security legislation is one of the means of achieving that aim;  
Considering that the European Code of Social Security, opened for signature on 16 April 1964, provides, in Article 73, that the Contracting Parties to the Code shall endeavour to conclude a special instrument governing questions relating to social security for foreigners and migrants, particularly with regard to equality of treatment with their own nationals and to the maintenance of acquired rights and rights in course of acquisition;  
Affirming the principle of equality of treatment for nationals of the Contracting Parties, refugees and stateless persons, under the social security legislation of each Contracting Party, and the principle that the benefits under social security legislation should be maintained despite any change of residence by the protected persons within the territories of the Contracting Parties, principles which underlie not only certain provisions of the European Social Charter but also several conventions of the International Labour Organisation,  
Have agreed as follows:

## **Title I – General provisions**

### **Article 1**

For the purposes of this Convention:

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

accordance with the provisions of Article 81, paragraph 1, of any amendment to be made to Annex I;

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

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

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

## **Article 2**

1. This Convention applies to all legislation governing the following branches of social security:
  - a. sickness and maternity benefits;
  - b. invalidity benefits;
  - c. old-age benefits;
  - d. survivors' benefits;
  - e. benefits in respect of occupational injuries and diseases;
  - f. death grants;
  - g. unemployment benefits;
  - h. family benefits.
2. This Convention applies to all general social security schemes and special schemes, whether contributory or non-contributory, including employers' liability schemes in respect of the benefits referred to in the preceding paragraph. Bilateral or multilateral agreements between two or more Contracting Parties shall determine, as far as possible, the conditions in which this Convention shall apply to schemes established by means of collective agreements made compulsory by decision of the public authorities.
3. Where schemes relating to seafarers are concerned, the provisions of Title III of this Convention shall apply without prejudice to the legislation of any Contracting Party governing the liabilities of shipowners, who shall be treated as the employers for the purposes of the application of this Convention.
4. This Convention does not apply to social or medical assistance schemes, to benefit schemes for victims of war or its consequences, or to special schemes for civil servants or persons treated as such.
5. This Convention does not apply to legislation designed to give effect to a social security convention concluded between a Contracting Party and one or more other States.

### **Article 3**

1. Annex II specifies, in respect of each Contracting Party, the legislation and schemes referred to in Article 2, paragraphs 1 and 2.
2. Each Contracting Party shall give notice, in accordance with the provisions of Article 81, paragraph 1, of any amendment to be made to Annex II as a result of the adoption of new legislation. Such notice shall be given within three months from the date of publication of such legislation or, in the case of legislation published before the date of ratification of this Convention, on the date of ratification.

### **Article 4**

1. The provisions of this Convention shall be applicable:
  - a. to persons who are or have been subject to the legislation of one or more of the Contracting Parties and are nationals of a Contracting Party, or are refugees or stateless persons resident in the territory of a Contracting Party, as well as to the members of their families and their survivors;

- b. to the survivors of persons who were subject to the legislation of one or more of the Contracting Parties, irrespective of the nationality of such persons, where these survivors are nationals of a Contracting Party, or refugees or stateless persons resident in the territory of a Contracting Party;
    - c. without prejudice to Article 2, paragraph 4, to civil servants and persons treated as such under the legislation of the Contracting Party concerned, in so far as they are subject to any legislation of that Contracting Party to which this Convention applies.
2. Notwithstanding the provisions of sub-paragraph c of the preceding paragraph, the categories of persons – other than members of the service staff of diplomatic missions or consular posts and persons employed in the private service of officials of such missions or posts – in respect of whom the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations provide for exemption from the social security provisions which are in force in the receiving State, shall not benefit from the provisions of this Convention.

## **Article 5**

1. Subject to the provisions of Article 6, this Convention replaces, in respect of persons to whom it is applicable, any social security conventions binding:
  - a. two or more Contracting Parties exclusively; or
  - b. at least two Contracting Parties and one or more other States in respect of cases calling for no action on the part of an institution of one of the latter States.
2. However, where the application of certain provisions of this Convention is subject to the conclusion of bilateral or multilateral agreements, the provisions of the conventions referred to in sub-paragraphs a and b of the preceding paragraph shall remain applicable until the entry into force of such agreements.

## **Article 6**

1. The provisions of this Convention shall not affect obligations under any convention adopted by the International Labour Conference.
2. This Convention shall not affect the provisions on social security in the Treaty of 25 March 1957 establishing the European Economic Community nor the association agreements envisaged under that Treaty nor the measures taken in application of those provisions.
3. Notwithstanding the provisions of Article 5, paragraph 1, two or more Contracting Parties may keep in force, by mutual agreement and in respect of themselves, the provisions of social security conventions by which they are bound by specifying them in Annex III or, in the case of provisions relating to the application of these conventions, by specifying them in an annex to the Supplementary Agreement for the application of this Convention.
4. However, this Convention shall apply in all cases requiring action on the part of an institution of a Contracting Party other than those which are bound by the

- provisions referred to in paragraph 2 or in paragraph 3 of this article as well as in the case of persons who are entitled to benefits under this Convention and to whom the said provisions are not exclusively applicable.
5. Two or more Contracting Parties which are bound by the provisions specified in Annex III may, by mutual agreement and in respect of themselves, make appropriate amendments to this annex by giving notice thereof in accordance with the provisions of Article 81, paragraph 1.

## **Article 7**

1. Two or more Contracting Parties may, if need be, conclude with each other social security conventions founded on the principles of this Convention.
2. Each Contracting Party shall give notice, in accordance with the provisions of Article 81, paragraph 1, of any convention which it concludes by virtue of the preceding paragraph, and of any subsequent amendment or denunciation of such a convention. Such notice shall be given within three months from the date of entry into force of that convention or its amendment, or from the date on which its denunciation takes effect.

## **Article 8**

1. Unless otherwise specified in this Convention, persons who are resident in the territory of a Contracting Party and to whom the Convention is applicable shall have the same rights and obligations under the legislation of every Contracting Party as the nationals of such Party.
2. However, entitlement to non-contributory benefits, the amount of which does not depend on the length of the periods of residence completed, may be made conditional on the beneficiary having resided in the territory of the Contracting Party concerned or, in the case of survivors' benefits, on the deceased having resided there for a period which may not be set:
  - a. at more than six months immediately preceding the lodging of the claim, for maternity benefits and unemployment benefits;
  - b. at more than five consecutive years immediately preceding the lodging of the claim, for invalidity benefits, or immediately preceding death, for survivors' benefits;
  - c. at more than ten years between the age of sixteen and the pensionable age, of which it may be required that five years shall immediately precede the lodging of the claim, for old-age benefits.
3. If a person does not fulfil the conditions laid down in sub-paragraph b or sub-paragraph c of the preceding paragraph, but has been subject – or, in the case of survivors' benefits, if the deceased has been subject – to the legislation of the Contracting Party concerned for at least one year, that person or the survivors of the deceased shall nevertheless, without prejudice to the provisions of Article 27, be entitled to benefits calculated on the basis of the full benefit and up to an amount not exceeding it:

- a. in the case of invalidity or death benefits, in proportion to the ratio of the number of years of residence completed by the person concerned or the deceased under the said legislation between the date on which he reached the age of sixteen and the date of his incapacity for work followed by invalidity or death, to two-thirds of the number of years separating those two dates, disregarding any years subsequent to pensionable age;
  - b. in the case of old-age pension, in proportion to the ratio of the number of years of residence completed by the person concerned under the said legislation between the date on which he reached the age of sixteen and the pensionable age, to thirty years.
4. Annex IV specifies, for each Contracting Party concerned, the benefits provided under its legislation to which the provisions of paragraph 2 or paragraph 3 of this article are applicable.
5. Each Contracting Party concerned shall give notice, in accordance with the provisions of Article 81, paragraph 1, of any amendment to be made to Annex IV. If such an amendment results from the adoption of new legislation, such notice shall be given within three months from the date of publication of that legislation or, in the case of legislation published before the date of ratification of this Convention, on the date of ratification.
6. The provisions of paragraph 1 of this article shall not affect the legislation of any Contracting Party in so far as it concerns participation in social security administration or membership of social security tribunals.
7. Special measures may be adopted concerning the participation in voluntary insurance or optional continued insurance of persons not resident in the territory of the Contracting Party concerned, or the entitlement to benefits under the transitional arrangements specified in Annex VII.

## **Article 9**

1. The benefit of the provisions of social security conventions which remain in force by virtue of Article 6, paragraph 3, and the provisions of social security conventions concluded by virtue of Article 7, paragraph 1, may be extended, by agreement between the Parties bound thereby, to nationals of every Contracting Party.
2. Annex V specifies the provisions of social security conventions which remain in force by virtue of Article 6, paragraph 3, and whose application is to be extended, in accordance with paragraph 1 of the present article, to nationals of every Contracting Party.
3. The Contracting Parties concerned shall give notice, in accordance with the provisions of Article 81, paragraph 1, of the provisions of the social security conventions concluded by them by virtue of Article 7, paragraph 1, whose application is extended, in accordance with paragraph 1 of the present article, to nationals of every Contracting Party. The provisions of the said conventions shall be indicated in Annex V.
4. Two or more Contracting Parties which are bound by the provisions specified in Annex V may, by mutual agreement and in respect of themselves, make



appropriate amendments to this annex by giving notice thereof in accordance with the provisions of Article 81, paragraph 1.

