

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1996 Nr. 159

A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en het Koninkrijk
Noorwegen inzake sociale zekerheid;
Oslo, 4 juni 1996*

B. TEKST

**Convention between The Kingdom of the Netherlands and The
Kingdom of Norway on social security**

The Kingdom of the Netherlands

and

The Kingdom of Norway

Taking into account the Agreement on the European Economic Area of 2 May 1992, (hereinafter referred to as the "EEA Agreement"), Article 29, Annex VI, No. 1 and 2;

Having regard to Article 8 of Regulation (EEC) No 1408/71;

Taking into account the need to reconsider their relations in the field of social security particularly concerning persons not covered by the said Regulation;

Have agreed to conclude the following Convention, which shall replace the Convention between the two States on social security of 13 April 1989:

PART I

GENERAL PROVISIONS

Article 1

Definitions

1. For the purpose of this Convention:
 - a) "Regulation" means the Council Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, to

self-employed persons and to members of their families moving within the Community in the wording applicable between the two Contracting Parties from time to time;

b) “Implementing Regulation” means the Council Regulation (EEC) No. 574/72 laying down the procedure for implementing Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, self-employed persons and to members of their families moving within the Community in the wording applicable between the two Contracting Parties from time to time;

c) “Continental shelf of one of the Contracting Parties” means, the sea-bed and subsoil of the submarine areas that extend beyond the territorial sea of that Contracting Party throughout the natural prolongation of the land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

2. Other words and expressions which are used in this Convention shall have the meaning assigned to them in the Regulation and the Implementing Regulation or in the national legislation as the case may be.

Article 2

Material Scope

This Convention shall apply to all legislation which is covered by the material scope (matters covered) of the Regulation.

Article 3

Personal Scope

1. This Convention shall apply to persons who are covered by the personal scope (persons covered) of the Regulation.

2. This Convention shall also apply to the following persons who are not covered by the personal scope (persons covered) of the Regulation:

- a) nationals who are or have been subject to the legislation of one or both Contracting Parties, or
- b) persons who are or have been subject to the legislation of one or both Contracting Parties, or
- c) members of the family or survivors of a person designated in subparagraph a) or b) of this paragraph.

Article 4

Equality of treatment

Unless otherwise provided in this Convention, persons designated in Article 3, paragraph 2 a) shall, when they stay or reside in the territory

of one of the Contracting Parties, have the same obligations and rights as nationals of that Contracting Party regarding the application of the legislation of that Contracting Party.

Article 5

Prevention of overlapping of benefits

Provisions in the legislation of a Contracting Party for reduction, suspension or suppression of benefits from one branch of social security where there is overlapping with benefits from an other branch or with other income, or because of an occupational activity, shall apply also in respect of benefits acquired under the legislation of the other Contracting Party or in respect of income obtained, or occupation exercised, in the territory of the other Contracting Party.

PART II

DETERMINATION OF THE APPLICABLE LEGISLATION

Article 6

General rule

Persons to whom the provisions of this Convention apply, shall be subject to the legislation of one Contracting Party only. That legislation shall be determined in accordance with the provisions of Title II, articles 13 to 17 of the Regulation.

Article 7

Workers on the Continental shelf

1. A person employed on an installation for the exploration for and the exploitation of natural submarine deposits on the Continental shelf of one of the Contracting Parties who is resident in the territory of that Contracting Party, shall be subject to the legislation of that Contracting Party and, as regards the Netherlands, provided that the registered office or place of business of the undertaking or the place of residence of the individual employing him is situated in the territory of the Netherlands.

2. If a person employed in the territory of a Contracting Party is posted by his employer to the Continental shelf of one of the Contracting Parties to perform work on an installation for the exploration for and the exploitation of natural submarine deposits on that shelf, whilst staying in paid employment with the same employer, he shall continue to be subject to the legislation of the former Contracting Party for the duration of that work as if he were still employed in the territory of this Con-

tracting Party, provided that the relevant work will not exceed a period of two years and that the certificate of posting has been submitted no later than within the first six months of that period.

Successive posting of the same employee by the same employer shall be counted as one unless they are separated by at least six months.

3. For the purpose of Netherlands' legislation a person who is subject to Netherlands' legislation in accordance with this part of the Convention shall be considered to be resident in the territory of the Netherlands.

Article 8

Family members of posted workers

The spouse and the children accompanying the person posted to the territory of the other Contracting Party under Article 14 or 17 of the Regulation shall be subject to the legislation of the same Contracting Party as the posted person and treated as if they were resident in the territory of that Contracting Party unless they are themselves gainfully occupied in the territory of the Contracting Party to which the person is posted, or they are insured on the basis of receiving a pension or a cash benefit under the legislation of this Contracting Party.

PART III

SPECIAL PROVISIONS CONCERNING ENTITLEMENT TO BENEFITS

SICKNESS AND MATERNITY-, INVALIDITY-, OLD-AGE-, SURVIVORS-, DEATH- AND UNEMPLOYMENT BENEFITS

Article 9

Entitlement to benefits

1. Subject to paragraphs 2 and 3 of this Article, in respect of persons designated in Article 3, paragraph 2, who reside in the territory of one of the Contracting Parties, the following shall apply by analogy in the relation between the Contracting Parties, exclusively involving matters of concern to these Parties.

- a) provisions of Title III, Chapters 1, 2, 3, 4 and 5 of the Regulation,
- b) the relevant provisions of the Implementing Regulation,
- c) the relevant provisions of the Annexes to the Regulation and the Implementing Regulation,
- d) and all arrangements made for the application of the Regulation and the Implementing Regulation.

2. To persons designated in Article 3, paragraph 2, the provisions of Title III, Chapter 3 and Annex VI, J. Netherlands, Point 2, of the Regulation shall not apply with respect to the Netherlands' legislation.

3. To persons designated in Article 3, paragraph 2, the provisions of Title III, Chapters 2 and 3 of the Regulation shall apply in relation to Norwegian legislation, provided that the persons concerned have completed:

- a) at least one year of occupational activity in Norway, or
- b) at least three years of residence in Norway in the case of a person designated in Article 3, paragraph 2a) prior to the contingency and within the age limits which apply for pension earning according to Norwegian legislation.

Article 10

Dependent children and orphans

With regard to persons designated in Article 3, paragraphs 1 and 2 residing outside the territory of a Party to the EEA Agreement, and to persons mentioned in Article 3, paragraph 2, residing in the territory of a Party to the EEA Agreement in relation to

- a) increases or supplement to old age or invalidity pensions in respect of the children of such pensioners,
- b) orphans' pensions with the exception of orphans' pensions granted under insurance schemes for accidents at work and occupational diseases,

Title III, Chapter 3 of the Regulation, the relevant provisions of the Implementing Regulation, the relevant provisions of the Annexes to the Regulation and the Implementing Regulation and all arrangements made for their application, shall apply accordingly.

Article 11

Payment of benefits abroad

1. To persons designated in Article 3, paragraph 2a), a Norwegian social insurance pension shall be payable abroad, provided that they are residing in the territory of a Party to the EEA Agreement and have completed at least three years of residence in Norway prior to the contingency and within the age limits which apply for pension earning according to Norwegian legislation.

2. The provisions in paragraph 1 shall apply accordingly to persons designated in Article 3, paragraph 1 who otherwise are not entitled to payment of a Norwegian pension abroad.

3. To persons designated in Article 3, paragraph 2b), a social insurance pension under Norwegian legislation shall be payable, provided that they are residing in the territory of one of the Contracting Parties and have completed at least one year of occupational activity in Norway prior to the contingency and within the age limits which applies for pension earning according to Norwegian legislation.

4. In the case of pensions to a surviving spouse or children of persons designated in paragraphs 1 to 3, the provisions of the said paragraphs shall apply by analogy. However, the requirement of residence or occupational activity prior to the contingency must be fulfilled by the deceased person.

5. To persons designated in Article 3, paragraph 1 and paragraph 2 a), who are residing outside the territory of a Party to the EEA Agreement, cash benefits under the Norwegian legislation shall be payable on the same conditions and to the same extent as to Norwegian nationals.

Article 12

Unemployment benefits

With regard to persons designated in Article 3, paragraph 2, Article 67 of the Regulation shall apply accordingly.

PART IV

MISCELLANEOUS PROVISIONS

Article 13

Administrative arrangements

The Competent authorities may, where necessary, conclude arrangements for implementing this Convention.

Article 14

Mutual assistance

In respect of persons designated in Article 3, paragraph 2, who reside in the territory of a Contracting Party, the relevant provisions of the Regulation and the Implementing Regulation on mutual assistance, exemption from fees, submitting of claims, appeals of other documents, currencies, recovery of payments not due, shall apply by analogy.

