

30 (1998) Nr. 1

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

---

---

JAARGANG 1998 Nr. 249

---

---

A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en de Republiek  
Kroatië inzake sociale zekerheid, met Slotprotocol;  
Zagreb, 11 september 1998*

B. TEKST

**Convention between the Kingdom of the Netherlands and the  
Republic of Croatia on social security**

The Kingdom of the Netherlands

and

The Republic of Croatia

– desiring to regulate the relations between the two States in the field  
of social security,

– taking into account that the actual relations between the two coun-  
tries are arranged through an exchange of letters of 25 February 1992  
and 21 April 1992;

have agreed to conclude a Convention with the following provisions:

PART I

GENERAL PROVISIONS

Article 1

*Definitions*

1. For the purpose of this Convention:
  - a) “Croatia” means the Republic of Croatia and “the Netherlands” means the Kingdom of the Netherlands”;
  - b) “Territory” means,

- in relation to Croatia: the territory of the Republic of Croatia;  
in relation to the Netherlands: the territory of the Kingdom in Europe;
- c) “National” means, as regards Croatia, a person with the nationality of the Republic of Croatia and as regards the Netherlands a person of the Netherlands nationality;
- d) “Employed person” means a person who is employed by an employer as well as any person who is deemed equivalent to an employed person by the legislation applied;
- e) “Legislation” means laws, ordinances and regulations relating to the systems and branches of social security specified in Article 2;
- f) “Competent authority” means,  
in relation to Croatia: the Minister of Labour and Social Welfare and the Minister of Health;  
in relation to the Netherlands: the Minister for Social Affairs and Employment and, as far as benefits in kind of the legislation on sickness insurance are concerned, the Minister for Health, Welfare and Sport;
- g) “Insurance institution” means the body or authority charged with the implementation of the legislation specified in Article 2, or a portion thereof;
- h) “Competent institution” means the institution which is competent according to the applicable legislation;
- i) “Competent state” means the Contracting Party in the territory of which the competent institution is situated;
- j) “Insurance period” means a contribution period, a period of employment, a period of residence or any other period defined, recognized or treated as a period of insurance under the legislation applicable to the person during such a period;
- k) “Pension or cash benefit” means a pension or a cash benefit under the applicable legislation including all the constituent parts thereof which are financed out of public funds as well as all increases and statutory wage payments in case of sickness;
- l) “Member of the family” means a person defined or recognized as such in the legislation of the Contracting Party in whose territory such a person resides; where, however, this legislation regards only persons living with the person concerned as members of the family, this condition shall be deemed to be satisfied if such persons are mainly maintained by the person concerned;
- m) “Institution of the place of residence” means the institution empowered, under the Contracting Party’s legislation which it applies, to provide 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;
- n) “Institution of the place of temporary stay” means the institution empowered, under the Contracting Party’s legislation which it applies, to provide the benefits in question at the place of temporary stay or, where no such institution exists, the institution designated by the competent authority of the Contracting Party concerned.

2. Other words and expressions which are used in this Convention shall have the meanings respectively assigned to them in the legislation applied.

## Article 2

### *Matters covered*

1. This Convention shall apply
  - A) In relation to Croatia to the legislation on:
    - a) sickness insurance and medical protection (benefits in kind and cash benefits in case of sickness and maternity);
    - b) pension and disability insurance (old-age, disablement and survivors' pensions including benefits in case of occupational injuries and professional diseases and other pensions and disability insurance benefits);
    - c) unemployment insurance (cash benefit during unemployment);
    - d) childrens allowances.
  - B) In relation to the Netherlands to the legislation on:
    - a) sickness insurance (cash benefits and benefits in kind in the case of sickness and maternity), including the scheme concerning the liability of an employer;
    - b) invalidity insurance;
    - c) old age insurance;
    - d) survivors' insurance;
    - e) unemployment insurance;
    - f) children's allowances.
2. With the reservations made in paragraphs 3 and 4 of this Article, this Convention shall apply also to all legislation codifying, amending or supplementing the legislation specified in paragraph 1 of this Article.
3. This Convention shall apply to any legislation of a Contracting Party extending the legislation specified in paragraph 1 of this Article to new categories of persons, if that Contracting Party had not, within six months of the official announcement of such legislation, notified the other Contracting Party to the effect that the Convention shall not apply to such legislation.
4. This Convention shall not apply to legislation instituting a new branch of social security unless the Contracting Parties make an agreement to that effect.
5. This Convention does not apply to social assistance schemes or to special schemes for civil servants or persons treated as such.

## Article 3

*Persons covered*

Unless otherwise provided in this Convention it shall apply to:

- a) persons who are or have been subject to the legislation of one or both Contracting Parties;
- b) persons deriving rights from a person mentioned under paragraph a of this Article.

## Article 4

*Equality of treatment*

Unless otherwise provided in this Convention, nationals of a Contracting Party 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

*Payment of benefits abroad*

1. Unless otherwise provided in this Convention pensions and other cash benefits in case of old-age, invalidity and death acquired under the legislation of one Contracting Party may not be reduced, modified, suspended or with-drawn in account of the recipient staying or residing in the territory of the other Contracting Party.

2. Unless otherwise provided in this Convention cash benefits under the legislation of a Contracting Party shall be payable to persons designated in Article 3, who are staying or residing outside the territories of either Contracting Party, on the same conditions and to the same extent as to nationals of that Contracting Party who are staying or residing outside those territories.

## Article 6

*Prevention of overlapping of benefits*

1. Provisions in the legislation of a Contracting Party for the 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 to the beneficiary 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.

2. Where the benefits due under the legislations of the Contracting Parties are conditional upon reductions, suspensions or withdrawals, the amounts of benefits which would not be paid in strict application of the provisions concerning reduction, suspension or withdrawal shall be divided by the number of benefits subject to reduction, suspension or withdrawal.

## PART II

### DETERMINATION OF THE APPLICABLE LEGISLATION

#### Article 7

##### *General rule*

1. Persons to whom the provisions of this Part of the Convention apply shall be subject to the legislation of one Contracting Party only. That legislation shall be determined in accordance with the provisions of Articles 8 to 13.

2. A person who is subject to the legislation of one Contracting Party in accordance with the provisions of this Part shall be considered as residing in the territory of that Contracting Party.

#### Article 8

##### *Employed persons*

1. A person employed in the territory of one Contracting Party shall be subject to the legislation of that Contracting Party even if he resides in the territory of the other Contracting Party or if the registered office or place of business of the undertaking or individual employing him is situated in the territory of the other Contracting Party.

2. A person employed in the territory of both Contracting Parties shall be subject to the legislation of the Contracting Party in the territory of which he is resident. If he is not resident in the territory of either Contracting Party he shall be subject to the legislation of the Contracting Party in the territory of which the employer has his principal place of business.

3. Travelling personnel employed by an undertaking which for hire or reward or on its own account operates international transport services for passengers or goods by rail, road or air shall be subject to the legislation of the Contracting Party in whose territory the undertaking has its head office even if the employee concerned resides in the territory of the other Contracting Party.

If however a person is employed by a branch or permanent agency which the said undertaking has in the territory of the other Contracting Party or if that person is employed and resident in the territory of this Party, the legislation of this Contracting Party shall apply.

## Article 9

*Posted workers*

Article 8, paragraph 1, shall apply subject to the following exceptions and circumstances:

If a person employed in the territory of a Contracting Party is posted by his employer to which he is normally attached to the territory of the other Contracting Party to perform a certain work there for that employer and whilst staying in paid employment with this 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 Contracting 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 three months of that period. Successive postings of the same employee by the same employer shall be counted as one unless they are separated by at least twelve months.

## Article 10

*Posted civil servants*

Article 9 shall apply correspondingly, but without any time limit, to posted civil servants.

## Article 11

*Crew members on vessels*

A person who is employed on board a vessel and who is resident in the territory of a Contracting Party shall be subject to the legislation of the Party on the territory of which the employer has his registered office or his place of business.

## Article 12

*Personnel of diplomatic and consular missions*

1. Nationals of a Contracting Party who are sent by the Government of this Contracting Party to the territory of the other Contracting Party as members of a diplomatic mission or consular post, shall be subject to the legislation of the former Contracting Party.

