



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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**EUROPEAN CONVENTION
ON SOCIAL AND MEDICAL ASSISTANCE
AND PROTOCOL THERETO**

Paris, 11.XII.1953

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose, among others, of facilitating their social progress;

Being resolved, in accordance with this purpose, to extend their co-operation in the social field by establishing the principle of equal treatment for the nationals of each of them in the application of legislation providing for social and medical assistance; and

Desiring to conclude a Convention to this end,

Have agreed as follows :

Section I – General provisions

Article 1

Each of the Contracting Parties undertakes to ensure that nationals of the other Contracting Parties who are lawfully present in any part of its territory to which this Convention applies, and who are without sufficient resources, shall be entitled equally with its own nationals and on the same conditions to social and medical assistance (hereinafter referred to as “assistance”) provided by the legislation in force from time to time in that part of its territory.

Article 2

- a For the purposes of this Convention the terms “assistance”, “nationals”, “territory” and “country of origin” shall have the following meanings, that is to say :
- i “Assistance” means in relation to each Contracting Party all assistance granted under the laws and regulations in force in any part of its territory under which persons without sufficient resources are granted means of subsistence and the care necessitated by their condition, other than non-contributory pensions and benefits paid in respect of war injuries due to foreign occupation.
 - ii The terms “nationals” and “territory” of a Contracting Party shall have the meaning assigned to them by such a Party in a declaration addressed to the Secretary General of the Council of Europe for communication to all other Contracting Parties, provided that a person who has lost his nationality otherwise than by deprivation and has thereby become stateless shall, until he has acquired another nationality, continue to be treated as a national.
 - iii “Country of origin” means the country of which a person covered by the provisions of the present Convention is a national.

- b The laws and regulations in force in the territories of the Contracting Parties and to which the present Convention applies, and the reservations formulated by Contracting Parties, are set forth in Annex I and Annex II respectively.

Article 3

Proof of the nationality of the person concerned shall be provided in accordance with the regulations governing such matters under the legislation of the country of origin.

Article 4

The cost of assistance to a national of any of the Contracting Parties shall be borne by the Contracting Party which has granted the assistance.

Article 5

The Contracting Parties undertake, so far as their laws and regulations permit, to help each other to recover the full cost of assistance as far as possible either from third parties under financial obligation to the assisted person or from persons who are liable to contribute to the cost of maintenance of the person concerned.

Section II – Repatriation

Article 6

- a A Contracting Party in whose territory a national of another Contracting Party is lawfully resident shall not repatriate that national on the sole ground that he is in need of assistance.
- b Nothing in this Convention shall prejudice the right to deport on any ground other than the sole ground mentioned in the previous paragraph.

Article 7

- a The provisions of Article 6.a notwithstanding, a Contracting Party may repatriate a national of another Contracting Party resident in its territory on the sole ground mentioned in Article 6.a if the following conditions are fulfilled:
 - i the person concerned has not been continuously resident in the territory of that Contracting Party for at least five years if he entered it before attaining the age of 55 years, or for at least ten years if he entered it after attaining that age;
 - ii he is in a fit state of health to be transported; and
 - iii has no close ties in the territory in which he is resident.
- b The Contracting Parties agree not to have recourse to repatriation except in the greatest moderation and then only where there is no objection on humanitarian grounds.

- c In the same spirit, the Contracting Parties agree that, if they repatriate an assisted person, facilities should be offered to the spouse and children, if any, to accompany the person concerned.

Article 8

- a The Contracting Party repatriating any national in accordance with the provisions of Article 7 shall bear the cost of repatriation as far as the frontier of the territory to which the national is being repatriated.
- b Each Contracting Party undertakes to receive any of its nationals repatriated in accordance with the provisions of Article 7.
- c Each Contracting Party undertakes to facilitate the transit across its territory of any persons repatriated in accordance with Article 7.

Article 9

If the country of which the assisted person claims to be a national does not recognise him as such, the grounds of the disclaimer must be forwarded to the country of residence within thirty days or as soon as possible thereafter.