## **Article 10**

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

## **Article 11**

1. Unless otherwise specified in this Convention, neither invalidity cash benefits, old-age or survivors' cash benefits, pensions in respect of occupational injuries or diseases, nor death grants, payable under the legislation of one or more Contracting Parties, shall be liable to reduction, modification, suspension, suppression or forfeiture by reason of the fact that the beneficiary is resident in the territory of a Contracting Party other than that in which the institution liable for payment is situated.
2. However, notwithstanding the provisions of Article 8, paragraphs 1 and 2, the invalidity, old-age or survivors' benefits specified in Annex IV shall be calculated in accordance with the provisions of sub-paragraph a or sub-paragraph b of paragraph 3 of the said Article 8, as the case may be, if the beneficiary is resident in the territory of a Contracting Party other than that in which the institution liable for payment is situated.
3. The provisions of paragraphs 1 and 2 of the present article shall not apply to the following benefits, in so far as they are specified in Annex VI:
  - a. special non-contributory benefits granted to invalids who are unable to earn a living;
  - b. special non-contributory benefits granted to persons not entitled to normal benefits;
  - c. benefits granted under transitional arrangements;
  - d. special benefits granted as assistance or in case of need.
4. Each Contracting Party concerned shall give notice, in accordance with the provisions of Article 81, paragraph 1, of any amendment to be made to Annex VI. If such an amendment results from the adoption of new legislation, such notice shall be given within three months from the date of publication of that legislation or, in the case of legislation published before the date of ratification of this Convention, on the date of ratification.
5. Where the legislation of a Contracting Party makes the repayment of contributions conditional upon the person concerned having ceased to be subject to compulsory insurance, that condition shall not be regarded as fulfilled so long

as that person is subject to compulsory insurance under the legislation of any other Contracting Party.

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

## **Article 12**

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

## **Article 13**

1. Except for benefits in respect of invalidity, old age, survivors or occupational disease which are paid by the institutions of two or more Contracting Parties in accordance with the provisions of Article 29 or of Article 47, sub-paragraph b, this Convention shall not confer or maintain entitlement to several benefits of the same nature or to several benefits relating to one and the same period of compulsory insurance.
2. Provisions in the legislation of a Contracting Party for the reduction, suspension or suppression of benefits where there is overlapping with other benefits or other income, or because of an occupational activity, shall apply also to a beneficiary in respect of benefits acquired under the legislation of another Contracting Party or in respect of income obtained, or occupation followed, in the territory of another Contracting Party. This rule shall not, however, apply to benefits of the same nature payable in respect of invalidity, old age, survivors or occupational disease by the institutions of two or more Contracting Parties in accordance with the provisions of Article 29 or of Article 47, sub-paragraph b.

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

### **Article 14**

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

- a. employed persons who are employed in the territory of a Contracting Party shall be subject to the legislation of that Party, even if they are resident in the territory of another Contracting Party or if the undertaking which employs them has its principal place of business, or their employer has his place of residence, in the territory of another Contracting Party;

- b. workers who follow their occupation on board a ship flying the flag of a Contracting Party shall be subject to the legislation of that Party;
- c. self-employed persons who follow their occupation in the territory of a Contracting Party shall be subject to the legislation of that Party, even if they reside in the territory of another Contracting Party;
- d. civil servants and persons treated as such shall be subject to the legislation of the Contracting Party in whose administration they are employed.

## **Article 15**

1. The rule stated in Article 14, sub-paragraph a, shall apply subject to the following exceptions or modifications:
  - a.
    - i. employed persons who are employed in the territory of a Contracting Party by an undertaking which is their regular employer and who are sent by that undertaking to work for it in the territory of another Contracting Party shall remain subject to the legislation of the first Party provided that the expected duration of the work does not exceed twelve months and that they are not sent to replace other employed persons who have completed their period of employment abroad;
    - ii. if the work to be carried out continues because of unforeseeable circumstances for a period longer than originally intended and exceeding twelve months, the legislation of the first Party shall remain applicable until the work is completed, subject to the consent of the competent authority of the second Party or of the body designated by it;
  - b.
    - i. employed persons who are employed in international transport in the territory of two or more Contracting Parties as travelling personnel in the service of an undertaking which has its principal place of business in the territory of a Contracting Party and which, on behalf of others or on its own account, transports passengers or goods by rail, road, air or inland waterway, shall be subject to the legislation of the latter Party;
    - ii. however, if they are employed by a branch or permanent agency which the said undertaking has in the territory of a Contracting Party other than the Party in whose territory it has its principal place of business, they shall be subject to the legislation of the Contracting Party in whose territory the branch or permanent agency is situated;
    - iii. if they are employed wholly or mainly in the territory of the Contracting Party where they are resident, they shall be subject to the legislation of that Party, even if the undertaking which employs them has neither its principal place of business nor a branch or permanent agency in that territory;

- c.
  - i. employed persons other than those in international transport who normally follow their occupation in the territory of two or more Contracting Parties shall be subject to the legislation of the Contracting Party in whose territory they reside if their occupation is carried on partly in that territory or if they are employed by several undertakings or by several employers having their principal places of business or their places of residence in the territory of different Contracting Parties;
  - ii. in other cases, they shall be subject to the legislation of the Contracting Party in whose territory the undertaking which employs them has its principal place of business or their employer has his place of residence;
  - iii. employed persons who are employed in the territory of a Contracting Party by an undertaking which has its principal place of business in the territory of another Contracting Party and lies astride the common frontier of the Contracting Parties concerned shall be subject to the legislation of the Contracting Party in whose territory the undertaking has its principal place of business.
- 2. The rule stated in Article 14, sub-paragraph b, shall apply subject to the following exceptions:
  - a. employed persons who are employed by an undertaking which is their regular employer, either in the territory of a Contracting Party or on board a ship flying the flag of a Contracting Party, and who are sent by that undertaking to work for it on board a ship flying the flag of another Contracting Party, shall remain subject to the legislation of the first Party, subject to the conditions laid down in paragraph 1, sub-paragraph a, of the present article;
  - b. workers who normally follow their occupation in the territorial waters or in a port of a Contracting Party on board a ship flying the flag of another Contracting Party but who are not members of the ship's crew, shall be subject to the legislation of the first Party; and
  - c. employed persons who are employed on board a ship flying the flag of a Contracting Party and who are paid in respect of this occupation by an undertaking having its principal place of business, or by a person having his place of residence, in the territory of another Contracting Party, shall be subject to the legislation of the latter Party if they reside in its territory; the undertaking or person paying the remuneration shall be considered as the employer for the purpose of the application of the said legislation.
- 3. The rule stated in Article 14, sub-paragraph c, shall apply subject to the following exceptions or modifications:
  - a. self-employed persons who reside in the territory of one Contracting Party and follow their occupation in the territory of another Contracting Party shall be subject to the legislation of the first Party:
    - i. if the second Party has no legislation applicable to them, or

- ii. if, under the legislation of the two Parties concerned, self-employed persons are subject to such legislation solely by reason of the fact that they are resident in the territory of those Parties;
  - b. self-employed persons who normally follow their occupation in the territory of two or more Contracting Parties shall be subject to the legislation of the Contracting Party in whose territory they are resident, if they work partly in that territory or if, under that legislation, they are subject to it solely by reason of the fact that they are resident in the territory of that Party;
  - c. where the self-employed persons referred to in the preceding sub-paragraph do not follow a part of their occupation in the territory of the Contracting Party where they are resident, or where, under the legislation of that Party, they are not subject to that legislation solely by reason of the fact that they are resident, or where that Party has no legislation applicable to them, they shall be subject to the legislation jointly agreed upon by the Contracting Parties concerned or by their competent authorities.
4. Where by virtue of the preceding paragraphs of this article, a worker is subject to the legislation of a Contracting Party in whose territory he does not work, that legislation shall be applicable to him as if he worked in the territory of that Party.

## **Article 16**

1. The provisions of Articles 14 and 15 shall not apply to voluntary insurance or optional continued insurance.
2. Where the application of the legislation of two or more Contracting Parties would result in affiliation to a compulsory insurance scheme and at the same time permit membership of one or more voluntary insurance or optional continued insurance schemes, the person concerned shall be subject exclusively to the compulsory insurance scheme. However, in respect of invalidity, old age and death pensions, this Convention shall not affect the provisions of legislation of any Contracting Party permitting simultaneous affiliation to a voluntary insurance or optional continued insurance scheme and to a compulsory insurance scheme.
3. Where the application of the legislation of two or more Contracting Parties would result in the possibility of membership of two or more voluntary insurance or optional continued insurance schemes, the person concerned shall be admitted solely to the voluntary insurance or optional continued insurance scheme of the Contracting Party in whose territory he is resident or, if he is not resident in the territory of one of these Contracting Parties, to the scheme of that Contracting Party for whose legislation he has opted.

## **Article 17**

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

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

### **Article 18**

1. The competent authorities of two or more Contracting Parties may, by agreement, provide for exceptions to the provisions of Articles 14 to 17 in the interests of persons affected thereby.
2. The application of the provisions of the preceding paragraph shall, if need be, be subject to a request by the workers concerned and, where appropriate, by their employers. Moreover, such application shall be the subject of a decision by which the competent authority of the Contracting Party whose legislation is applicable confirms that the said workers are no longer subject to the aforesaid legislation and will henceforth be subject to the legislation of another Contracting Party.

