

# Notes and Brief Reports

## European Multilateral Social Security Treaties\*

A new multilateral agreement on social security came into force among European countries on October 1, 1958. This is a convention dealing with the social security rights of transportation workers who cross national borders in the course of their employment. It is the latest in a series of important multilateral European social security treaties that have come into force in recent years and that are serving to tie together more and more the social security systems of the different countries of Europe.

This note summarizes the new agreement for transportation workers, as well as six other recent multilateral social security treaties. It does not deal with bilateral treaties between two countries only—of which more than 150 have been concluded in Western and Eastern Europe since World War II—or with certain trilateral agreements that have been adopted, such as those among France, Italy, and Belgium (1951) or among France, Italy, and the Saar (1955).

*Convention on social security of international transport workers.*—This convention was developed in draft form by a technical preparatory meeting of Government, employer, and employee delegates from 15 European countries, convened by the International Labor Office in December 1955. It was subsequently approved in July 1956 at an official intergovernmental conference also convened by the ILO, at which 18 European nations were represented. It has thus far been signed by 12 countries (Belgium, France, the Federal Republic of Germany, Hungary, Italy, Luxembourg, the Netherlands, Poland, Spain, Switzerland, Turkey, and Yugoslavia). The convention entered into force on October 1, 1958, following its ratification by the Netherlands and Poland; it is open under certain conditions to ratification by any European country.

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The convention applies in general to all employees as well as self-employed persons engaged in railroad, highway, air, and inland water transportation, whether of passengers or freight. (Boatmen on the Rhine River, who are covered by another agreement, are excluded.) Its basic purpose is to assure protection to such workers when they have need of social security benefits in countries other than that where their employer has his principal place of business. The specific risks covered by the agreement are sickness, maternity, work injury, and funeral costs.

Under the convention a transportation worker who becomes ill, while in a foreign country to which his employment has taken him, is entitled to receive both cash and medical benefits there, just as if he were in his home country. Medical benefits that are immediately necessary are to be furnished by the social security agency in the place where the worker is ill, in accordance with its own rules as to the kind and duration of benefits and the method of providing them. Cash benefits are to be paid in accordance with legislation of the worker's home country.

The same provisions govern maternity benefits, both for women workers and the wives of workers on inland vessels who live with them on such vessels. Somewhat similar arrangements are set up for the provision of medical and short-term cash benefits to transportation workers who suffer a work injury while in a foreign country and for lump-sum death or funeral grants when workers or their dependents die while abroad.

The agreement requires that foreign transportation workers receive the same treatment with respect to these benefits as do the citizens of a country, and it prohibits the reduction of benefits to such workers because of residence requirements. It also contains provisions governing the reimbursement of the social security agencies of different countries for the benefits they provide to transportation workers insured under the pro-

grams of other countries or for offsetting amounts owed. Other provisions relate to administrative cooperation generally among the appropriate agencies of the various countries for purposes of applying the convention.

*Convention on social security of migrant workers.*—The six nations belonging to the European Coal and Steel Community (Belgium, France, the Federal Republic of Germany, Italy, Luxembourg, and the Netherlands) signed a comprehensive convention in December 1957 dealing with the social security rights of workers migrating between these countries. The agreement was developed between 1954 and 1957 by a committee of Government social security experts from the member countries, under the joint auspices of the Coal and Steel Community and the ILO. The convention was later converted into a Regulation under Article 51 of the 1957 Treaty establishing the European Economic Community, and written consent was given to the Regulation by the six member countries in October 1958.

The basic purpose of this agreement is to ensure that social security measures of individual member nations will not stand in the way of mobility of labor. It seeks to effect the free movement of workers between these countries by assuring migrant workers and their beneficiaries that (1) their periods of coverage in different countries will be added together in determining their eligibility for and the amounts of their benefits and (2) they will not be penalized by residence or citizenship requirements.

Although there previously were some bilateral agreements among the six countries dealing with these problems, the new multilateral agreement undertakes to remove differences that existed among such agreements, remedy their shortcomings, and govern relations between countries that previously had no bilateral agreements. The convention replaces such bilateral agreements but explicitly does not affect the agreement on transportation workers, the interim agreements of the Council of Europe, or the Rhine boatmen's agreement.