Article 15

Disputes

1. Disputes arising in connection with the application of this Convention are to be resolved by negotiations between the Competent authorities.

2. If the dispute has not been settled within six months following the first request to start the negotiations prescribed in paragraph 1 of this Article, it shall be submitted to an arbitral tribunal whose composition

and procedure shall be agreed upon by the Contracting Parties. The arbitral tribunal shall settle the dispute according to the fundamental principles and in the spirit of the present Convention. The decision by the arbitral tribunal shall be final and binding upon the Contracting Parties.

PART V

TRANSITIONAL AND FINAL PROVISIONS

Article 16

Transitional provisions relating to benefits

1. This Convention shall apply to contingencies arising prior to its entry into force. However, no benefits shall be payable under this Convention with respect to any period prior to its entry into force although periods of insurance or residence completed before the said entry into force shall be taken into account in the determination of benefits.

2. Any benefits which has not been awarded or has been withdrawn by reason of the nationality of the person concerned, or of his residence in the territory of the other Contracting Party or by reason of another obstacle which has been removed by this Convention, shall, on application, be awarded or resumed with effect from the date of entry into force of this Convention.

3. Upon an application being received, a benefit granted prior to the entry into force of this Convention shall be recalculated in compliance with the provisions of the same. Such benefits may also be recalculated without any application being made. This recalculation may not result in any reduction of the benefit paid.

4. Provisions in the laws of the Contracting Parties concerning the prescription and the termination of the rights to benefits shall not apply to rights arising out of the provisions of paragraphs 1 to 3 of this Article, provided that the beneficiary submits his application for a benefit within two years after the date of entry into force of this Convention.

Article 17

Annulment of former Convention

The Convention shall replace the Convention between the Kingdom of the Netherlands and the Kingdom of Norway on social security, signed at Lugano on 13 April 1989, which shall cease to be in force from the date of entry into force of this Convention.

Article 18

Denunciation

1. This Convention may be denounced by either the Contracting Parties. Notice of denunciation shall be given not less than three months

before the expiry of the current calendar year whereupon the Convention shall cease to be in force at the expiry of the calendar year in which it is denounced.

2. If the Convention is denounced, its provisions shall continue to apply to benefits which have already been acquired, notwithstanding any provisions that may have been enacted in the legislation of the two Contracting Parties concerning restrictions of the rights to benefits in connection with residence in, or citizenship of, other countries. Any rights to future benefits which may have been acquired by virtue of the Convention shall be settled by special agreement.

Article 19

Entry into force

Both Contracting Parties shall notify each other in writing of the accomplishment of their respective constitutional procedures required for the entry into force of the present Convention. The Convention shall enter into force on the first day of the third month following the date of the last notification.

IN WITNESS WHEREOF the undersigned, duly authorised by their respective Governments, have signed this Convention.

DONE in duplicate at Oslo, this 4th day of June 1996 in the English language.

For the Kingdom of the Netherlands

(sd.) R. L. O. VAN LINSCHOTEN

For the Kingdom of Norway

(sd.) HILL-MARTA SOLBERG

D. PARLEMENT

Het Verdrag behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het Verdrag kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel 19 van het Verdrag in werking treden op de eerste dag van de derde maand volgend op de datum van de laatste kennisgeving betreffende de voltooiing van de grondwettelijk voor de inwerkingtreding vereiste procedures.

J. GEGEVENS

Van het op 13 april 1989 te Lugano tot stand gekomen Verdrag tussen het Koninkrijk der Nederlanden en het Koninkrijk Noorwegen inzake sociale zekerheid, met Slotprotocol, naar welk Verdrag wordt verwezen onder meer in de preambule tot het onderhavige Verdrag, zijn de Engelse tekst en de vertaling geplaatst in *Trb.* 1990, 25; zie ook *Trb.* 1990, 102.

Van de op 2 mei 1992 te Oporto tot stand gekomen Overeenkomst betreffende de Europese Economische Ruimte, met Protocollen en Bijlagen, en Slotakte, naar welke Overeenkomst wordt verwezen onder meer in de preambule tot het onderhavige Verdrag, is de Nederlandse tekst geplaatst in *Trb.* 1992, 132, Zie ook, laatstelijk *Trb.* 1995, 150.

Uitgegeven de *derde* juli 1996.

De Minister van Buitenlandse Zaken,

H. A. F. M. O. VAN MIERLO