2. Persons who are employed by a diplomatic mission or consular post of one of the Contracting Parties in the territory of the other Contracting Party, shall be subject to the legislation of the latter Contracting Party.

3. If the diplomatic mission or consular post of one of the Contracting Parties employs persons who according to paragraph 2 of this Arti-

cle are subject to the legislation of the other Contracting Party, the mission or post shall observe the obligations which the legislation of this Contracting Party imposes on employers.

4. The provisions of paragraphs 2 and 3 of this Article shall apply correspondingly to persons employed in the private service of a person mentioned in paragraph 1 of this Article. In that case the natural person who employs other persons shall observe the obligations which the legislation of the Contracting Party where the employment is performed imposes on employers.

5. The provisions of paragraphs 1 to 4 of this Article do not apply to honorary members of a consular post or to persons employed in the private service of such persons.

#### Article 13

##### *Exceptions to the provisions of Article 8 to 12*

The competent authorities of the two Contracting Parties or the bodies designated by the authorities may agree on exceptions from the provisions of Articles 8 to 12 in the interest of employees and hereby establish compulsory insurance under the relevant legislation.

### PART III

#### SPECIAL PROVISIONS CONCERNING THE VARIOUS CATEGORIES OF BENEFITS

##### CHAPTER 1

##### SICKNESS AND MATERNITY

#### Article 14

##### *Entitlement to sickness and maternity benefits*

1. If a person has completed insurance periods under the legislation of both Contracting Parties these periods shall be added together for the acquisition, maintenance or recovery of entitlement to a benefit, in so far as they do not coincide.

2. If the legislation of one Contracting Party makes admission to compulsory insurance conditional upon the completion of insurance periods, such periods completed under the legislation of the 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 insurance periods completed under the legislation of the first Contracting Party.

## Article 15

*Residence in the other State than the competent State*

1. Persons who reside in the territory of the 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 14, shall receive in the territory of the Contracting Party in which they reside:

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.

2. The provisions of the preceding paragraph shall, in respect to benefits in kind, apply by analogy to members of the family who are resident in the territory of a Contracting Party other than the competent State in so far as they are not entitled to such benefits under the legislation of the State in whose territory they reside because of a gainful occupation or because of their receiving a social security benefit of the Party in whose territory they reside.

## Article 16

*Transfer of residence without entitlement to benefits under the legislation of the new State of residence*

If a person who has been insured under the legislation of one of the Contracting Parties is transferring his residence to the territory of the other Party, but does not satisfy the conditions for entitlement to benefits under the legislation of the latter Party, and if that person would still be entitled to such benefits under the legislation of the first Party if he were residing in the territory of that Party, such entitlement will nevertheless be retained. In that case Article 18, paragraphs 1, 3, 4, 5, 6 and 7 will be applicable by analogy.

## Article 17

*Temporary stay in or transfer of residence to the competent State*

1. Persons or the members of their family referred to in Article 15, who are staying in or transferring their place of residence to the territory of the competent State shall receive benefits in the territory of the competent State, in accordance with the provisions of the legislation of that State, even if they have already received benefits for the same case of

sickness or maternity before their transfer of residence; if the legislation applied by the competent institution provides for a maximum period for the provision of benefits, the period in which such benefits have been provided immediately before the transfer of residence will be taken into account.

2. In case of temporary stay of the members of the family referred to in Article 15 paragraph 2, in the territory of the competent State, Article 18, paragraphs 1 and 7 shall be applicable by analogy.

#### Article 18

##### *Stay outside the territory of the competent State – return to or transfer of residence to the territory of the other Contracting Party during sickness or maternity – provision of major benefits*

1. A person who satisfies the conditions for entitlement to benefits under the legislation of one of the Contracting Parties will be entitled to such benefits during a temporary stay in the territory of the other Contracting Party when his condition necessitates immediate provision of medical care.

2. A person who is entitled to benefits at the expense of an institution of one of the Contracting Parties and who resides in the territory of that Party, retains that entitlement when he transfers his residence to the territory of the other Contracting Party. However, before the transfer the person concerned will have to obtain the authorisation of the competent institution. Such authorisation may be refused only if it is established that movement of the person concerned would be prejudicial to his state of health or the receipt of medical treatment.

3. When a person is entitled to benefits according to the provisions of the preceding paragraphs, the benefits in kind shall be provided at the expense of the competent institution by the institution of the place of temporary stay or residence according to the provisions of the legislation applied by the latter institution, as if the person concerned were insured there. The period during which benefits are provided shall, however, be that laid down under the legislation of the competent State.

4. In the cases referred to in paragraphs 1 and 2 of this Article, the supply of prosthesis, major appliances or other substantial benefits in kind – except in case of absolute urgency will be subject to the condition that the competent institution will give its authorisation.

5. In the cases referred to in paragraphs 1 and 2 of this Article, cash benefits will be provided by the competent institution according to the provisions of the legislation which it applies.

6. The provisions of this Article shall be applicable by analogy to the members of the family of the person concerned.

7. The provisions of paragraphs 1 and 6 of this Article are not applicable to persons who are going to the territory of the Contracting Party other than the competent State, for the purpose of receiving medical care.

#### Article 19

##### *Benefits for pensioners and the members of their families*

1. Where a person receiving pensions under the legislation of both Contracting Parties is entitled to benefits in kind under the legislation of the Contracting Party in whose territory he is resident, such benefits shall be provided to him and 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 one Contracting Party resides in the territory of the other Contracting Party and he is not entitled to benefits in kind under the legislation of the latter Contracting Party, the institution of the place of his residence provides according to the legislation which it applies, and at the expense of the competent institution, this person and the members of his family with benefits in kind to which this person is entitled under the legislation of the first Contracting Party or would be entitled to if he were to reside in its territory.

3. Where the members of the family of a person receiving a pension under the legislation of one Contracting Party or pensions under the legislation of both 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 benefits under the legislation of a Contracting Party.

The benefits shall be provided at the expense of the competent institution by the institution of the place of residence of the members of the family according to the provisions of the legislation which it applies, as if they were entitled to such benefits under that legislation.

4. If the members of the family referred to in the preceding paragraph transfer their residence to the territory of the Contracting Party in which the pensioner resides, they shall be entitled to benefits in kind in accordance with the legislation of that Party, even if they have already received benefits for the same case of sickness and maternity before transferring their residence.

5. A person receiving a pension under the legislation of one Contracting Party and who is entitled to benefits in kind under the legislation of this Contracting Party, shall as well as the members of his family, be entitled to such benefits during a temporary stay in the territory of the

Contracting Party other than the one in whose territory they reside, when their condition requires the immediate provision of such benefits.

6. In the case referred to in the preceding paragraph, the benefits in kind shall be provided at the expense of the institution of the place of residence of the pensioner or the members of the family, by the institution of the place of temporary stay, according to its legislation, as if the person concerned were entitled to such benefits under this legislation. The period during which benefits are provided shall, however, be that laid down under the legislation of the State of residence. The provisions of Article 18, paragraph 4, are applicable by analogy.

7. Where the legislation of a Contracting Party provides for the contributions to be deducted from the pension payable for the purpose of entitlement to benefits in kind, the institution of the Contracting Party which pays the pension shall be authorized to make such deductions if the cost of benefits in kind is borne by an institution of that Contracting Party by virtue of this Article.

8. The provisions of this Article shall not be applicable to members of the family who are entitled to benefits in kind under the legislation of the Contracting Party in the territory of which they reside because of their gainful occupation or their receiving social security benefit of the Contracting Party in whose territory they reside.

9. The provisions of paragraph 5 of this Article shall not be applicable to persons who are going to the territory of the Contracting Party other than the one in whose territory they reside, for the purpose of receiving medical treatment.

## Article 20

### *Reimbursement between institutions*

1. The benefits in kind provided according to this chapter shall be refunded by the competent institutions or, where appropriate, by the institutions of the place of residence, to the institutions who have provided these benefits.

2. The refunds shall be determined and made in accordance with the procedure provided for in the Administrative Arrangement referred to in Article 37, either on production of proof of actual expenditure or on the basis of lump-sum payments.