Article 10

- a When repatriation is decided upon, the diplomatic or consular authorities of the country of origin shall be advised (if possible, three weeks in advance) of the repatriation of their national.
- b The authorities of the country of origin shall duly inform the authorities of any country or countries of transit.
- c The places for handing over such persons shall be decided by arrangement between the competent authorities of the country of residence and the country of origin.

Section III – Residence

Article 11

- a Residence by an alien in the territory of any of the Contracting Parties shall be considered lawful within the meaning of this Convention so long as there is in force in his case a permit or such other permission as is required by the laws and regulations of the country concerned to reside therein. Failure to renew any such permit, if due solely to the inadvertence of the person concerned, shall not cause him to cease to be entitled to assistance.
- b Lawful residence shall become unlawful from the date of any deportation order made out against the person concerned, unless a stay of execution is granted.

Article 12

The commencing date of the period of residence laid down in Article 7 shall in each country be established, in the absence of evidence to the contrary, on the basis of evidence supplied by official investigation or by the documents listed in Annex III or any documents recognised by the laws and regulations of the country as affording proof of residence.

Article 13

- a Proof of continuity of residence may be shown by the production of any evidence acceptable in the country of residence, such as proof of occupational activity or the production of rent receipts.
- b
 - i Residence shall be regarded as continuous notwithstanding periods of absence of less than three months, provided that the absence is not caused by repatriation or deportation.
 - ii Periods of absence of six months or more shall be held to interrupt the continuity of residence.
 - iii In order to determine whether a period of absence of between three and six months shall interrupt the continuity of residence, regard shall be had to the intention or otherwise of the person concerned to return to the country of residence and to the extent to which he has preserved his connection therewith during the period of his absence.
 - iv Service in ships registered in the country of residence shall not be held to interrupt the continuity of residence. Service in other ships shall be treated in accordance with the provisions of sub-paragraphs i to iii above.

Article 14

There shall be excluded in the calculation of length of residence those periods during which the person concerned has been in receipt of assistance from public monies as laid down in the legislative measures mentioned in Annex I, except in the case of medical treatment for acute illness or short-term medical treatment.

Section IV – Miscellaneous provisions

Article 15

The administrative, diplomatic and consular authorities of the Contracting Parties shall afford to one another all possible assistance in the implementation of this Convention.

Article 16

- a The Contracting Parties shall notify the Secretary General of the Council of Europe of any subsequent amendment of their laws and regulations which may affect Annexes I and III.
- b Each Contracting Party shall notify to the Secretary General of the Council of Europe any new law or regulation not already included in Annex I. At the time of making such notification a Contracting Party may make a reservation in respect of the application of this new law or regulation to the nationals of other Contracting Parties.
- c The Secretary General of the Council of Europe shall communicate to the other Contracting Parties any information notified to him in accordance with paragraphs a and b.

Article 17

The Contracting Parties may, by bilateral arrangement, take interim measures to deal with cases in which assistance was granted prior to the entry into force of this Convention.

Article 18

The provisions of this Convention shall not limit the provisions of any national laws or regulations, international conventions or bilateral or multilateral agreements which are more favourable for the beneficiary.

Article 19

Annexes I, II and III shall constitute an integral part of this Convention.

Article 20

- a The competent authorities of the Contracting Parties shall endeavour to resolve by negotiation any dispute relating to the interpretation or application of this Convention.
- b If any such dispute has not been resolved by negotiation within a period of three months, the dispute shall be submitted to arbitration by an arbitral body whose composition and procedure shall be agreed upon by the Contracting Parties concerned or, in default of such agreement within a further period of three months, by an arbitrator chosen at the request of any of the Contracting Parties concerned by the President of the International Court of Justice. Should the latter be a national of one of the Parties to the dispute, this task shall be entrusted to the Vice-President of the Court or to the next judge in order of seniority not a national of one of the Parties to the dispute.
- c The decision of the arbitral body or arbitrator, as the case may be, shall be made in accordance with the principles and spirit of this Convention and shall be final and binding.

Article 21

- a This Convention shall be open to the signature of the members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary General of the Council of Europe.
- b This Convention shall come into force on the first day of the month following the date of deposit of the second instrument of ratification.
- c As regards any signatory ratifying subsequently, the Convention shall come into force on the first day of the month following the date of the deposit of its instrument of ratification.