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

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

#### **Article 19**

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

#### **Article 20**

1. Persons who reside in the territory of a Contracting Party other than the competent State and who satisfy the conditions for entitlement prescribed by the legislation of the latter State, regard being had, where appropriate, to the provisions of Article 19, shall receive in the territory of the Contracting Party in which they are resident:
  - a. benefits in kind, provided at the expense of the competent institution by the institution of the place of residence in accordance with the provisions of the legislation which the latter institution applies, as if these persons were affiliated to it;
  - b. cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these persons were resident in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence, cash benefits may also be paid through the latter institution, on behalf of the competent institution.
2. The provisions of the preceding paragraph shall apply, *mutatis mutandis*, in respect of benefits in kind to members of the family who are resident in the territory of a Contracting Party other than the competent State.
3. Benefits may also be paid to frontier workers by the competent institution in the territory of the competent State, in accordance with the provisions of the legislation of that State, as if they were resident in its territory. However, members of their family shall be entitled to benefits in kind under the same conditions only if there is an agreement to that effect between the competent authorities of the Contracting Parties concerned, or failing that, except in case of emergency, if there is prior authorisation by the competent institution.
4. Persons to whom this article applies, other than frontier workers or members of their families, who are temporarily resident in the territory of the competent State, shall be entitled to benefits in accordance with the provisions of the legislation of that State as if they were resident in its territory even if they were already receiving benefits for the same case of sickness or maternity before taking up their temporary residence.
5. Persons to whom this article applies who transfer their residence to the territory of the competent State shall be entitled to benefits in accordance with the provisions of the legislation of that State, even if they were already receiving benefits for the same case of sickness or maternity before transferring their residence.

## **Article 21**

1. Persons who satisfy the conditions for entitlement to benefits under the legislation of the competent State, regard being had, where appropriate, to the provisions of Article 19, and:
  - a. whose condition necessitates the immediate provision of benefits during temporary residence in the territory of a Contracting Party other than the competent State, or
  - b. who, having become entitled to benefits payable by the competent institution, are authorised by that institution to return to the territory of a

- Contracting Party other than the competent State where they are resident or to transfer their residence to the territory of a Contracting Party other than the competent State, or
- c. who are authorised by the competent institution to go to the territory of a Contracting Party other than the competent State in order to receive the treatment required by their condition, shall receive:
    - i. benefits in kind, provided at the expense of the competent institution by the institution of the place of residence or temporary residence in accordance with the provisions of the legislation applied by the latter institution, as if these persons were affiliated to it, for a period not exceeding any period which may be prescribed by the legislation of the competent State;
    - ii. cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these persons were in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence or temporary residence, cash benefits may be paid through the latter institution, on behalf of the competent institution.
  2. a The authorisation referred to in sub-paragraph b of the preceding paragraph may be refused only if the move might prejudice the health or the course of medical treatment of the person concerned;  
b the authorisation referred to in sub-paragraph c of the preceding paragraph shall not be refused when the requisite treatment cannot be given in the territory of the Contracting Party in which the person concerned resides.
  3. The provisions of the preceding paragraphs of this article shall apply, *mutatis mutandis*, to members of the family in respect of benefits in kind.

## **Article 22**

1. Where the legislation of a Contracting Party makes the provision of benefits in kind to members of the family conditional on their being personally insured, the provisions of Articles 20 and 21 shall apply to members of the family of a person subject to that legislation only if they are personally affiliated to the same institution of the said Party as that person, or to another institution of the said Party which provides corresponding benefits.
2. Where the legislation of a Contracting Party provides that the calculation of cash benefits shall be based on average earnings, the competent institution of that Party shall determine those average earnings exclusively on the basis of the earnings recorded during the periods completed under the said legislation.
3. Where the legislation of a Contracting Party provides that the calculation of cash benefits shall be based on fixed earnings, the competent institution of that Party shall take account exclusively of such fixed earnings or, where appropriate, of the average fixed earnings corresponding to the periods completed under the said legislation.



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

### **Article 23**

Unemployed persons who satisfy the conditions for entitlement to benefits in kind under the legislation of the Contracting Party responsible for providing unemployment benefit, regard being had, where appropriate, to the provisions of Article 19, shall be entitled, together with the members of their families, to benefits in kind if they are resident in the territory of another Contracting Party. Such benefits in kind shall be provided by the institution of the place of residence in accordance with the provisions of the legislation which that institution applies, as if the persons concerned were entitled to the benefits by virtue of that legislation, but the cost shall be borne by the competent institution of the first-mentioned Party.

### **Article 24**

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

- b. where the pensioner is entitled to the said benefits under the legislation of two or more Contracting Parties, the cost shall be borne by the competent institution of the Contracting Party under whose legislation the pensioner completed the longest period of insurance or residence; if by virtue of this rule two or more institutions would be liable for the cost of the benefits, the cost shall be borne by the institution of the Contracting Party to whose legislation the pensioner was last subject.
4. Where the members of the family of a person receiving a pension under the legislation of a Contracting Party or pensions under the legislation of two or more Contracting Parties are resident in the territory of a Contracting Party other than that in which the pensioner himself resides, they shall receive benefits in kind as if the pensioner were resident in the same territory, provided that he is entitled to such benefits under the legislation of a Contracting Party. The benefits in kind shall be provided by the institution of the place of residence of the members of the family under the provisions of the legislation which it applies, as if they were entitled to such benefits under that legislation, but their cost shall be borne by the institution of the pensioner's place of residence.
5. Members of the family to whom the preceding paragraph applies who transfer their residence to the territory of the Contracting Party in which the pensioner resides shall be entitled to benefits under the provisions of the legislation of that Party even if they have already received benefits for the same case of sickness or maternity before transferring their residence.
6. A person receiving a pension under the legislation of a Contracting Party, or pensions under the legislation of two or more Contracting Parties, who is entitled to benefits in kind under the legislation of one of these Parties, shall, together with the members of his family, be entitled to such benefits:
  - a. during temporary residence in the territory of a Contracting Party other than that in which they are resident, where their condition requires the immediate provision of benefit; or
  - b. where they have been authorised by the institution of the place of residence to go to the territory of a Contracting Party other than that in which they are resident in order to receive the treatment required by their condition.
7. In the cases referred to in the preceding paragraph, the benefits in kind shall be provided by the institution of the place of temporary residence in accordance with the provisions of the legislation which it applies, as if the persons concerned were entitled to such benefits under that legislation, but the cost shall be borne by the institution of the pensioner's place of residence.
8. Where the legislation of a Contracting Party provides for contributions to be deducted from the pension payable for the purpose of entitlement to benefits in kind, the institution of the Party which pays the pension shall be authorised to make such deductions if the cost of the benefits in kind is borne by an institution of that Party by virtue of this article.

## **Article 25**

1. Where the legislation applied by the institution of the place of residence or temporary residence provides for two or more sickness and maternity insurance schemes, the rules to be applied in respect of the provision of benefits in kind, in the cases covered by Article 20, paragraphs 1 and 2, Article 21, paragraphs 1 and 3, Article 23, and Article 24, paragraphs 2, 4 and 6, shall be those of the general scheme or, failing that, of the scheme for industrial workers.
2. Where the legislation of a Contracting Party makes the award of benefits dependent on the origin of the sickness, that condition shall not apply to persons covered by this Convention, irrespective of the territory of the Contracting Party in which they reside.
3. Where the legislation of a Contracting Party fixes a maximum period for the award of benefits, the institution which applies that legislation may, where appropriate, take account of any period during which benefits have already been provided by the institution of another Contracting Party for the same case of sickness or maternity.

### **Article 26**

1. The application of the provisions of Articles 20, 21, 23 and 24 as between two or more Contracting Parties shall be subject to the conclusion between those Parties of bilateral or multilateral agreements which may also contain appropriate special arrangements.
2. The agreements referred to in the preceding paragraph shall specify in particular:
  - a. the categories of persons to whom the provisions of Articles 20, 21, 23 and 24 shall apply;
  - b. the period during which benefits in kind may be provided by the institution of one Contracting Party, the cost being borne by the institution of another Contracting Party;
  - c. the special conditions governing the supply of prosthetic appliances, major aids and other major benefits in kind;
  - d. rules to prevent the overlapping of benefits of the same kind;
  - e. arrangements for the refund of benefits provided by the institution of one Contracting Party, the cost being borne by the institution of another Contracting Party.
3. Two or more Contracting Parties may agree that there shall be no refunds between the institutions in their jurisdiction.

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

### **Section 1 – Common provisions**

#### **Article 27**

Where a person has been subject successively or alternatively to the legislation of two or more Contracting Parties, the said person or his survivors shall be entitled to benefits in accordance with the provisions of this chapter, even if such persons

would be entitled to claim benefits under the legislation of one or more Contracting Parties without these provisions being applied.

## **Article 28**

1. Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of entitlement to benefits conditional upon the completion of periods of insurance, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account of periods of insurance completed under the legislation of any other Contracting Party and, where appropriate, of periods of residence completed after the age of sixteen under non-contributory schemes of any other Contracting Party, as if they were periods of insurance completed under the legislation of the first Party.
2. Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of entitlement to benefits conditional upon the completion of periods of residence, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account of periods of insurance completed under the legislation of any other Contracting Party, and, where appropriate, of periods of residence completed after the age of sixteen under non-contributory schemes of any other Contracting Party, as if they were periods of residence completed under the legislation of the first Party.
3. Where, under the legislation of a Contracting Party, a person has been affiliated at the same time to a contributory scheme and to a non-contributory scheme for the same contingency, the institution of any other Contracting Party concerned shall have regard, in applying paragraphs 1 or 2 of this article, to the longest period of insurance or of residence completed under the legislation of the first Party.
4. Where the legislation of a Contracting Party makes the provision of certain benefits conditional upon the completion of periods of insurance in an occupation covered by a special scheme or in a specified occupation or employment, only periods completed under a corresponding scheme, or, failing that, in the same occupation or, where appropriate, in the same employment, under the legislation of other Contracting Parties, shall be taken into account for the award of such benefits. If, notwithstanding periods completed in this way, the person concerned does not satisfy the conditions for entitlement to the said benefits, the periods concerned shall be taken into account for the award of benefits under the general scheme or, failing that, the scheme applicable to wage-earners or to salaried employees, as appropriate.
5. Where the legislation of a Contracting Party, which does not make entitlement to benefits or the amount thereof subject to any specific period of insurance or employment but makes the provision of such benefits conditional on the person concerned or, in the case of survivors' benefits, the deceased, having been subject to that legislation at the time at which the contingency arose, that condition shall be considered fulfilled if the person concerned or the deceased, as the case may be, was subject at that time to the legislation of another Contracting Party.
6. Where the legislation of a Contracting Party provides that the period of payment of a pension may be taken into consideration for the acquisition, maintenance or

recovery of entitlement to benefits, the competent institution of that Party shall to that end take account of any period during which a pension was paid under the legislation of any other Contracting Party.

## **Article 29**

1. The institution of each Contracting Party to whose legislation the person concerned has been subject shall determine, in accordance with the legislation which it applies, whether such person satisfies the conditions for entitlement to benefits having regard, where appropriate, to the provisions of Article 28.
2. If the person concerned satisfies those conditions, the said institution shall calculate the theoretical amount of the benefit he could claim if all the periods of insurance and of residence completed under the legislation of the Contracting Parties concerned, and taken into account for determining entitlement, in accordance with the provisions of Article 28, had been completed exclusively under the legislation which that institution applies.
3. However,
  - a. in the case of benefits the amount of which does not depend on the length of periods completed, that amount shall be taken to be the theoretical amount referred to in the preceding paragraph;
  - b. in the case of benefits specified in Annex IV, the theoretical amount referred to in the preceding paragraph may be calculated on the basis of the full benefit and up to an amount not exceeding it:
    - i. in the case of invalidity or death, in proportion to the ratio of the total periods of insurance and residence completed, before the contingency arose, by the person concerned or the deceased under the legislation of all Contracting Parties concerned and taken into account in accordance with the provisions of Article 28, to two-thirds the number of years which elapsed between the date on which the person concerned or the deceased reached the age of sixteen and the date on which occurred the incapacity for work followed by invalidity or the death, as the case may be, disregarding any years subsequent to pensionable age;
    - ii. in the case of old age, in proportion to the ratio of the total periods of insurance and residence completed by the person concerned under the legislation of all the Contracting Parties concerned, and taken into account in accordance with the provisions of Article 28, to thirty years, disregarding any years subsequent to pensionable age.
4. The said institution shall then calculate the actual amount of the benefit payable by it to the person concerned on the basis of the theoretical amount calculated in accordance with the provisions of paragraph 2 or of paragraph 3 of this article, as appropriate, and in proportion to the ratio of the periods of insurance or residence completed before the contingency arose under the legislation which it applies, to the total of the periods of insurance or residence completed before the contingency arose under the legislation of all the Contracting Parties concerned.

5. Where the legislation of a Contracting Party provides that the amount of benefits or certain parts thereof shall be in proportion to the periods of insurance or residence completed, the competent institution of that Party may calculate those benefits or parts thereof directly, solely on the basis of the periods completed under the legislation which it applies, notwithstanding the provisions of paragraphs 2 to 4 of this article.

### **Article 30**

1. For the calculation of the theoretical amount referred to in Article 29, paragraph 2:
  - a. where the legislation of a Contracting Party provides that benefits shall be calculated on the basis of average earnings, an average contribution, an average increase or on the basis of the ratio of the claimant's gross earnings during the periods of insurance to the average gross earnings of all insured persons other than apprentices, such average figures or ratios shall be determined by the competent institution of that Party solely on the basis of the periods completed under the legislation of the said Party or of the gross earnings received by the person concerned during those periods only;
  - b. where the legislation of a Contracting Party provides that benefits shall be calculated on the basis of the amount of earnings, contributions or increases, the earnings, contributions or increases to be taken into account by the competent institution of that Party in respect of periods completed under the legislation of other Contracting Parties shall be determined on the basis of the average earnings, contributions or increases recorded for the periods completed under the legislation of the first Party;
  - c. where the legislation of a Contracting Party provides that benefits shall be calculated on the basis of fixed earnings or a fixed amount, the earnings or the amount to be taken into account by the competent institution of that Party in respect of periods completed under the legislation of other Contracting Parties shall be equal to the fixed earnings or the fixed amount or, where appropriate, the average fixed earnings or fixed amount corresponding to the periods completed under the legislation of the first Party;
  - d. where the legislation of a Contracting Party provides that benefits shall be calculated, in respect of certain periods, on the basis of earnings and, in respect of other periods, on the basis of fixed earnings or a fixed amount, the competent institution of that Party shall take into account, in respect of periods completed under the legislation of other Contracting Parties, the earnings or amounts determined in accordance with the provisions of sub-paragraph b or sub-paragraph c of this paragraph, as appropriate; where in respect of all the periods completed under the legislation of the first Party, the benefits are calculated on the basis of fixed earnings or a fixed amount, the earnings to be taken into account by the competent institution of that Party, in respect of periods completed under the legislation of other

Contracting Parties, shall be equal to the notional earnings corresponding to the said fixed earnings or fixed amount.

2. Where the legislation of a Contracting Party embodies rules providing for the revaluation of the factors taken into account for the calculation of benefits, these rules shall apply, where appropriate, to the factors taken into account by the competent institution of that Party, in accordance with the provisions of the preceding paragraph, in respect of periods completed under the legislation of other Contracting Parties.
3. Where the legislation of a Contracting Party provides that the amount of benefits shall vary with the number of members of the family, the competent institution of that Party shall take account also of the members of the family resident in the territory of another Contracting Party, as if they were resident in the territory of the first Party.

### **Article 31**

1. Notwithstanding the provisions of Article 29, where the total duration of the periods of insurance or residence completed under the legislation of a Contracting Party is less than one year and where, taking into account only those periods, no entitlement to benefits exists under that legislation, the institution of the Party concerned shall not be bound to award benefits in respect of the said periods.
2. The periods referred to in the preceding paragraph shall be taken into account by the institution of each of the other Contracting Parties concerned for the purpose of applying Article 29, except paragraph 4 thereof.
3. However, where the application of the provisions of paragraph 1 of this article would have the effect of relieving all the institutions concerned of the obligation to award benefits, benefits shall be awarded exclusively under the legislation of the last Contracting Party whose conditions are fulfilled by the person concerned, regard being had to the provisions of Article 28, as if all the periods referred to in paragraph 1 of the present article had been completed under the legislation of that Party.

### **Article 32**

1. Notwithstanding the provisions of Article 29, where the total of all periods of insurance or residence completed under the legislation of a Contracting Party is at least one year but less than five years, the institution of that Party shall not be bound to award old-age benefits in respect of the said periods.
2. The periods referred to in the preceding paragraph shall be taken into account, for the purpose of applying Article 29, by the institution of the Contracting Party under whose legislation the person concerned completed the longest period of insurance or residence, as if the periods in question had been completed under the legislation of that Party. Where, under this rule, the said periods would have to be taken into account by more than one institution, they shall be taken into account only by the institution of the Contracting Party to whose legislation the person concerned was last subject.

3. The institution referred to in paragraph 1 of this article shall transfer to the institution mentioned in paragraph 2, in final settlement, a lump sum equal to ten times the annual amount of the part-benefit payable by the last-mentioned institution, in accordance with the provisions of Article 29, in respect of periods completed under the legislation applied by the first institution. The competent authorities of the Contracting Parties concerned may agree on different arrangements for settling their liabilities in respect of such periods.
4. However, where the application of the provisions of paragraph 1 of this article would have the effect of relieving all the institutions concerned of the obligation to award benefits, benefits shall be awarded in accordance with the provisions of Article 29.
5. Where the combined application of the provisions of Article 31, paragraph 1, and of paragraph 1 of this article would have the effect of relieving all the institutions concerned of the obligation to award benefits, benefits shall be awarded in accordance with the provisions of Article 29, without prejudice to the provisions of Article 31, paragraphs 1 and 2.
6. The application of the provisions of the preceding paragraphs of this article as between two or more Contracting Parties shall be subject to the conclusion of bilateral or multilateral agreements between those Parties and shall be limited to cases in which the persons concerned have been subject exclusively to the legislation of those Parties.

### **Article 33**

1. If the person concerned does not, at a given date, satisfy the conditions required by the legislation of all the Contracting Parties concerned, regard being had to the provisions of Article 28, but satisfies the conditions of the legislation of only one or more of them, the following provisions shall apply:
  - a. the amount of the benefits payable shall be calculated in accordance with the provisions of paragraphs 2 to 4 or of paragraph 5 of Article 29, as appropriate, by each of the competent institutions applying legislation the conditions of which are fulfilled;
  - b. however,
    - i. if the person concerned satisfies the conditions of at least two legislations, without any need to include periods of insurance or residence completed under legislations the conditions of which are not fulfilled, such periods shall not be taken into account for the purpose of applying the provisions of Article 29, paragraphs 2 to 4;
    - ii. if the person concerned satisfies the conditions of one legislation only, without any need to invoke the provisions of Article 28, the amount of the benefit payable shall be calculated exclusively in accordance with the provisions of the legislation the conditions of which are fulfilled, taking account of periods completed under that legislation only.
2. Benefits awarded under one or more of the legislations concerned in the case covered by the preceding paragraph shall be recalculated *ex officio*, in accordance



- with the provisions of paragraphs 2 to 4 or of paragraph 5 of Article 29, as appropriate, as and when the conditions prescribed by the other legislation or legislations concerned are satisfied, regard being had, where appropriate, to the provisions of Article 28.
3. Benefits awarded under the legislation of two or more Contracting Parties shall be recalculated, in accordance with the provisions of paragraph 1 of this article, at the request of the beneficiary, when the conditions prescribed by one or more of the legislations concerned cease to be fulfilled.

### **Article 34**

1. Where the amount of the benefits a person would be entitled to claim under the legislation of a Contracting Party, disregarding the provisions of Articles 28 to 33, is greater than the total benefits payable in accordance with those provisions, the competent institution of that Party shall pay a supplement equal to the difference between the two amounts, and shall bear the whole cost thereof.
2. Where the application of the provisions of the preceding paragraph would have the effect of entitling the person concerned to supplements from the institutions of two or more Contracting Parties, he shall receive only whichever is the largest, and the cost shall be apportioned among the competent institutions of the Contracting Parties concerned according to the ratio between the amount of the supplement which each of them would have to pay if it alone had been concerned and the amount of the combined supplement which all the said institutions would have had to pay.
3. The supplement referred to in the preceding paragraphs of this article shall be regarded as a component of the benefits provided by the institution liable for payment. Its amount shall be determined once and for all, except where it may be necessary to apply the provisions of paragraph 2 or paragraph 3 of Article 33.

## **Section 2 – Special provisions concerning invalidity**

### **Article 35**

1. In the event of an aggravation of any invalidity for which a person is receiving benefits under the legislation of one Contracting Party only, the following provisions shall apply:
  - a. if the person concerned, since he began to receive benefits, has not been subject to the legislation of any other Contracting Party, the competent institution of the first Party shall be bound to award benefits, taking the aggravation into account, in accordance with the provisions of the legislation which that institution applies;
  - b. if the person concerned, since he began to receive benefits, has been subject to the legislation of one or more other Contracting Parties, benefits shall be awarded, taking the aggravation into account, in accordance with the provisions of Articles 28 to 34;

- c. in the case referred to in the preceding sub-paragraph, the date on which the aggravation was established shall be regarded as the date on which the contingency arose;
  - d. if in the case referred to in sub-paragraph b of this paragraph the person concerned is not entitled to benefits from the institution of another Contracting Party, the competent institution of the first Party shall be bound to award benefits, taking the aggravation into account, in accordance with the provisions of the legislation which that institution applies.
2. In the event of an aggravation of any invalidity for which a person is receiving benefits under the legislation of two or more Contracting Parties, benefits shall be awarded, taking the aggravation into account, in accordance with the provisions of Articles 28 to 34. The provisions of sub-paragraph c of the preceding paragraph shall apply, *mutatis mutandis*.

### **Article 36**

1. Where, after the suspension of benefits, payment thereof is to be resumed, this shall be done by the institution or institutions which were liable for payment of the benefits at the time of the suspension, without prejudice to the provisions of Article 37.
2. Where, after the suppression of benefits, the state of health of the person concerned justifies the award of further benefits, such benefits shall be awarded in accordance with the provisions of Articles 28 to 34.

### **Article 37**

1. Invalidity benefits shall, where appropriate, be converted into oldage benefits, on the conditions prescribed by the legislation or legislations under which they have been awarded and in accordance with the provisions of Articles 28 to 34.
2. Where, in the case referred to in Article 33, a recipient of invalidity benefits payable under the legislation of one or more Contracting Parties becomes entitled to old-age benefits, any institution liable for the payment of invalidity benefits shall continue to pay the recipient the benefits to which he is entitled under the legislation which it applies until such time as the provisions of the preceding paragraph become applicable in respect of that institution.

## **Chapter 3 – Occupational injuries and diseases**

### **Article 38**

1. Workers having sustained an occupational injury or contracted an occupational disease who reside in the territory of a Contracting Party other than the competent State shall be entitled to receive in the territory of the Contracting Party in which they are resident:

- a. benefits in kind, provided at the expense of the competent institution by the institution of the place of residence in accordance with the provisions of the legislation which the latter institution applies, as if these workers were affiliated to it;
  - b. cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these workers were resident in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence, cash benefits may also be paid through the latter institution, on behalf of the competent institution.
2. Benefits may also be paid to frontier workers by the competent institution in the territory of the competent State, in accordance with the provisions of the legislation of that State, as if they were resident in its territory.
3. Workers to whom this article applies, other than frontier workers, who are temporarily resident in the territory of the competent State, shall be entitled to benefits in accordance with the provisions of the legislation of that State as if they were resident in its territory even if they were already receiving benefits before taking up their temporary residence.
4. Workers to whom this article applies who transfer their residence to the territory of the competent State shall be entitled to benefits in accordance with the provisions of the legislation of that State even if they were already receiving benefits before transferring their residence.

### **Article 39**

An accident on the way to or from work, which happens in the territory of a Contracting Party other than the competent State, shall be regarded as having happened in the territory of the competent State.

### **Article 40**

1. Workers having sustained an occupational injury or contracted an occupational disease and:
  - a. who are temporarily resident in the territory of a Contracting Party other than the competent State, or
  - b. who, having become entitled to benefits payable by the competent institution, are authorised by that institution to return to the territory of a Contracting Party other than the competent State where they are resident, or to transfer their residence to the territory of a Contracting Party other than the competent State, or
  - c. who are authorised by the competent institution to go to the territory of a Contracting Party other than the competent State in order to receive the treatment required by their condition,

shall receive:

- iv. benefits in kind, provided at the expense of the competent institution by the institution of the place of residence or temporary residence in accordance with the provisions of the legislation applied by the latter institution, as if these workers were affiliated to it, for a period not exceeding any period which may be prescribed by the legislation of the competent State;
  - v. cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these workers were in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence or temporary residence, cash benefits may be paid through the latter institution, on behalf of the competent institution.
- 2.
- . The authorisation referred to in sub-paragraph b of the preceding paragraph may be refused only if the move might prejudice the health or the course of medical treatment of the worker;
  - a. the authorisation referred to in sub-paragraph c of the preceding paragraph shall not be refused when the requisite treatment cannot be given in the territory of the Contracting Party in which the worker resides.

#### **Article 41**

In the cases mentioned in Article 38, paragraph 1, and in Article 40, paragraph 1, the competent authorities of two or more Contracting Parties may agree to make the provision of prosthetic appliances, major aids and other major benefits in kind conditional upon authorisation by the competent institution.

#### **Article 42**

1. Where the legislation of the competent State provides for the payment of the cost of transporting the injured worker to his place of residence or to hospital, the cost of transport to the corresponding place in the territory of another Contracting Party where he is resident shall be borne by the competent institution, in accordance with the provisions of the legislation which it applies, provided that it has given prior authorisation for the said transport, due account being taken of the reasons justifying it.
2. Where the legislation of the competent State provides for the payment of the cost of transporting the body of a deceased worker to the place of burial, the cost of transport to the corresponding place in the territory of another Contracting Party where the deceased was resident shall be borne by the competent institution, in accordance with the provisions of the legislation which it applies.
3. The application of the provisions of the preceding paragraphs of this article as between two or more Contracting Parties shall be subject to the conclusion of bilateral or multilateral agreements between those Parties. Such agreements shall specify the categories of persons to whom the said provisions shall apply and the

arrangements for apportioning the transport costs between the Contracting Parties concerned.

### **Article 43**

1. Where no insurance scheme covering occupational injuries or diseases exists in the territory of the Contracting Party where the worker happens to be or where an insurance scheme exists but has no institution responsible for the provision of benefits in kind, such benefits shall be provided by the institution of the place of residence or temporary residence responsible for providing benefits in kind in the event of sickness.
2. Where the legislation of the competent State provides that benefits in kind shall not be completely free unless use is made of the medical service organised by the employer, the benefits in kind provided in the cases referred to in Article 38, paragraph 1, and in Article 40, paragraph 1, shall be deemed to have been provided by such medical service.
3. Where the legislation of the competent State embodies an employers' liability scheme, the benefits in kind provided in the cases referred to in Article 38, paragraph 1, and in Article 40, paragraph 1, shall be deemed to have been provided at the request of the competent institution.
4. Where the legislation of one Contracting Party explicitly or implicitly provides that previous occupational injuries or diseases shall be taken into account in the assessment of the degree of incapacity, the competent institution of that Party shall also take into account for this purpose occupational injuries or diseases previously recognised in accordance with the legislation of any other Contracting Party, as if they had occurred under the legislation which that institution applies.

### **Article 44**

1. Where the legislation applied by the institution of the place of residence or temporary residence embodies two or more compensation schemes, the rules to be applied in respect of the provision of benefits in kind, in the cases referred to in Article 38, paragraph 1, and in Article 40, paragraph 1, shall be those of the general scheme or, failing that, of the scheme for industrial workers.
2. Where the legislation of a Contracting Party fixes a maximum period for the provision of benefits, the institution which applies that legislation may, where appropriate, take account of any period during which benefits have already been provided by the institution of another Contracting Party for the same case of occupational injury or disease.

### **Article 45**

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

2. Where the legislation of a Contracting Party provides that the calculation of cash benefits shall be based on fixed earnings, the competent institution of that Party shall take account exclusively of such fixed earnings or, where appropriate, of the average fixed earnings corresponding to the periods completed under the said legislation.
3. Where the legislation of a Contracting Party provides that the amount of cash benefits shall vary with the number of members of the family, the competent institution of that Party shall take account also of members of the family resident in the territory of another Contracting Party, as if they were resident in the territory of the first Party.

#### **Article 46**

1. If a worker having contracted an occupational disease has followed, under the legislation of two or more Contracting Parties, an occupation liable to cause such a disease, the benefits to which he or his survivors may be entitled shall be awarded exclusively under the legislation of the last of the said Parties the conditions of which they fulfil, regard being had, where appropriate, to the provisions of paragraphs 2, 3 and 4 of this article.
2. Where the legislation of a Contracting Party makes entitlement to benefits for occupational diseases conditional upon the disease in question being first diagnosed in its territory, that condition shall be deemed to have been fulfilled if this disease was first diagnosed in the territory of another Contracting Party.
3. Where the legislation of a Contracting Party explicitly or implicitly makes entitlement to benefits for occupational diseases conditional upon the disease in question being diagnosed within a specified period after the termination of the last occupation liable to have caused it, the competent institution of that Party, when ascertaining the time at which the occupation in question was followed, shall take account to the extent necessary of any occupation of the same kind followed under the legislation of any other Contracting Party, as if it had been followed under the legislation of the first Party.
4. Where the legislation of a Contracting Party explicitly or implicitly makes entitlement to benefits for occupational diseases conditional upon an occupation liable to cause the disease in question having been followed for a specified period, the competent institution of that Party shall take account, to the extent necessary, for the purpose of adding periods together, of periods during which such an occupation was followed in the territory of any other Contracting Party.
5. The application of the provisions of paragraphs 3 and 4 of this article as between two or more Contracting Parties shall be subject to the conclusion of bilateral or multilateral agreements between those Parties. Such agreements shall specify the occupational diseases to which these provisions shall be applicable and the arrangements for apportioning the cost of the benefits between the Contracting Parties concerned.

#### **Article 47**

Where a worker having contracted an occupational disease has received or is receiving compensation paid by the institution of a Contracting Party, and, in the event of an aggravation of his condition, claims benefits from the institution of another Contracting Party, the following provisions shall apply:

- a. where the worker has not followed, under the legislation of the second Party, an occupation liable to cause or to aggravate the disease in question, the competent institution of the first Party shall bear the cost of the benefits, taking the aggravation into account, in accordance with the provisions of the legislation which that institution applies;
- b. where the worker followed such an occupation under the legislation of the second Party, the competent institution of the first Party shall bear the cost of the benefits, leaving the aggravation out of account, in accordance with the provisions of the legislation which it applies; the competent institution of the second Party shall award to the worker a supplementary benefit the amount of which shall be equal to the difference between the amount of the benefits due after the aggravation and the amount of the benefits that would have been due before the aggravation, in accordance with the provisions of the legislation which that institution applies, if the disease in question had been contracted under the legislation of that Party.

#### **Article 48**

1. The competent institution shall be bound to refund the cost of benefits in kind provided on its behalf by virtue of Article 38, paragraph 1, and Article 40, paragraph 1.
2. The refund referred to in the preceding paragraph shall be determined and made under arrangements to be agreed between the competent authorities of the Contracting Parties.
3. Two or more Contracting Parties may agree that there shall be no refunds between the institutions in their jurisdiction.

## **Chapter 4 – Death grants**

#### **Article 49**

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

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

### **Article 50**

1. Where a person dies in the territory of a Contracting Party other than the competent State, the death shall be deemed to have occurred in the territory of the competent State.
2. The competent institution shall provide death grants due under the legislation which it applies, even if the beneficiary resides in the territory of a Contracting Party other than the competent State.
3. The provisions of the preceding paragraphs of this article shall apply also where death results from an occupational injury or disease.

## **Chapter 5 – Unemployment**

### **Article 51**

1. Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of entitlement to benefits conditional upon the completion of periods of insurance, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account, to the extent necessary, of periods of insurance, employment or occupational activity completed under the legislation of any other Contracting Party, as if they were periods of insurance completed under the legislation of the first Party, provided however that, in the case of periods of employment or occupational activity, these periods would have been considered as periods of insurance if they had been completed under the last mentioned legislation.
2. Where the legislation of a Contracting Party makes the entitlement to benefits conditional upon the completion of periods of employment, occupational activity or residence, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account, to the extent necessary, of periods of insurance, employment or occupational activity completed under the legislation of any other Contracting Party, as if they were periods of employment, occupational activity or residence completed under the legislation of the first Party.
3. Where the legislation of a Contracting Party makes the provision of certain benefits conditional upon the completion of periods of insurance in an occupation covered by a special scheme, only periods completed under a corresponding



- scheme, or, failing that, in the same occupation under the legislation of other Contracting Parties, shall be taken into account for the provision of such benefits. If, notwithstanding periods completed in this way, the person concerned does not satisfy the conditions for entitlement to the said benefits, the periods concerned shall be taken into account for the provision of benefits under the general scheme.
4. The application of the provisions of the preceding paragraphs of this article is subject to the condition that the person concerned was last subject to the legislation of the Contracting Party under which the benefits are claimed, except in the cases referred to in Article 53, paragraph 1, sub-paragraphs a.ii and b.ii.

## **Article 52**

Unemployed workers who satisfy the conditions for entitlement to benefits prescribed by the legislation of one Contracting Party in respect of the completion of periods of insurance, employment, occupational activity or residence, regard being had, where appropriate, to the provisions of Article 51, and who transfer their residence to the territory of another Contracting Party, shall be deemed to satisfy also the conditions for entitlement to benefits prescribed by the legislation of the second Party in this respect, provided that they lodge a claim with the institution of their new place of residence within thirty days of their transfer of residence. The benefits shall be paid by the institution of the place of residence, in accordance with the provisions of the legislation which that institution applies, the cost being borne by the competent institution of the first Party.

## **Article 53**

1. Without prejudice to the provisions of Article 52, an unemployed worker who, during his last employment, was resident in the territory of a Contracting Party other than the competent State shall receive benefits in accordance with the following provisions:
  - a.
    - i. a frontier worker, whose unemployment in the undertaking which employs him is partial or incidental, shall receive benefits in accordance with the provisions of the legislation of the competent State, as if he were resident in the territory of that State, regard being had, where appropriate, to the provisions of Article 51; such benefits shall be paid by the competent institution;
    - ii. a frontier worker who is wholly unemployed shall receive benefits in accordance with the provisions of the legislation of the Contracting Party in whose territory he is resident, as if he had been subject to that legislation during his last employment, regard being had, where appropriate, to the provisions of Article 51; such benefits shall be paid by the institution of the place of residence;
  - b.
    - i. a worker, other than a frontier worker, who becomes partially, incidentally or wholly unemployed and remains available to his

- employer or to the employment services in the territory of the competent State, shall receive benefits in accordance with the provisions of the legislation of the competent State, as if he were resident in the territory of that State, regard being had, where appropriate, to the provisions of Article 51; such benefits shall be paid by the competent institution;
- ii. a worker, other than a frontier worker, who becomes wholly unemployed and makes himself available to the employment services in the territory of the Contracting Party where he is resident, or returns to that territory, shall receive benefits in accordance with the provisions of the legislation of that Party, as if he had been subject to that legislation during his last employment, regard being had, where appropriate, to the provisions of Article 51; such benefits shall be paid by the institution of the place of residence;
  - iii. however, if the worker referred to in sub-paragraph b.ii of this paragraph has become entitled to benefits from the competent institution of the Contracting Party to whose legislation he was last subject, he shall receive benefits in accordance with the provisions of Article 52, as if he had transferred his residence to the territory of the Contracting Party referred to in sub-paragraph b.ii of this paragraph.
2. As long as an unemployed worker is entitled to benefits by virtue of sub-paragraphs a.i or b.i of the preceding paragraph, he shall not be entitled to benefits under the legislation of the Contracting Party in whose territory he resides.

#### **Article 54**

Where, in the cases referred to in Article 52 and in Article 53, paragraph 1, sub-paragraph b.iii, the legislation applied by the institution of the place of residence prescribes a maximum period for the award of benefits, the said institution may, where appropriate, take account of any period during which benefits have already been paid by the institution of another Contracting Party since entitlement to benefits was last established.

#### **Article 55**

1. Where the legislation of a Contracting Party provides that the calculation of benefits shall be based on the amount of previous earnings, the institution which applies that legislation shall take account exclusively of the earnings of the worker concerned in the last occupation which he followed in the territory of the said Party or, if he was not last employed in that territory for at least four weeks, of the corresponding normal wage at his place of residence, for work equivalent or similar to his last occupation in the territory of another Contracting Party.
2. Where the legislation of a Contracting Party provides that the amount of benefits shall vary with the number of members of the family, the institution which applies

- that legislation shall take account also of the members of the family resident in the territory of another Contracting Party, as if they were resident in the territory of the first Party.
3. Where the legislation applied by the institution of the place of residence provides that the time during which benefits are payable shall depend on the length of the periods completed, the time during which benefits are payable shall be determined with due regard, where appropriate, to the provisions of paragraph 1 or paragraph 2 of Article 51.

### **Article 56**

1. The application of the provisions of Articles 52 to 54 as between two or more Contracting Parties shall be subject to the conclusion between those Parties of bilateral or multilateral agreements which may also contain appropriate special arrangements.
2. The agreements referred to in the preceding paragraph shall specify in particular:
  - a. the categories of persons to whom the provisions of Articles 52 to 54 shall apply;
  - b. the period during which benefits may be paid by the institution of one Contracting Party, the cost being borne by the institution of another Contracting Party;
  - c. arrangements for the refund of benefits provided by the institution of one Contracting Party where the cost is to be borne by the institution of another Contracting Party.
3. Two or more Contracting Parties may agree that there shall be no refunds between the institutions in their jurisdiction.

## **Chapter 6 – Family benefits**

### **Article 57**

Where the legislation of a Contracting Party makes the entitlement to benefits conditional upon the completion of periods of employment, occupational activity or residence, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account, to the extent necessary, of periods of employment, occupational activity or residence completed under the legislation of any other Contracting Party, as if they were periods of employment, occupational activity or residence completed under the legislation of the first Party.

### **Article 58**

1. The application of the provisions of Section 1 or Section 2 of this chapter as between two or more Contracting Parties shall be subject to the conclusion between those Parties of bilateral or multilateral agreements which may also contain appropriate special arrangements.

2. The agreements referred to in the preceding paragraph shall specify in particular:
  - a. the categories of persons to whom the provisions of Articles 59 to 62 shall apply;
  - b. rules to prevent the overlapping of benefits of the same kind;
  - c. where appropriate, the maintenance of rights acquired by virtue of social security conventions.

## **Section 1 – Family allowances**

### **Article 59**

1. For the purpose of the application of this article and of Article 60, the term "children" shall, within the limits prescribed in the legislation of the Contracting Party concerned, mean:
  - a. legitimate children, legitimised children, acknowledged illegitimate children, adopted children and orphaned grandchildren of the beneficiary;
  - b. legitimate children, legitimised children, acknowledged illegitimate children, adopted children and orphaned grandchildren of the beneficiary's spouse, on condition that they are living in the beneficiary's household in the territory of a Contracting Party.
2. Persons subject to the legislation of one Contracting Party, having children who are resident or are being brought up in the territory of another Contracting Party, shall be entitled in respect of such children to the family allowances provided for by the legislation of the first Party, as if these children were permanently resident or were being brought up in the territory of that Party.
3. However, in the case referred to in the preceding paragraph, the amount of the family allowances may be limited to the amount of family allowances provided for by the legislation of the Contracting Party in whose territory the children are resident or are being brought up.
4. For the purpose of applying the provisions of the preceding paragraph, the comparison of the amounts of family allowances payable under the two legislations concerned shall be made on the basis of the total number of children of the same beneficiary. Where the legislation of the Contracting Party in whose territory the children are resident or are being brought up provides for different family allowances rates for different categories of beneficiaries, regard shall be had to the amounts that would be payable if the beneficiary were subject to that legislation.
5. The provisions of paragraphs 3 and 4 of this article shall not be applicable to an employed person covered by Article 15, paragraph 1, sub-paragraph a, in respect of such children as accompany him to the territory of the Contracting Party where he is sent to work.
6. Family allowances shall be paid in accordance with the provisions of the legislation of the Contracting Party to which the beneficiary is subject, even if the physical or legal person to whom the allowances are payable resides or is temporarily in the territory of another Contracting Party.

## **Article 60**

1. Unemployed workers drawing unemployment benefits at the expense of the institution of one Contracting Party, and having children who are resident or are being brought up in the territory of another Contracting Party, shall be entitled, in respect of such children, to the family allowances payable in that contingency under the legislation of the first Party, as if they were resident or were being brought up in the territory of this Party.
2. In the case referred to in the preceding paragraph, the provisions of Article 59, Paragraphs 1, 3, 4 and 6 shall apply, *mutatis mutandis*.

## **Section 2 – Family benefits**

### **Article 61**

1. Persons who are subject to the legislation of a Contracting Party shall be entitled, in respect of members of their family resident in the territory of another Contracting Party, to the benefits provided under the legislation of the latter Party, as if these persons were subject to that Party's legislation. Such benefits shall be paid to the members of the family by the institution of their place of residence, in accordance with the provisions of the legislation which that institution applies, and the cost shall be borne by the competent institution.
2. Notwithstanding the provisions of the preceding paragraph, an employed person to whom Article 15, paragraph 1, sub-paragraph a, refers shall be entitled, in respect of such members of his family as accompany him to the territory of the Contracting Party where he is sent to work, to the benefits provided under the legislation of the Contracting Party to which he remains subject. Such benefits shall be paid by the competent institution of the latter Party. However, by agreement between the competent institution and the institution of the place of residence, the benefits may also be paid through the latter institution, on behalf of the competent institution.

### **Article 62**

Unemployed workers drawing unemployment benefits payable by an institution of a Contracting Party shall be entitled, in respect of members of their family resident in the territory of another Contracting Party, to the family benefits payable under the legislation of the latter Party provided that, under the legislation of the first Party, family benefits are payable in the event of unemployment. The family benefits shall be paid to the members of the family by the institution of their place of residence, in accordance with the provisions of the legislation which that institution applies, and the cost shall be borne by the competent institution of the first Party.

### **Article 63**

1. In those cases where the provisions of this section are applied between two or more Contracting Parties, the bilateral or multilateral agreements referred to in Article 58, paragraph 1, shall specify the arrangements for the refund of benefits provided by the institution of one Contracting Party where the cost is to be borne by the institution of another Contracting Party.
2. Two or more Contracting Parties may agree that there shall be no refunds between the institutions in their jurisdiction.

## **Title IV – Miscellaneous provisions**

### **Article 64**

1. The competent authorities of the Contracting Parties shall communicate to each other:
  - a. all information regarding measures taken by them for the application of this Convention; and
  - b. all information regarding changes made in their legislation which may affect the application of this Convention.
2. For the purpose of applying this Convention, the authorities and institutions of the Contracting Parties shall assist one another as if it were a matter of applying their own legislation. In principle the administrative assistance furnished by the said authorities and institutions to one another shall be free of charge. However, the competent authorities of the Contracting Parties may agree to reimburse certain expenses.
3. The authorities and institutions of the Contracting Parties may, for the purpose of applying this Convention, communicate directly with one another and with the individuals concerned or their representatives.
4. The authorities, institutions and jurisdictions of one Contracting Party may not reject claims or other documents submitted to them by reason of the fact that they are written in an official language of another Contracting Party.

### **Article 65**

1. Any exemption from, or reduction of, taxes, stamp duty, legal dues or registration fees provided for in the legislation of one Contracting Party in connection with certificates or documents required to be produced for the purposes of the legislation of that Party shall be extended to similar certificates and documents required to be produced for the purposes of the legislation of another Contracting Party or of this Convention.
2. All official instruments, documents or certificates of any kind that are required to be produced for the purposes of this Convention shall be exempt from authentication or any similar formality.

### **Article 66**

1. Where a claimant is resident in the territory of a Contracting Party other than the competent State, he may validly present his claim to the institution of his place of residence, which shall refer it to the competent institution or institutions mentioned in the claim.
2. Any claim, declaration or appeal that should have been submitted, under the legislation of a Contracting Party, within a specified time to an authority, institution or jurisdiction of that Party shall be admissible if it is submitted within the same period to an authority, institution or jurisdiction of another Contracting Party. In such event, the authority, institution or jurisdiction receiving the claim, declaration or appeal shall forward it without delay to the competent authority, institution or jurisdiction of the first Party, either directly or through the intermediary of the competent authorities of the Contracting Parties concerned. The date on which any claim, declaration or appeal was submitted to an authority, institution or jurisdiction of the second Contracting Party shall be deemed to be the date of its submission to the authority, institution or jurisdiction competent to deal with it.

### **Article 67**

1. Medical examinations prescribed by the legislation of one Contracting Party may be carried out, at the request of the institution which applies this legislation, in the territory of another Contracting Party, by the institution of the place of temporary residence or residence. In such event, they shall be deemed to have been carried out in the territory of the first Party.
2. The application of the provisions of the preceding paragraph as between two or more Contracting Parties shall be subject to the conclusion of bilateral or multilateral agreements between those Parties.

### **Article 68**

1. Where, under this Convention, the institution of one Contracting Party is liable to pay cash benefits to a beneficiary who is in the territory of another Contracting Party, its liability shall be expressed in the currency of the first Party. That institution may validly discharge its liability in the currency of the second Party.
2. Where, under this Convention, the institution of one Contracting Party is liable to pay sums in refund of benefits provided by the institution of another Contracting Party, its liability shall be expressed in the currency of the second Party. The first institution may validly discharge its liability in that currency, unless the Contracting Parties concerned have agreed on other arrangements.
3. Transfers of funds which result from the application of this Convention shall be effected in accordance with the relevant agreements in force between the Contracting Parties concerned at the date of transfer. Failing such agreements, the arrangements for effecting such transfers shall be agreed between the said Parties.

### **Article 69**

1. For the calculation of the amount of contributions due to the institution of a Contracting Party, account shall be taken, where appropriate, of any income received in the territory of any other Contracting Party.
2. The recovery of contributions due to the institution of one Contracting Party may be effected in the territory of another Contracting Party in accordance with the administrative procedures and subject to the guarantees and privileges applicable to the recovery of contributions due to a corresponding institution of the latter Party.
3. The application of the provisions of paragraphs 1 and 2 of this article as between two or more Contracting Parties shall be subject to the conclusion of bilateral or multilateral agreements between those Parties. Such agreements may also deal with legal procedure for recovery.

## **Article 70**

1. Where a person is receiving benefits under the legislation of one Contracting Party in respect of an injury caused or sustained in the territory of another Contracting Party, the rights of the institution liable to pay benefits against the third party liable to pay damages shall be regulated in the following manner:
  - a. where the said institution, under the legislation applicable to it, is substituted for the beneficiary in any rights which he may have against the third party, such substitution shall be recognised by every other Contracting Party; and
  - b. where the said institution has a direct right against the third party, such right shall be recognised by every other Contracting Party.
2. The application of the provisions of the preceding paragraph as between two or more Contracting Parties shall be subject to the conclusion of bilateral or multilateral agreements between those Parties.
3. The rules governing the liability of employers or their agents in the case of occupational injuries or accidents on the way to or from work which happen in the territory of a Contracting Party other than the competent State shall be determined by agreement between the Contracting Parties concerned.

## **Article 71**

1. Any dispute arising between two or more Contracting Parties as to the interpretation or application of this Convention shall first of all be the subject of negotiations between the Parties to the dispute.
2. If one of the Parties to the dispute considers that there is a question likely to affect all the Contracting Parties, the Parties to the dispute jointly, or failing that, one of them, shall submit it to the Committee of Ministers of the Council of Europe, which shall give an opinion on the question within six months.
3. If it has not proved possible to settle the dispute either, as the case may be, within six months from the request for the opening of negotiations as prescribed by paragraph 1 of this article, or within three months from the communication to the Contracting Parties of the opinion given by the Committee of Ministers, the



- dispute may be the subject of arbitration proceedings before one arbitrator, at the request of any Party to the dispute. The requesting Party shall notify the other Party, through the Secretary General of the Council of Europe, of the subject matter of the request it intends to refer to arbitration and of the grounds on which the request is based.
4. Unless otherwise agreed by the Parties to the dispute, the arbitrator shall be appointed by the President of the European Court of Human Rights. The arbitrator shall not be a national of one of the Parties to the dispute, nor have his usual place of residence in the territory of these Parties, nor be employed by them, nor have dealt with the case in another capacity.
  5. If, in the case referred to in the preceding paragraph, the President of the European Court of Human Rights is unable to act or is a national of one of the Parties to the dispute, the arbitrator shall be appointed by the Vice-President of the Court or by the most senior member of the Court who is not unable to act and is not a national of one of the Parties to the dispute.
  6. Failing a special agreement between the Parties to the dispute, or failing a sufficiently precise agreement, the arbitrator shall give his decision on the basis of the provisions of this Convention, taking due account of the general principles of international law.
  7. The arbitrator's decision shall be binding and final.

## **Article 72**

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

## **Article 73**

1. The annexes referred to in Article 1, sub-paragraph b, Article 3, paragraph 1, Article 6, paragraph 3, Article 8, paragraph 4, Article 9, paragraph 2, Article 11, paragraph 3, and Article 72, paragraph 1, and any subsequent amendments made to these annexes, shall be an integral part of this Convention.
2. Any amendment to the annexes referred to in the preceding paragraph shall be considered as adopted if, within the three months following the notification provided for in Article 81, paragraph 2, sub-paragraph d, of this Convention, no Contracting Party or signatory State has opposed it by notification addressed to the Secretary General of the Council of Europe.
3. In the event of such opposition being notified to the Secretary General, the question shall be settled in accordance with a procedure to be established by the Committee of Ministers of the Council of Europe.

## **Title V – Transitional and final provisions**

### **Article 74**

1. This Convention shall confer no rights for any period before its entry into force in respect of the Contracting Party or Parties concerned.
2. All periods of insurance and, where appropriate, of employment, occupational activity or residence completed under the legislation of a Contracting Party before the date on which this Convention enters into force shall be taken into account for the purpose of determining rights arising from this Convention.
3. Subject to the provisions of paragraph 1 of this article, rights may arise under this Convention even in respect of a contingency which arose before its entry into force.
4. Any benefit which has not been provided or which has been suspended on account of the nationality of the person concerned or of his residence in the territory of the Contracting Party other than that in which the institution liable to pay the benefits is situated shall, at the request of the person concerned, be provided or resumed with effect from the date on which this Convention enters into force, unless the rights previously extinguished have given rise to the payment of a lump sum.
5. The rights of persons concerned who have been awarded a pension before the entry into force of this Convention shall be revised at their request, regard being had to the provisions of this Convention. These rights may also be revised *ex officio*. In no circumstances shall such a revision operate to lessen the former rights of the person concerned.
6. Where the request referred to in paragraph 4 or in paragraph 5 of this article is submitted within two years of the date on which this Convention enters in force, the rights arising in accordance with the provisions of the Convention shall be acquired as from that date, and those provisions of the legislation of any Contracting Party which concern the loss of rights or the extinction of rights by lapse of time shall not be raised against the person concerned.
7. Where the request referred to in paragraph 4 or in paragraph 5 of this article is submitted more than two years after the date on which this Convention enters into force, such rights as have not lapsed or have not been extinguished by lapse of time shall be acquired only with reference to the date on which the request was submitted, unless there are more favourable provisions in the legislation of the Contracting Party concerned.

### **Article 75**

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

2. This Convention shall enter into force on the first day of the third month following that in which the third instrument of ratification or acceptance is deposited.
3. In respect of a signatory State ratifying or accepting subsequently, the Convention shall enter into force three months after the date of deposit of its instrument of ratification or acceptance.

### **Article 76**

From the date of entry into force of this Convention, the provisions of the European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors and Protocol thereto, and European Interim Agreement on Social Security Schemes relating to Old Age, Invalidity and Survivors and Protocol thereto shall cease to be applicable in relations between Contracting Parties.

### **Article 77**

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council to accede to this Convention, provided that the resolution containing such invitation receives the unanimous agreement of the member States of the Council who have ratified or accepted the Convention.
2. Accession shall be effected by the deposit with the Secretary General of the Council of Europe of an instrument of accession which shall take effect three months after the date of its deposit.

### **Article 78**

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

### **Article 79**

1. In the event of denunciation of this Convention, all rights acquired under its provisions shall be maintained.
2. Rights in process of acquisition in respect of periods before the date on which the denunciation takes effect shall not lapse as a result of the denunciation; their subsequent continued recognition shall be determined by agreement or, failing such agreement, by the legislation which the institution concerned applies.

### **Article 80**

1. The application of this Convention shall be governed by a Supplementary Agreement which shall be open to signature by the member States of the Council of Europe.
2. The Contracting Parties or, in so far as the constitutional provisions of these Parties permit, their competent authorities, shall make all other arrangements necessary for the application of this Convention.
3. Any signatory State of this Convention which ratifies or accepts it must, at the same time, either ratify or accept the Supplementary Agreement or sign it without reservation in respect of ratification or acceptance, not later than the date of deposit of its instrument of ratification or acceptance of the Convention.
4. Any State which accedes to this Convention must at the same time accede to the Supplementary Agreement.
5. Any Contracting Party which denounces this Convention must at the same time denounce the Supplementary Agreement.

### **Article 81**

1. The notifications or declarations referred to in Article 1, sub-paragraphs b and w, Article 3, paragraph 2, Article 6, paragraph 5, Article 7, paragraph 2, Article 8, paragraph 5, Article 9, paragraphs 3 and 4, Article 11, paragraph 4 and Article 72, paragraph 2, shall be addressed to the Secretary General of the Council of Europe.
2. The Secretary General of the Council of Europe shall, within one month, notify the Contracting Parties, signatory States and the Director General of the International Labour Office of:
  - a. any signature and any deposit of an instrument of ratification, acceptance or accession;
  - b. any date of entry into force of this Convention in accordance with the provisions of Article 75 and Article 77;
  - c. any notification of denunciation received in pursuance of the provisions of Article 78, paragraph 2, and the date on which denunciation takes effect;
  - d. any notification or declaration received in pursuance of the provisions of paragraph 1 of this article.

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

Done at Paris, this 14th day of December 1972, in English and in French, both texts being equally authoritative, in a single copy, which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatory and acceding States.