## CHAPTER 2

## DISABILITY, OLD-AGE AND DEATH

A. PROVISIONS FOR THE IMPLEMENTATION OF THE  
CROATIAN LEGISLATION

## Article 21

1. Where pursuant to Croatian legislation a person does not satisfy conditions for the acquisition, retention or recovery of the entitlement to benefits exclusively on the basis of periods of insurance or other periods completed under Croatian legislation, the competent institution shall also take into account for the entitlement of the nationals of one of the Contracting Parties to such benefits, insurance periods completed under the Netherlands legislation, as if they were completed under the Croatian legislation.

2. Where, notwithstanding the provisions of paragraph 1 of this Article a person does not satisfy conditions for the benefit, the Croatian insurance institution shall take into account, for the nationals of one of the Contracting Parties, insurance periods completed in third States with which both Contracting Parties have concluded separate Social Security Agreements, which provide for adding together insurance periods in such cases. Where only the Republic of Croatia has such a bilateral agreement with a third State the Croatian institution shall take into account the insurance periods completed by Croatian nationals in that third State, unless otherwise provided in that bilateral agreement.

3. The provisions in paragraphs 1 and 2 of this Article concerning totalization of insurance periods shall only be applicable to insurance periods completed in other states in so far as they do not coincide with Croatian periods.

4. The provisions of paragraphs 1 and 2 of this Article shall only be applicable if the total insurance period completed under the Croatian legislation is at least 12 months, unless the minimum qualifying period is less than 12 months.

## Article 22

Where a person qualifies for a benefit under the Croatian legislation without totalizing of the periods referred to in Article 21, the Croatian insurance institution shall grant the benefit calculated exclusively on the basis of insurance periods completed under the Croatian legislation.

This provision shall also be applicable to an insured person who qualifies for a benefit under the legislation of the other Contracting Party, calculated in accordance with Articles 28 and 31.

## Article 23

Where entitlement to a benefit under the Croatian legislation is subject to totalization of the insurance periods referred to in Article 21 the competent institution shall determine the amount of the benefit in the following manner:

a) it shall first calculate the theoretical amount of the benefit which would be payable if all the insurance periods added together had been completed under the Croatian legislation;

b) the institution shall then calculate the real amount of the benefit payable on the basis of the theoretical amount calculated according to the provisions of subparagraph a. in proportion to the ratio between the duration of the insurance periods completed under the legislation applied by this institution and the total duration of the insurance periods referred to in Article 21;

c) where the total duration of the insurance periods added together as provided in Article 21 exceeds the maximum duration specified under the Croatian legislation for the calculation of the maximum benefit rate the competent insurance institution shall, for the calculation of the benefit referred to in subparagraphs a and b, take into consideration the above mentioned maximum duration, instead of the totalized periods;

d) the provisions under subparagraphs a, b and c do not apply when the calculation on the basis of the Croatian legislation is more favourable for the person concerned.

## Article 24

When calculating the benefit the Croatian insurance institutions shall take into consideration only salaries or earnings received or contributions paid under the Croatian legislation.

## Article 25

Benefits awarded under the Croatian legislation in accordance with Articles 21 to 24 shall not be recalculated in case of a subsequently awarded benefit under the Netherlands legislation.

## Article 26

In case of death of an insured person who was entitled to or who received a pension in accordance with the provisions referred to in Articles 21 to 25 his survivors are entitled to survivors' pensions.

**B. PROVISIONS FOR THE IMPLEMENTATION OF THE  
NETHERLANDS LEGISLATION**

## Article 27

*Provisions relating to Netherlands invalidity pension*

Where a national of one of the Contracting Parties, at the time when incapacity for work followed by invalidity occurred, was subject to

Croatian legislation on pensions and entitled to Croatian pension on invalidity, and had previously completed a total insurance period of at least 12 months under the Netherlands legislation on invalidity insurance, he shall be entitled to a benefit under the latter legislation, calculated according to the rules of Article 28.

#### Article 28

1. The amount of the benefit referred to in Article 27 shall be calculated in proportion to the ratio of the total length of the periods of insurance completed by the person concerned under the Netherlands legislation after the age of 15 years to the period between the date on which he reached the age of 15 and the date of his incapacity for work followed by invalidity.

2. If, at the time when incapacity for work followed by invalidity occurred, the person concerned was an employed person or a person treated as such, the benefit due shall be determined according to the Disablement Insurance Act of 18 February 1966 (WAO). If not, the benefit due shall be determined according to the Selfemployed Persons Disablement Benefits Act (WAZ) of 24 April 1997.

3. As periods of insurance completed under the Netherlands legislation shall be considered:

- a) periods of insurance completed under the Disablement Insurance Act of 18 February 1966 (WAO);
- b) periods of insurance completed under the General Disablement Insurance Act of 11 December 1975 (AAW);
- c) periods of insurance completed under the Selfemployed Persons Disablement Benefits Act (WAZ) of 24 April 1997;
- d) periods of employment and periods treated as such completed in the Netherlands before 1 July 1967.

4. In the case referred to in paragraph 2, first sentence of this Article, when an insurance period under the WAZ coincides with an insurance period under the WAO, only the period completed under the AAW shall be taken into account.

5. In the case referred to in paragraph 2, second sentence of this Article, when an insurance period under the WAZ coincides with an insurance period under the WAO, only the period completed under the AAW shall be taken into account.

#### Article 29

##### *Provisions relating to Netherlands' old age pension*

1. In case of old age the Netherlands' insurance institution determines the pension directly and exclusively on the basis of the periods of insurance completed under the Netherlands' legislation on old age insurance.

2. The reduction referred to in Article 13, paragraph 1 of the law on general old-age insurance (AOW) shall not be applied to calendar years or parts thereof before the entry into force of this Convention during which a married woman or a woman who had been previously married between the age of 15 years and 65 years, residing in Croatia during the marriage, was not insured under the abovementioned law in so far as the calendar years or parts thereof coincide with periods of insurance completed by her husband under that legislation.

By way of derogation from Article 7 of the AOW, the said woman shall be considered as being entitled to a pension.

3. The reduction referred to in Article 13, paragraph 2 of the AOW shall not be applied to calendar years or parts thereof before the entry into force of this Convention during which the married woman of the pensioner resided in Croatia between the age of 15 years and 65 years and was not insured under the abovementioned legislation in so far as the calendar years or parts thereof coincide with periods of insurance completed by her husband under that legislation.

4. The provisions referred to in paragraphs 2 and 3 of this Article shall be applied only if the person concerned has resided for six years in the territory of Croatia or the Netherlands after the age of 59 years and for as long as that person is residing in the territory of one of these Member States.

5. By way of derogation from the provisions of Article 45, paragraph 1 of the AOW, and Article 63, paragraph 1 of the law on general insurance for survivors (ANW), the spouse of an employed person covered by a compulsory insurance scheme, residing in Croatia shall be authorized to take out voluntary insurance under that legislation but only for the periods after the entry into force of this Convention during which the employed person is or was compulsorily insured under the abovementioned legislation. This authorization ceases on the date of termination of the compulsory insurance of the employed person.

The aforementioned authorization shall not cease, however, where the compulsory insurance of the employed person is terminated as a result of his death and where his spouse receives only a pension under the ANW.

In any event the authorization in respect of voluntary insurance ceases on the date on which the voluntarily insured person reaches the age of 65 years.

The contribution which has to be paid for the aforementioned voluntary insurance shall be determined for the spouse of an employed person who is compulsorily insured under the AOW and the ANW in accordance with the provisions relating to the determination of the contribution of compulsory insurance, subject to the condition that his/her income shall be deemed to have been received in the Netherlands.

For the spouse of an employed person who was compulsorily insured on or after the date of entry into force of this Convention the contribution shall be determined in accordance with the provisions relating to the determination of the contribution for voluntary insurance under the Netherlands legislation on general old-age insurance and the Netherlands legislation on general insurance for survivors.

6. The authorization referred to in paragraph 5 of this Article shall be granted only if the spouse of an employed person has informed the Sociale Verzekeringsbank (Social Insurance Bank) not later than one year after commencement of his/her compulsory insurance period of the intention to take out voluntary insurance.

For the spouse of an employed person who was compulsorily insured immediately prior to or on the date of entry into force of this Convention, the period of one year shall commence on the date of the entry into force of this Convention.

7. The provisions referred to in paragraphs 2 and 3 of this Article shall not be applicable to periods coinciding with periods which may be taken into account for the calculation of pension rights under the legislation governing old-age pensions in a State other than the Netherlands, or for periods during which the person concerned received an old-age pension under such legislation.

8. The provisions of paragraphs 2 and 3 of this Article shall only be applied to the spouses who have taken out voluntary insurance under Netherlands legislation according to paragraph 5 of this Article.

#### Article 30

##### *Provisions relating to Netherlands survivors pension*

When a national of one of the Contracting Parties at the time of his death was subject to Croatian legislation on pensions and had previously completed a total insurance period of at least 12 months under the Netherlands legislation on survivors insurance, his spouse or his orphans shall be entitled to benefits under this legislation, calculated in accordance with the rules of Article 31.

#### Article 31

The amount of the benefit referred to in Article 30 shall be calculated in proportion to the ratio of the total length of the periods of insurance completed by the deceased under the Netherlands legislation before he reached the age of 65 to the period between the date on which he reached the age of 15 years and the date of his death, but at the latest the date on which he reached the age of 65 years.

## CHAPTER 3

## UNEMPLOYMENT

## Article 32

If the legislation of both Contracting Parties has been applicable to a person, then the periods of insurance or employment, which are to be taken into consideration according to both Parties' legislation, shall be added together for the acquisition, retention or recovery of the right to receive unemployment benefits, in so far as these periods do not coincide.

## Article 33

An employed person, residing in the territory of a Contracting Party, moving to the territory of the other Contracting Party and being last subject to the legislation of this Contracting Party, is entitled to unemployment benefits under the legislation of the latter Contracting Party during his stay on its territory, if:

- a) he satisfies the conditions of the legislation of that Party, taking into account the totalisation of periods of insurance of Article 32; and
- b) he has been employed in the territory of that Party for at least four weeks in total during the last twelve months before submitting the claim; and
- c) he has been licensed for working in the territory of that Party according to its legislation on the placement of foreign workers.

## Article 34

When calculating the benefit, in cases where this Chapter applies, only income accrued in the territory of the Contracting Party which pays the benefit shall be taken into account.

## CHAPTER 4

## CHILDREN'S ALLOWANCES

## Article 35

1. A person covered under the legislation on children's allowances of one Contracting Party shall be entitled to children's allowances under its legislation even if the child resides in the territory of the other Contracting Party.

2. Paragraph 1 of this Article shall be applied as long as the Netherlands legislation allows the payment of children's allowances on behalf of children residing outside the territory of the Netherlands.

## Article 36

If the conditions for the entitlement to children's allowances are satisfied under the legislations of both Contracting Parties the entitlement to children's allowances shall be awarded solely under the legislation of the Contracting Party in whose territory the child resides.

## PART IV

## MISCELLANEOUS PROVISIONS

## Article 37

*Administrative arrangement*

The competent authorities shall agree on provisions for the implementation of this Convention by way of an administrative arrangement. Furthermore, they shall designate liaison bodies in their respective territories to facilitate the implementation of this Convention.

## Article 38

*Mutual assistance*

1. The competent authorities shall communicate to each other all amendments in their legislations which are of substantial significance to the application of this Convention.

2. For the purpose of applying this Convention, the authorities and insurance institutions of the Contracting Parties shall lend their good offices as though applying their own legislations. Such mutual administrative assistance shall be provided free of charge.

3. The authorities and insurance institutions of the Contracting Parties may for the purpose of applying this Convention, communicate directly with each other and with the persons concerned or their representatives.

4. The authorities, insurance institutions and jurisdictions of a Contracting Party may not reject claims or other documents submitted to them by reason of the fact that they are written in a foreign language, provided they are in the official language of the other Contracting Party or in the English or the French language.

## Article 39

*Medical examinations*

1. Medical examinations of persons who are resident or present in the territory of the other Contracting Party shall be carried out by the insti-

tution of this Contracting Party at the request and at the expense of the competent institution. Costs of medical examinations which are required by competent institutions of both Contracting Parties shall not be refunded.

2. However, the competent institution reserves the right to have the person concerned examined by a doctor of its own choice in the territory of one of the Contracting Parties.

#### Article 40

##### *Language*

The competent authorities, liaison bodies and insurance institutions of the Contracting Parties shall correspond with each other in the English or the French language.

#### Article 41

##### *Exemption from fees*

Any exemption granted in the territory of one of the Contracting Parties from stamp duty, notarial or registration fees in respect of certificates and documents required to be submitted to authorities and insurance institutions in the same territory, shall also apply to certificates and documents which, for the purpose of the implementation of this Convention, have to be submitted to authorities and insurance institutions in the territory of the other Contracting Party. Documents and certificates required to be produced for the purpose of the implementation of this Convention shall be exempted from authentication by diplomatic or consular authorities.

#### Article 42

##### *Submitting of claims, appeals or other documents*

1. Applications, appeals and other documents which, in accordance with the legislation of a Contracting Party, have to be submitted to an authority or insurance institution within a specified period shall be admissible if they are submitted within the same period to a corresponding authority or insurance institution of the other Contracting Party. The authority or insurance institution of the latter Contracting Party shall without delay forward them to the authority or insurance institution of the former Contracting Party. The date on which these documents were submitted to the authority or insurance institution of the latter Contracting Party shall be considered as the date of their submission to the authority or insurance institution of the former Contracting Party.

2. An application for a benefit submitted in accordance with the legislation of one Contracting Party shall be considered as an application for the corresponding benefit under the legislation of the other Contract-

ing Party. With respect to old-age pensions, however, this shall not apply if the applicant states or if it is quite evident that the application refers solely to a pension under the legislation of the former Contracting Party.

#### Article 43

##### *Identification*

For being entitled to or for maintaining the entitlement to a benefit in cash according to the legislation of one or both Contracting Parties a claimant is obliged to identify himself or herself towards the institution of the place of residence or of temporary stay by way of an official identification card. This institution duly identifies the person on presentation of his or her identification card. An identification card is a passport or another valid identification document delivered by the competent authority of the place of residence. The institution informs the other institution that the identity has been duly verified, by sending a copy of the identification card.

#### Article 44

##### *Verification of claims and payments*

1. The competent institution of the Contracting Party with which an application for benefits has been filed shall verify the accuracy of the information pertaining to the applicant and the members of his family and provide such evidence and other documentation as may be necessary for the institution of the other Contracting Party to complete action on the claim.

2. Paragraph 1 of this Article applies *mutatis mutandis* if the competent institution of one of the Contracting Parties makes a request for verification of information with the institution of the other Contracting Party for the purpose of establishing the legitimacy of payments to the beneficiaries residing in the territories of the respective Contracting Parties.

3. The information referred to in paragraphs 1 and 2 of this Article also includes information on income and household status.

4. The competent institutions of the Contracting Parties may communicate directly with each other and with their respective beneficiaries or their representatives.

5. The diplomatic and consular representatives and the institutions of the Contracting Parties may request information directly from authorities in the territory of the other Contracting Party for the purpose of establishing entitlement to benefit and the legitimacy of payments in respect of the respective beneficiaries of the Contracting Parties.

## Article 45

*Currencies*

1. Where, under this Convention, an insurance institution of a Contracting Party is liable to pay cash benefits to a beneficiary who is in the territory of the other Contracting Party, its liability shall be expressed in the currency of the first Contracting Party.

2. Where, under this Convention, an insurance institution of a Contracting Party is liable to make payments to an insurance institution of the other Contracting Party, its liability shall be expressed in the currency of the second Contracting Party. The first insurance institution shall validly discharge its liability in that currency, unless otherwise agreed between the relevant institutions.

3. Money transfers which result from the application of this Convention shall be effected in accordance with the relevant agreements in force between the Contracting Parties at the date of transfer.

4. In the event of restrictions on currency being enforced by one of the Contracting Parties, both Contracting Parties shall immediately agree upon necessary measures to ensure the transfer between the territories of both Contracting Parties of any amount payable pursuant to this Convention.

5. In the event there is no convertibility between the Netherlands and the Croatian currencies the payments between institutions for the application of Articles 20 and 39 of this Convention will be calculated on the basis of the indicative exchange rate applying at the date on which the payment can be made, as advised by the Netherlands Central Bank, unless otherwise agreed between the relevant institutions.

6. In the event there is no convertibility between the Netherlands and the Croatian currencies the undue payments or the contributions for the application of Articles 46 and 47 will be calculated on the basis of the indicative exchange rate as advised by the Netherlands Central Bank at the date of the decisions on the recovery of undue payments and on the collection of contributions.

## Article 46

*Recovery of undue payments*

1. The Contracting Parties recognize each others final administrative or judicial decisions on the recovery of undue payments made under their legislations, provided that such decisions are legally enforceable.

2. The Contracting Parties will lend their good offices regarding the implementation of decisions as referred to in paragraph 1 of this Article.

3. At the request of a competent institution the other institution will initiate legal proceedings to implement decisions as referred to in paragraph 1 of this Article in accordance with its own legislation. The costs of these proceedings shall be reimbursed by the requesting institution.

4. If, when awarding or reviewing benefits in respect of invalidity, old age or death pursuant to the Convention, the competent institution of one of the Contracting Parties has paid to a recipient of benefits a sum in excess of that to which he is entitled, that institution may request the competent institution of the other Party responsible for the payment of corresponding benefits to that recipient to deduct the amount overpaid from the arrears which it pays to the said recipient. The latter institution shall transfer the amount deducted to the creditor institution. Where the amount overpaid cannot be deducted from the arrears the provisions of paragraph 5 of this Article shall apply.

5. When the competent institution of a Contracting Party has paid to a recipient of benefits a sum in excess of that to which he is entitled, that institution may, within the conditions and limits laid down by the legislation which it administers, request the competent institution of the other Contracting Party responsible for the payment of benefits to that recipient, to deduct the amount overpaid from the amounts which it pays to the said recipient. The latter institution shall make the deduction under the conditions and within the limits provided for such setting-off by the legislation which it administers, as if the sums had been overpaid by itself, and shall transfer the amount deducted to the creditor institution.

#### Article 47

##### *Collection of contributions*

1. The Contracting Parties recognize each others final administrative or judicial decisions on the collection of contributions, made under their legislations, provided that such decisions are legally enforceable.

2. The Contracting Parties will lend their good offices regarding the implementation of the decisions as referred to in paragraph 1 of this Article.

3. At the request of a competent institution the other institution will initiate legal proceedings to implement decisions as referred to in paragraph 1 of this Article in accordance with its own legislation. The costs of these proceedings shall be reimbursed by the requesting institution.

#### Article 48

##### *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 which shall be constituted in the following manner:

a) Within a month from the date on which either Contracting Party receives a written notice requesting the arbitration, each Contracting Party shall appoint one arbitrator. Those two arbitrators shall, within further two months from the date on which the Contracting Party which last appointed its arbitrator notifies the other Party of its own appointment, designate a third arbitrator.

b) If either Contracting Party fails to appoint an arbitrator within the specified period the other Party may invite the President of the International Court of Justice to make the necessary appointments. The same shall be done, upon request of both Contracting Parties, if both arbitrators fail to agree upon the appointment of the third arbitrator.

c) When the President of the International Court of Justice is a national of either Contracting Party the functions provided under this Article shall be transferred to the Vice-President of the Court or the next most senior member of this Court, who is not a national of either Contracting Party.

3. The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding upon both Contracting Parties. Each Contracting Party shall bear the cost of its appointed arbitrator. The remaining costs shall be borne in equal parts by both Contracting Parties. The arbitral tribunal shall determine its own procedure.

## PART V

### TRANSITIONAL AND FINAL PROVISIONS

#### Article 49

##### *Transitional provisions relating to benefits*

1. Subject to paragraph 3 of this Article this Convention shall also apply to contingencies arising prior to its entry into force. However, no benefits shall be provided 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. Provisions in the laws of the Contracting Parties concerning the prescription and the termination of the right to cash benefits shall not apply to rights arising out of the provisions of paragraph 1 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.

3. Benefits, that have been awarded before the date of entry into force of this Convention and in accordance with the provisions of the Con-

vention on Social Security between the Kingdom of the Netherlands and the Socialist Federal Republic of Yugoslavia of 11 May 1977, shall be maintained on the basis of the last mentioned Convention. However, if the method of determining benefits or the rules for calculating benefits including by reason of an increase in the cost of living or changes in the level of wages or salaries or other reasons for adjustment should be altered, a recalculation shall be carried out in accordance with this Convention.

#### Article 50

##### *Annulment of former Convention*

The Convention on Social Security between the Kingdom of the Netherlands and the Socialist Federal Republic of Yugoslavia, signed at Belgrade on 11 May 1977, shall in relation to the Republic of Croatia and the Kingdom of the Netherlands be replaced by this Convention and shall cease to be in force from the date of entry into force of this Convention.

#### Article 51

##### *Denunciation*

1. This Convention may be denounced by either of the Contracting Parties. Notice of denunciation shall be given in written form through diplomatic channels 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 provision that may have been enacted in the legislation of the two Contracting Parties concerning restrictions of the right to benefits in connection with residence in, or citizenship of, other countries. Any right to future benefits which may have been acquired by virtue of the Convention shall be settled by special agreement.

#### Article 52

##### *Final Protocol*

The Final Protocol attached to this Convention forms an integral part of this Convention.

#### Article 53

##### *Entry into force*

Both Contracting Parties shall notify each other in writing of the accomplishment of their respective relevant procedures under their na-

tional legislation through diplomatic channels required for the entry into force of the present Convention. The Convention shall enter into force on the first day of the third month after 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 Zagreb, on this 11th day of September, 1998, in the English language only.

*For the Kingdom of the Netherlands*

(sd.) J. W. SCHEFFERS

*For the Republic of Croatia*

(sd.) J. SKARA

---

#### **Final Protocol**

At the moment of signing the Convention between the Kingdom of the Netherlands and the Republic of Croatia on social security, the undersigned plenipotentiaries have agreed as follows:

##### *Application of the Netherlands legislation on health insurances*

1. As regards entitlement to benefits in kind under the Netherlands legislation, Chapter 1 of Part III of this Convention is only applicable to persons who are insured under the provisions of the Health Insurance Act (*Ziekenfondswet*).

2. For the purpose of Article 19 of this Convention, the following pensions shall be treated as pensions due under the Netherlands legislation:

- pensions pursuant to the Law of 6 January 1966 establishing a new pension scheme for civil servants and their survivors (*Algemene burgerlijke pensioenwet*);
- pensions pursuant to the Law of 6 October 1966 establishing a new pension scheme for serviceman and their survivors (*Algemene militaire pensioenwet*);
- pensions pursuant to the Law of 15 February 1967 establishing a new pension scheme for members of the personnel of the Netherlands Railways and their survivors (*Spoorwegpensioenwet*);
- pensions pursuant to the Regulation on conditions of employment of the Netherlands Railways (*R.D.V. 1964 N.S.*);

- a retirement benefit for persons aged under 65 provided under a pension scheme designated to provide an old age pension to employed persons and formerly employed persons and
- a benefit on account of accelerated retirement from professional activities under a scheme laid down by the government or under a regulation laid down according to a collective labour agreement concerning accelerated retirement or under such regulation indicated by the “Ziekenfondsraad”.

3. The members of the family referred to in Article 15, paragraph 2, or the person or the members of the family referred to in Article 16, or the pensioner and the members of his family referred to in Article 19, paragraphs 2 and 3, of the Convention, who are residing in the Netherlands but who are entitled to benefits in kind at the expense of the Republic of Croatia, are not insured under the Exceptional Medical Expenses Act (AWBZ).

4. The provisions of Article 18, paragraphs 1, 3, 4, 6 and 7 (in case of temporary stay) and of Article 19, paragraphs 5, 6 and 9, are applicable to all persons who are insured under the legislation of the Netherlands, irrespective of their nationality.

IN WITNESS WHEREOF the undersigned, duly authorized by their respective Governments, have signed the Final Protocol.

DONE in duplicate at Zagreb, on this 11th day of September, 1998, in the English language.

*For the Government of the Kingdom of the Netherlands*

(sd.) J. W. SCHEFFERS

*For the Government of the Republic of Croatia*

(sd.) J. SKARA

---

D. PARLEMENT

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

G. INWERKINGTREDING

De bepalingen van Verdrag en Slotprotocol zullen ingevolge artikel 53 van het Verdrag, juncto artikel 52 van het Verdrag, in werking treden op de eerste dag van de derde maand na de laatste van de schriftelijke kennisgevingen langs diplomatieke weg door de Partijen aan elkaar dat de procedures die in hun landen ingevolge de nationale wetgeving zijn vereist voor de inwerkingtreding van het Verdrag, zijn vervuld.

J. GEGEVENS

Van het op 26 juni 1945 te San Francisco tot stand gekomen Statuut van het Internationaal Gerechtshof – naar de President van dat Hof wordt in artikel 48, tweede lid, van het onderhavige Verdrag verwezen – is de tekst geplaatst in *Trb.* 1971, 55 en de herziene vertaling in *Trb.* 1987, 114; zie ook *Trb.* 1997, 106.

Van het op 11 mei 1977 te Belgrado tot stand gekomen Verdrag inzake sociale zekerheid tussen het Koninkrijk der Nederlanden en de Socialistische Federatieve Republiek Joegoslavië, welk Verdrag ingevolge artikel 50 van het onderhavige Verdrag in de betrekkingen Nederland-Kroatië door het onderhavige Verdrag zal worden vervangen, zijn tekst en vertaling geplaatst in *Trb.* 1977, 156; zie ook, laatstelijk, *Trb.* 1987, 182.

Op 11 september 1998 is te Zagreb nog tot stand gekomen het Administratief Akkoord tussen de bevoegde Nederlandse en Kroatische autoriteiten betreffende de toepassing van het onderhavige Verdrag. De tekst van het Akkoord luidt als volgt:

**Administrative Arrangement for the application of the Convention between the Kingdom of the Netherlands and the Republic of Croatia on social security**

Pursuant to Article 37 of the Convention between the Kingdom of the Netherlands and the Republic of Croatia on social security, signed at Zagreb on the 11th of September, 1998, the competent authorities of the Contracting Parties namely:

- for the Netherlands, the Minister for Social Affairs and Employment and the Minister for Health, Welfare and Sport;
- for Croatia, the Minister of Labour and Social Welfare and the Minister of Health,

have agreed on the following provisions for the application of the Convention:

## PART I

## GENERAL PROVISIONS

## Article 1

*Definitions*

For the purpose of the present Arrangement:

- a. the term “Convention” means the Convention between the Kingdom of the Netherlands and the Republic of Croatia on social security;
- b. the terms defined in Article 1 of the Convention have the meaning given to them in that Article.

## Article 2

*Liaison bodies*

1. The liaison bodies in accordance with Article 37 of the Convention are:

## A. In the Netherlands

- a) for the benefits in kind in case of sickness and maternity: the Sickness Funds Council (Ziekenfondsraad), Amstelveen;
- b) for old-age and survivors pensions and for childrens allowances: the Social Insurance Bank (Sociale Verzekeringsbank), Amstelveen;
- c) for the administration regarding posted workers under Article 9 and 13 of the Convention: the Social Insurance Bank (Sociale Verzekeringsbank), Amstelveen;
- d) in all other cases: the “Landelijk Instituut Sociale Verzekeringen”, c/o GAK Nederland bv, Amsterdam;

## B. In Croatia

- a) for benefits in kind and cash benefits in case of sickness and maternity: the Croatian Health Insurance Institute;
- b) for old age, disability and survivors pensions and other benefits under the pension and disability insurance: the Republic Fund for Pension and Disability Insurance of Workers in Croatia;
- c) for cash benefits in case of unemployment: the Employment Institute;
- d) for childrens allowances: the Republic Fund for Pension and Disability Insurance of Workers in Croatia;

2. The duties of the liaison bodies are stated in this Arrangement. For the application of the Convention, the liaison bodies may communicate directly with each other as well as with the persons concerned or their representatives. They shall assist each other in the application of the Convention.

3. The duties of the social insurance institutions subordinate to the liaison bodies are stated in this Arrangement. The liaison bodies may delegate other tasks to such subordinate institutions and shall, in case, notify each other thereof.

#### Article 3

##### *Occupational activities in both territories*

For the purpose of article 8, paragraph 2 of the Convention a person who normally pursues his activity in the territory of both Contracting Parties shall, if he resides in the Netherlands, notify this situation to the institution designated in Article 2, paragraph 1, under A, c of this Arrangement and if he resides in Croatia, to the competent local office of the Croatian Health Insurance Institute.

#### Article 4

##### *Applicable legislation*

1. In cases referred to in Article 9, paragraph 1, Articles 10 and 13 of the Convention, the institution of the Contracting Party whose legislation applies shall issue a certificate of fixed duration certifying that the employed person continues to be subject to that legislation and send it to this person. In the certificate are also mentioned the family members who accompany the employed person. The certificate shall be given in an agreed form.

2. Where the legislation of Croatia applies, the certificate mentioned in paragraph 1 of this Article will *be* issued by the competent local office of the Croatian Health Insurance Institute. Copies shall be sent to the Social Insurance Bank (Sociale Verzekeringsbank), Amstelveen and the employer.

3. The legislation of the Netherlands applies, the certificate mentioned in paragraph 1 of this Article will be issued by the Social Insurance Bank (Sociale Verzekeringsbank), Amstelveen, and sent to the competent local office of the Croatian Health Insurance Institute and the employer.

## PART II

APPLICATION OF THE SPECIAL PROVISIONS CONCERNING  
THE VARIOUS CATEGORIES OF BENEFITS

## CHAPTER 1

## SICKNESS AND MATERNITY

## Article 5

*Institutions*

For the application of this chapter:

- the term “institution of the place of temporary stay” means:
  - in the Netherlands, the ANOZ Zorgverzekeringen, Utrecht;
  - in Croatia, the competent local office of the Croatian Health Insurance Institute;
- the term “institution of the place of residence” means:
  - in the Netherlands, a sickness fund at the place of residence, as chosen by the person concerned;
  - in Croatia, the competent local office of the Croatian Health Insurance Institute, and
- the term “competent institution” means:
  - in the Netherlands:
    - a) for benefits in kind: the sickness fund (ziekenfonds) to which the person concerned is or could be affiliated at the time of the application for benefit;
    - b) for benefits in cash: “the ‘Landelijk Instituut Sociale Verzekeringen’, c/o the implementation institution (uitvoeringsinstelling)” to which the insured person’s employer is affiliated;
  - in Croatia:
    - for benefits in kind and cash benefits: the competent local office of the Croatian Health Insurance Institute with which the person concerned is insured or could be insured at the time of the application for benefit.

## Article 6

*Certification of periods of insurance*

1. For the application of Article 14 of the Convention by the competent institution of one of the Contracting Parties, a person shall submit to this institution a certificate showing the periods of insurance completed under the legislation of the other Contracting Party and he shall supply any additional information required under the legislation of that institution.
2. At the request of the person concerned, this certificate shall be issued:

in the Netherlands, by “the ‘Landelijk Instituut Sociale Verzekeringen’, c/o the implementation institution” to which the insured person’s last employer was affiliated.

However, if the person concerned has only been insured for benefits in kind, the certificate shall be issued by the sickness fund to which that person has lastly been affiliated;

in Croatia, the competent local office of the Croatian Health Insurance Institute with which the person concerned was last insured.

3. If the person concerned is not able to submit the required certificate, the institution referred to in paragraph 1 of this Article shall obtain it from the insurance institution mentioned in paragraph 2 of this Article.

#### Article 7

##### *Benefits in kind during residence in the State other than the competent State*

1. In order to receive benefits in kind under Article 15 of the Convention, the person concerned must register himself and the members of his family with the institution of his place of residence by submitting a certificate testifying that he and the members of his family are entitled to the said benefits. This certificate shall be issued by the competent institution on the basis of information supplied, where appropriate, by the employer. If the person concerned or the members of his family fail to submit such a certificate, the institution of the place of residence shall itself apply for it to the competent institution.

2. The certificate referred to in the preceding paragraph shall be valid until such date as the institution of the place of residence receives notice of its cancellation.

3. The institution of the place of residence shall advise the competent institution of any registration made in accordance with the provisions of paragraph 1 of this Article.

4. For any claim for benefits in kind the claimant shall submit the supporting documents normally required for the provision of benefits in kind under the legislation of the Contracting Party in whose territory he resides.

5. The person concerned or the members of his family shall advise the institution of the place of residence of any change in their circumstances which might affect their entitlement to benefits in kind and, in particular, of any cessation or any change of employment or occupational activity on the part of the person concerned or any change of the latter’s residence or of temporary stay, or of that of a member of his family. The competent institution shall likewise inform the institution of the place of residence of the person concerned, of the termination of his

affiliation or of his entitlement to benefits. The institution of the place of residence may at any time request the competent institution to supply any information relating to the said person's affiliation or entitlement to benefits.

6. The institution of the place of residence shall lend its good offices to the competent institution in order to take action against a person who has received benefits which were not due to him.

#### Article 8

##### *Temporary stay in or transfer of residence to the competent State*

1. For the application of Article 17 of the Convention in case of temporary stay of the member of the family referred to in Article 15, paragraph 2, of the Convention in the territory of the competent State, the institution of the place of residence shall issue a certificate that he is entitled to benefits during a temporary stay.

2. For the application of Article 17 of the Convention, the competent institution may request, if necessary, the institution of the place of the last residence to supply it with information relating to the provision of benefits received immediately before the temporary stay in or the transfer of residence to the competent State.

#### Article 9

##### *Temporary stay in the State other than the competent State*

1. In order to receive benefits in kind in case of a temporary stay in the territory of a Contracting Party other than the competent State, the person referred to in Article 18 paragraph 1, of the Convention shall submit to the institution of the place of temporary stay a certificate, issued by the competent institution, if possible, before he leaves the competent State, stating that he is entitled to such benefits. This certificate shall indicate in particular the period during which benefits in kind may be provided. If the person concerned does not submit such a certificate, the institution of the place of temporary stay shall apply for it to the competent institution.

2. The provisions of the preceding paragraph shall be applicable by analogy to the members of the family of the person concerned.

3. The provisions of paragraph 1 shall also be applicable to persons referred to in Article 16 of the Convention.

#### Article 10

##### *Supply of substantial benefits in kind*

1. In the event of hospitalisation in the situations referred to in the Articles 16 and 18, paragraphs 1 and 6 of the Convention, the institu-

tion of the place of residence or of temporary stay shall, within three days of becoming aware of the fact, notify the competent institution of the date of entry into hospital and the probable duration of hospitalisation; at the date of discharge from the hospital the institution of the place of residence or of temporary stay shall notify, within the same period, the competent institution of the date of discharge.

2. In order to receive the authorisation to which the provision of benefits referred to in Article 18, paragraph 4, is subject, the institution of the place of residence or of temporary stay shall request the competent institution for it. The latter institution shall have fifteen days from the day on which such a request is received within to raise any objection and to state the reasons on which such objection is based. If, at the end of that period, no such objection has been raised, the institution of the place of residence or of temporary stay shall grant the benefits in kind.

3. Where the benefits referred to in Article 18, paragraph 4, of the Convention have to be granted, in a case of absolute urgency, without the authorisation of the competent institution, the institution of the place of residence or of temporary stay shall immediately inform the competent institution thereof.

4. Cases of absolute urgency referred to in Article 18, paragraph 4, of the Convention, are those where the provision of the benefit cannot be delayed without seriously endangering the life or health of the person concerned. In the case in which a prosthesis or an appliance is broken or damaged, it shall be sufficient in order to establish absolute urgency, to demonstrate the necessity of the reparation or the renewal of the requisite concerned.

5. The competent liaison bodies shall draw up the list of benefits to which the provisions of Article 18, paragraph 4 of the Convention will apply.

#### Article 11

##### *Benefits in kind in case of return to or transfer of residence to the territory of the other Contracting Party during sickness or maternity*

1. In order to retain the service of benefits in kind in the State of his new residence, the person referred to in Article 18, paragraph 2, of the Convention shall submit to the institution of his new place of residence a certificate by which the competent institution authorises him to continue receiving benefits after the transfer of his residence.

The latter institution shall indicate, where appropriate, in that certificate the maximum period during which the benefits in kind may be provided according to the legislation which it applies. The competent institution can, after the transfer of residence of the person concerned and at his request or at the request of the institution of the new place of residence, deliver the certificate where, for stated reasons, it could not have been drawn up beforehand.

2. With regard to the provision of benefits in kind by the institution of the new place of residence, the provisions of Article 10 are applicable by analogy.

#### Article 12

*Benefits in kind for pensioners and members of their families who are not resident in the territory of a Contracting Party under whose legislation a pension is received and are entitled to benefits*

1. In order to receive benefits in kind in the territory of the Contracting Party in which he resides, the pensioner and the members of his family referred to in Article 19, paragraph 2, of the Convention, shall register with the institution of the place of residence, submitting the following documents:

i) a certificate testifying that he is entitled to benefits in kind for himself and for the members of his family. That certificate is delivered by the competent institution who will send the double of the certificate to the institution of the place of residence of the other Party. If the pensioner does not submit the certificate, the institution of the place of residence shall apply for it to the competent institution.

The certificate will be valid as long as the institution of the place of residence of the other Party has not been notified of its cancellation by the institution which has delivered the certificate;

ii) the supporting documents normally required for the provision of benefits in kind by the legislation of the State of residence.

2. The institution of the place of residence shall notify the competent institution of any registration made in accordance with the preceding paragraph.

3. The provision of benefits in kind is subject to the validity of the certificate referred to in paragraph 1 sub i) of this Article.

4. The pensioner shall inform the institution of the place of residence of any change in his circumstances which might alter his entitlement to benefits in kind, in particular any suspension or withdrawal of the pension and of any transfer of his residence or that of the members of his family.

5. The institution of the place of residence shall inform, as soon as it becomes aware of it, the competent institution of any alteration susceptible to extend the right to benefits in kind of the pensioner or the members of his family.

6. The institution of the place of residence shall lend its good offices to the competent institution in order to take action against a person who has received benefits which were not due to him.

## Article 13

*Benefits in kind for members of the family who are resident in the territory of a State other than the State in which the pensioner is resident*

The provisions of Article 12 shall be applicable by analogy to the members of the family referred to in Article 19, paragraph 3, of the Convention. In that case, the certificate testifying that the members of the family are entitled to benefits shall be delivered by the competent institution.

## Article 14

*Benefits in kind for pensioners and the members of their family staying in a State other than the one where they are resident*

With regard to the provision of benefits in kind to pensioners and the members of their families, during a temporary stay referred to in Article 19, paragraph 5, of the Convention, the provisions of the Articles 9 and 10 shall be applicable by analogy.

## Article 15

*Refund by the competent institution or by the institution of the place of residence of one Contracting Party of expenses incurred during a stay in the territory of the other Contracting Party*

1. If the formalities referred to in Article 9 could not have been completed during the temporary stay, the expenses shall, at the request of the person concerned, be refunded by the competent institution, or where appropriate, by the institution of the place of residence, in accordance with the refund rates administered by the institution of the place of temporary stay.

2. The institution of the place of temporary stay shall, at the request of the competent institution, or, where appropriate, at the request of the institution of the place of residence, supply it with the necessary information about such rates.

## Article 16

*Daily cash benefits in case of sickness and maternity*

1. In order to receive benefits under the Netherlands' legislation an insured person who is entitled to benefits and who is present in the territory of Croatia shall submit his claim to the competent local office of the Croatian Health Insurance Institute.

2. The claim submitted to the institution mentioned in paragraph 1 of this Article shall be accompanied by a certificate of incapacity for work issued by the doctor providing treatment. This certificate shall indicate the initial date of the incapacity for work, diagnosis and the probable duration of the incapacity for work.

3. The institution mentioned in paragraph 1 of this Article which has received the claim shall as soon as possible notify the competent institution or, if this institution is not known, the “Landelijk Instituut Sociale Verzekeringen”, c/o GAK Nederland bv, Amsterdam, of the submitting of the claim for benefits, stating the date on which the claim has been submitted as well as the name and the address of the employer, if any, and send the certificate of incapacity for work which was annexed to the claim to the competent institution or, if this institution is not known, the “Landelijk Instituut Sociale Verzekeringen”, c/o GAK Nederland bv, Amsterdam.

4. At the request of the competent institution the institution mentioned in paragraph 1 of this Article shall carry out any necessary administrative checks.

5. The competent institution shall pay the benefits directly to the beneficiary by the appropriate method.

#### Article 17

##### *Refund of benefits in other cases than provided for in the Articles 18 and 19*

1. The actual amount of the costs of benefits in kind provided under the Articles 15, 16, 18, paragraphs 1, 2, and 6, and 19, paragraph 5, of the Convention, shall be refunded by the competent institutions, or, where appropriate, by the institutions of the place of residence, to the institutions which have provided the said benefits as shown in the accounts of these institutions.

2. For the purposes of the refund, rates higher than those applicable to the benefits in kind provided to persons who are subject to the legislation administered by the institutions which provided the benefits referred to in the preceding paragraph, may not be taken into account.

#### Article 18

##### *Refund of benefits provided to members of the family residing in the State other than the competent State or in the State other than the State where the pensioner is resident*

1. The amount of benefits in kind provided under Article 15, paragraph 2, of the Convention, to members of the family who are not resid-

ing in the territory of the same Contracting Party as the person from whom they derive their entitlement, as well as the amount of benefits in kind provided under Article 19, paragraph 3, of the Convention shall be evaluated on the basis of a lump-sum in respect of each calendar year.

2. The lump-sum payment due by the Netherlands institutions shall be determined by multiplying the average annual costs per member of the family in Croatia by the number of months of immatriculation to be taken into account and dividing it by 12. The average annual costs per member of the family in Croatia shall be equal to the average annual expenditure on all the benefits in kind provided by the institutions in Croatia to all insured persons subject to the Croatian legislation.

3. The lump-sum payment due by the Croatian institutions shall be determined by multiplying the average annual costs per member of the family in the Netherlands by the number of months of immatriculation to be taken into account and dividing it by 12. The average annual costs per member of the family shall be equal to the average of the annual expenditure on all the benefits in kind provided by the institutions in the Netherlands to all the members of the family of insured persons younger than 65 years of age subject to the Netherlands legislation.

4. The amount thus calculated shall be reduced by an amount which is to be agreed upon between the liaison bodies for the purpose of the application of Article 17, paragraph 2 of the Convention.

#### Article 19

*Refund of benefits provided to pensioners and the members of their families who are not resident in the territory of a Contracting Party under whose legislation a pension is received*

1. The expenditure on the benefits in kind provided under Article 19, paragraph 2, of the Convention, shall be evaluated on the basis of a lump-sum in respect of each calendar year.

2. The lump-sum payment shall be determined by multiplying the average annual costs per pensioner and per member of the family by the average annual number of pensioners and the members of the family to be taken into account for benefits.

3. The average costs per pensioner and per member of the family of the pensioner for Croatia shall be equal to the average per pensioner and per member of his family of the annual expenditure on all the benefits in kind provided by the Croatian institutions to all insured persons subject to the Croatian legislation.

4. The average annual costs per pensioner and per member of the family of the pensioner shall be equal, for the Netherlands, to the average per pensioner and per member of his family of the annual expendi-

ture on all the benefits in kind provided by the Netherlands institutions to all insured persons subject to the Netherlands legislation.

5. For the application of this Article, different calculations according to the group of age the pensioners belong to, may be passed on.

#### Article 20

##### *Agreement on other methods of reimbursement*

The liaison bodies may conclude, with the consent of the competent authorities, upon other methods of reimbursement of all the benefits in kind or a part of them, than the methods provided for in the Articles 17, 18 and 19.

#### Article 21

##### *Other provisions concerning refunds*

1. The refunds referred to in Article 20 of the Convention, shall be paid through the liaison bodies.

2. The liaison bodies may agree on raising the amounts referred to in the Articles 18 and 19, by a percentage for administration costs.

3. For the application of the provisions of Articles 18 and 19, the liaison bodies may agree upon the payment of advances.

#### CHAPTER 2

##### BENEFITS IN THE CASE OF INVALIDITY, OLD AGE AND SURVIVORS AND CHILDREN'S ALLOWANCES

#### Article 22

##### *Competent Institutions*

For the application of this chapter the term "competent institution" means:

in the Netherlands:

a. as regards invalidity benefits: the "Landelijk Instituut Sociale Verzekeringen", c/o the implementation institution to which the insured person's employer is affiliated;

in all other cases: the "Landelijk Instituut Sociale Verzekeringen", c/o GAK Nederland bv, Amsterdam.

b. as regards old-age and survivors pensions, and children's allowances: the Social Insurance Bank (Sociale Verzekeringsbank), Amstelveen;

in Croatia:

as regards old-age, disability and survivors pensions and other benefits under pension and disability insurance and children's allowances: the Republic Fund for Pension and Disability Insurance of Workers in Croatia, Central Office in Zagreb.

#### Article 23

##### *Application for benefits*

1. The competent institutions shall inform each other immediately of any application for a pension to which Part III, Chapter 2 and Article 42 of the Convention are applicable. This information shall be supplied on a special form which also contains all information necessary for the investigation of the claim by the competent institution of the other Contracting Party. This form may take the place of supporting documents.

2. The competent institutions shall furthermore inform each other of circumstances which are of importance when deciding on a pension, and circumstances which are of influence to the continuation of the right to the pension or benefits, enclosing relevant medical documents.

3. The competent institutions will decide upon the application and notify the applicant and the institution of the other Contracting Party of the decision.

#### Article 24

##### *Certification of periods of insurance*

In order to determine the entitlement to or the calculation of a pension under Part III, chapter 2 of the Convention, the competent institution of one Contracting Party will at the request of the competent institution of the other Contracting Party certify the periods of insurance completed under its legislation and will provide such other information as may be required.

#### Article 25

##### *Payment of benefits*

Except where article 46 of the Convention is applied, pensions shall be paid out directly to the beneficiaries.

### CHAPTER 3

#### UNEMPLOYMENT

#### Article 26

##### *Exchange of information*

Where a person, in application of Part III, Chapter 3 of the Convention, applies for cash benefits in the event of unemployment in the ter-

ritory of a Contracting Party, information shall be obtained from the institution of the other Contracting Party, through the liaison body of that Contracting Party.

PART III

FINAL PROVISIONS

Article 27

*Mutual assistance*

1. Models of certificates and other documents for the application of this Arrangement shall be drawn up by the liaison bodies.

2. Provided they are authorised to do so by the competent authorities, the liaison bodies may take additional measures of an administrative nature for the application of this Arrangement.

3. The liaison bodies shall, where necessary, assist each other in the translation of applications and other documents, written in their respective official languages, into English.

Article 28

*Entry into force*

This Arrangement shall enter into force on the date of entry into force of the Convention and may be denounced in accordance with the same rules as apply to the Convention.

DONE in duplicate at Zagreb, on this 11th day of September, 1998, in the English language only.

*For the Netherlands' competent authorities*

(sd.) J. W. SCHEFFERS

*For the Croatian competent authorities*

(sd.) J. SKARA

---

De bepalingen van het Akkoord zullen ingevolge zijn artikel 28 in werking treden op de datum van inwerkingtreding van het Verdrag.

Uitgegeven de *zesde* november 1998.

*De Minister van Buitenlandse Zaken,*

J. J. VAN AARTSEN