The coverage of the convention on

migrant workers is not confined to coal and steel workers but applies, in general, to all categories of workers and their survivors who move from one country to another. This broad coverage was the result of the adoption of the treaty establishing the European Economic Community in March 1957, which provides for the establishment of a common market for industry generally. The convention also applies to refugees and stateless persons residing in any of the member countries. It includes, in the main, all social insurance programs in the countries concerned, whether general or special, contributory or noncontributory. It does not apply, however, to assistance, veterans' payments, or civil servants' programs. The types of benefits include old-age, invalidity, and survivor pensions; sickness and maternity benefits; funeral grants; work injury benefits and pensions; unemployment benefits; and family allowances (except in France).

The provisions of the convention have the effect of ensuring, in the first place, that a worker who is from one country that is a party to the convention and who resides in another country that adheres to it will receive the same treatment under the latter country's social security laws as its own citizens. Secondly, periods of coverage earned by a worker in two or more member countries are to be added together in determining his benefit eligibility and amount. Thirdly, workers are not to be penalized because they live outside the country where they have acquired a right to benefits, if they reside in another country adhering to the agreement.

A number of special technical provisions are included to put the above principles into effect. For old-age, invalidity, and survivor pensions, for example, periods of coverage in all countries are to be added together and each country then pays a share of the total pension according to the "pro rata temporis" method—that is, in proportion to the percentage of the total period of coverage spent in each country concerned. Periods of coverage are also to be added together under certain circumstances for sickness and maternity benefits.

These benefits are to be provided even if workers become ill during a stay outside their own country. Similar special provisions are made for unemployment and work injury benefits, funeral grants, and family allowances.

The convention on migrant workers provides that a commission shall be set up to facilitate the application of administrative details, and it also contains a series of provisions relating to cooperation in handling the benefits. This commission was in the process of being established late in 1958, and the system was expected to begin its operations at the start of 1959.

*European interim social security agreements.*— Three agreements among 14 nations belonging to the Council of Europe came into force in July 1954, after having been concluded in December of the preceding year. Thus far they have been ratified by Belgium, Denmark, France, the Federal Republic of Germany, Iceland, Italy, the Netherlands, Norway, Sweden, and the United Kingdom. Other members of the Council of Europe are Greece, Ireland, Luxembourg, and Turkey.

One of the agreements deals with programs relating to old-age, invalidity, and survivor pensions. A second concerns social security programs other than those relating to old-age, invalidity, and survivor pensions (for example, sickness and maternity, work injury, unemployment, and family allowances). The third is a convention on social and medical assistance. All three agreements have a protocol extending some of their provisions to refugees.

The basic purpose of these agreements is to eliminate from the social security legislation of the ratifying countries discrimination based on nationality. Each country is required in general to treat citizens of all other countries that are a party to the agreements on the same basis as its own citizens, under both the domestic legislation of the country concerned and any bilateral or multilateral agreements it enters into with the other participating countries. The three agreements were designated as "interim" since it was assumed that they would be operative only until

the conclusion of a general convention on the subject.

Various residence conditions are stipulated in applying the equality-of-treatment principle to different types of benefits. For contributory old-age and survivor benefits and work injury benefits the applicant, to be eligible, must be residing in one of the countries adhering to the agreement. For other contributory benefits, he must normally be residing in the country where benefits are claimed. For noncontributory old-age and survivor benefits, a minimum of 15 years of residence after age 20 is required, including 5 years' continuous residence immediately before the claim. For most other noncontributory benefits, 6 months of residence is required.

The interim agreements contain a number of specific reservations made by some of the contracting countries that restrict the applicability of the agreement or lay down further conditions, as far as particular programs are concerned. These reservations have the effect of narrowing considerably the actual scope of the agreements.

*ILO convention on minimum standards of social security.*—This convention was adopted by the International Labor Conference of the ILO in 1952<sup>1</sup> and came into force in April 1955. It has up to now been ratified by nine nations, eight of which are in Europe (Denmark, the Federal Republic of Germany, Greece, Italy, Norway, Sweden, the United Kingdom, and Yugoslavia). The convention is concerned principally with the establishment of minimum standards in such areas as coverage, qualifying conditions, benefit rates, and duration of benefits for nine types of social security programs.

It is interesting to note that one section of the convention requires that aliens who reside in a country ratifying it shall have the same social security rights as citizens who reside there. The convention provides, however, that when benefits are paid in whole or in large part from public funds or when the programs are transitional special rules may be ap-

<sup>1</sup> See the *Bulletin*, October 1952, pages 8-10.

plied to aliens as well as to citizens who were born outside the country.