Article 22

- a The Committee of Ministers of the Council of Europe may invite any State not a member of the Council to accede to this Convention.
- b Accession shall be effected by the deposit of an instrument of accession with the Secretary General of the Council of Europe, which shall take effect on the first day of the month following the date of deposit.

- c Any instrument of accession deposited in accordance with this article shall be accompanied by a notification of such information as would be contained in the Annexes I and III to this Convention if the government of the State concerned were, on the date of accession, a signatory hereto.
- d For the purposes of this Convention any information notified in accordance with paragraph c of this article shall be deemed to be part of the annex in which it would have been recorded if the government of the State concerned were a signatory hereto.

Article 23

The Secretary General of the Council of Europe shall notify the members of the Council:

- a of the date of entry into force of this Convention and the names of any members who ratify it;
- b of the deposit of any instrument of accession in accordance with Article 22 and of such notifications as are received with it;
- c of any notification received in accordance with Article 24 and its effective date.

Article 24

This Convention shall remain in force for a period of two years from the date of its entry into force in accordance with paragraph b of Article 21. Thereafter it shall remain in force from year to year for such Contracting Parties as have not denounced it by a notification to that effect addressed to the Secretary General of the Council of Europe at least six months before the expiry either of the preliminary two-year period or of any subsequent yearly period. Such notification shall take effect at the end of the period to which it relates.

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

Done at Paris, this 11th day of December 1953, in English and French, both texts being equally authoritative, in a single copy, which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatories.

**PROTOCOL
TO THE EUROPEAN CONVENTION
ON SOCIAL AND MEDICAL ASSISTANCE**

The governments signatory hereto, being members of the Council of Europe,

Having regard to the provisions of the European Convention on Social and Medical Assistance, signed at Paris, on the 11th day of December 1953 (hereinafter referred to as “the Assistance Convention”);

Having regard to the provisions of the Convention relating to the Status of Refugees signed at Geneva on 28th July 1951 (hereinafter referred to as “the Geneva Convention”);

Being desirous of extending the provisions of the Assistance Convention so as to apply to refugees as defined in the Geneva Convention,

Have agreed as follows:

Article 1

For the purposes of this Protocol the term “refugee” shall have the meaning ascribed to it in Article 1 of the Geneva Convention, provided that each Contracting Party shall make a declaration at the time of signature or ratification hereof or accession hereto, specifying which of the meanings set out in paragraph B of Article 1 of that Convention it applies for the purpose of its obligations under this Protocol, unless such Party has already made such a declaration at the time of its signature or ratification of that Convention.

Article 2

The provisions of Section I of the Assistance Convention shall apply to refugees under the same conditions as they apply to the nationals of the Contracting Parties thereto.

Article 3

- 1 The provisions of Section II of the Assistance Convention shall not apply to refugees.
- 2 In the case of a person who has ceased to qualify for the benefits of the Geneva Convention in accordance with the provisions of paragraph C of Article 1 thereof, the period for repatriation laid down in Article 7.a.i of the Assistance Convention shall begin from the date when he has thus ceased to qualify.

Article 4

As between the Contracting Parties, the provisions of Articles 1, 2 and 3 of this Protocol shall be regarded as additional articles to the Assistance Convention, and the remaining provisions of that Convention shall apply accordingly.

Article 5

- 1 This Protocol shall be open to the signature of the members of the Council of Europe who have signed the Assistance Convention. It shall be ratified.

- 2 Any State which has acceded to the Assistance Convention may accede to this Protocol.
- 3 This Protocol shall come into force on the first day of the month following the date of deposit of the second instrument of ratification.
- 4 As regards any signatory ratifying subsequently, or any acceding State, the Protocol shall come into force on the first day of the month following the date of the deposit of its instrument of ratification or accession.
- 5 Instruments of ratification and accession shall be deposited with the Secretary General of the Council of Europe, who shall notify the members of the Council and acceding States of the names of those who have ratified or acceded.

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

Done at Paris, this 11th day of December 1953, in English and French, both texts being equally authoritative, in a single copy, which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatories.