

No. 7301

**NETHERLANDS
and
SPAIN**

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

Official texts: Dutch and Spanish.

Registered by the Netherlands on 8 June 1964.

**PAYS-BAS
et
ESPAGNE**

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

Textes officiels néerlandais et espagnol.

Enregistrée par les Pays-Bas le 8 juin 1964.

[TRANSLATION — TRADUCTION]

No. 7301. CONVENTION¹ BETWEEN THE KINGDOM OF
THE NETHERLANDS AND THE SPANISH STATE ON
SOCIAL SECURITY. SIGNED AT MADRID, ON 17
DECEMBER 1962

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

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

Her Majesty the Queen of the Netherlands :

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

His Excellency the Head of the Spanish State :

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

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

TITLE I

GENERAL PROVISIONS

Article 1

1. This Convention shall apply :

(a) In Spain, to the legislation concerning :

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

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

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

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

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

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

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

This Convention shall also apply to :

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

Article 2

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

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

Article 3

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

Article 4

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

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

Article 5

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

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

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

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

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

TITLE II

PROVISIONS TO DETERMINE WHICH LEGISLATION IS APPLICABLE

Article 6

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

Article 7

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

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