The convention also provides that aliens who are citizens of a nation adhering to it, and who are covered in another ratifying country under a contributory social security system covering employees, shall have the same rights under that system as citizens of the country. Such equality of rights may be made conditional, however, on the existence of a bilateral or multilateral agreement providing for reciprocity.

*Agreement on social security of Rhine boatmen.*—One of the earliest attempts to link directly in one multilateral agreement the social security programs of a number of European countries was the agreement on the social security of Rhine boatmen. This agreement, signed in 1950, entered into force in June 1953. It was prepared under the auspices of the ILO and the Rhine Navigation Commission; the participating countries were Belgium, France, the Federal Republic of Germany, the Netherlands, and Switzerland (countries bordering the Rhine River).

The general purpose of this agreement is to furnish effective social security protection to crew members of vessels that are used commercially in Rhine navigation, as well as their families. Often the boatman on such an international waterway may be of one nationality, the firm or firms employing him may be located in a different country or countries, and the need for benefits may arise while the boatman is physically in still another country. This situation obviously creates difficult jurisdictional problems, and it is with them that the agreement is designed to deal. The risks covered by the agreement are old age, invalidity, and death; sickness and maternity; work injury; unemployment; and maintenance of children.

The agreement provides that each boatman shall, in general, be insured under the program of the country in which his employer's headquarters are located. Periods of coverage completed under the programs of any of the participating countries, however, are to be added together for benefit purposes. The old-age pension of each worker is ordinarily to be cal-

culated on a "pro rata temporis" basis, according to the proportion of his total period of coverage spent in each participating country. There are, however, certain limitations with respect to Swiss pensions. Invalidity pensions are normally paid by the system under which the worker was insured when he first became ill, but two or more systems may agree to apply the pro rata rule for these pensions as well.

Medical benefits are in principle to be provided by the country where the claimant happens to be, in accordance with that country's legislation and with arrangements for reimbursement left to the individual countries concerned. Cash sickness benefits are to be paid by the system under which the worker is insured.

The agreement calls for certain administrative procedures in the application of its provisions. It also establishes a central administrative office for the purpose of helping Rhine boatmen to make their claims for benefit.

*Convention on social security between Brussels Treaty Powers.*—The five countries—Belgium, France, Luxembourg, the Netherlands, and the United Kingdom—that were members of the Brussels Treaty Organization (later changed to the Western European Union) also signed a social security convention in 1949. The agreement came into force in April 1951. Its purpose was to extend and coordinate social security programs for citizens of the countries signing the Brussels Treaty.

This multilateral agreement was superimposed on the network of bilateral agreements that existed or would subsequently be concluded among the five countries. Its basic objective was to make all such bilateral agreements applicable to citizens of the five countries, to enable benefits payable under them to be paid in all these countries, and to enable workers to maintain rights accruing from coverage in any of them. The principle of equality of treatment for the citizens of all five countries was spelled out in the convention.

Two other conventions among the Brussels Treaty Powers, signed in 1949 and 1950, dealt with unemploy-

ment benefits for "frontier workers," living near national borders and crossing into another country to work, and with social and medical assistance.

*Scandinavian social security convention.*—The Scandinavian countries (Denmark, Finland, Iceland, Norway, and Sweden) had some type of multilateral conventions dealing with reciprocity under social security legislation as early as 1919. A general multilateral convention among the five countries was signed in 1955 and came into force in November 1956. This convention replaced 12 previous multilateral agreements on reciprocity and related matters and established new rules governing the social security rights of each other's citizens.

The new convention deals with old-age, disability, and survivor benefits and sickness and maternity benefits; work injury benefits; unemployment benefits; family allowances; and public assistance. It requires that citizens of one Scandinavian country who may be staying, residing, or working in another country receive treatment equal to that of other citizens of the latter country.

Citizens of any one of the nations signing the convention are eligible for coverage under sickness insurance and entitled to receive sickness benefits in any of the other countries. They are also covered under work injuries insurance and unemployment insurance. Equality of treatment with respect to old-age, invalidity, and survivor pensions is, in general, subject to a requirement of 5 consecutive years of residence at the time the claim is made. This period may be shortened or the requirement waived entirely, however, under certain circumstances. To receive family allowances, one of the parents or the child must, in general, have had 6 consecutive months of residence.

An agreement among four of the Scandinavian countries (all but Finland) came into force in January 1957. It deals with transfers of insured persons from one sickness fund to another in a different country and with payment of sickness benefits during temporary residence abroad.