European Commission

Analysis – in the light of the European Union acquis – of ILO up to date Conventions

- Annex "C118 - Equality of Treatment (Social Security) Convention" -

Employment, Social Affairs and Inclusion

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Report prepared by:

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C118 - Equality of Treatment (Social Security) Convention, 1962

SUMMARY	
Convention	**C118 - Equality of Treatment (Social Security) Convention, 1962**
Subject	• C118 provides for the equal treatment of nationals and non-nationals by States with regards social security rights on the basis of reciprocity, operationalising the principle already established in C102 • A ratifying party is obliged "to grant within its territory to the nationals of any other Member for which the Convention is in force equality of treatment under its legislation with its own nationals, both as regards coverage and as regards the right to benefits, in respect of every branch of social security for which it has accepted the obligations of the Convention" (Art 3) • The provisions of the Convention apply to refugees or stateless persons without any condition of reciprocity. • Art 5 of C188 also requires that a State party provides for the payment of benefits to beneficiaries resident abroad, where eligibility for a benefit is established by national legislation. (Art 5 only applies to invalidity benefits, old-age benefits, survivors' benefits and death grants, and employment injury pensions.)
Member State uptake	• Thirty-eight countries have ratified C118, **of which six are EU Member States:** • **Denmark** (17 Jun 1969; *has accepted Branches (a), (b), (g) and (h)*); **Finland** (15 Aug *1969; has accepted Branches (a), (b) and (g). The Government has stated that medical care and sickness benefits are benefits provided in accordance with Article 2, paragraph 6(a) and that employment injury benefit is granted under transitional schemes referred to in Article 2, paragraph 6(b)*); **France** (13 May 1974; *has accepted Branches (a) to (d), (f), (g) and (i)*); **Germany** (19 Mar 1971; *has accepted Branches (a) to (c), (g) and (h)*); **Italy** (05 May 1967; *has accepted Branches (a) to (i)*); **Sweden** (25 April 1963; *has accepted Branches (a) to (c), (g) and (h)*). • The Netherlands ratified C 118 in 1964 but denounced it in 2004, with effect from 20 December 2005. The reason given was that "the Netherlands can no longer meet the export obligation provided for in Article 5, paragraph 1, of Convention No. 118. Since I January 2000, when the Export of Benefits (Restrictions) Act entered into force, the right to social security benefits has been subject to the condition that the claimant must live in the Netherlands."
Relevant EU *acquis* engaged	• C102 falls under ILO social security and its subfield of social security for migrant workers, corresponding to the EU chapter on social policy and its subfield of social security. • C102 engages the EU chapter on social policy and its subfield of social security. • C102 engages Articles 5, 18, 21, 48, 79(2)(b); 352 TFEU. • C102 engages the following regulations and Directives: - European Parliament and Council Regulation (EC) No 883/2004 on the coordination of social security systems

	- European Parliament and Council Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland) - European Parliament and Council Regulation (EC) No 1231/2010 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality - European Parliament and Council Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State - Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment - European Parliament and Council Regulation (EU) No 492/2011on freedom of movement for workers within the Union (codification) (Text with EEA relevance). - European Parliament and Council Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.
Summary of compatibility analysis	• C118 is **wholly compatible** with the EU *acquis*; however it is notably more stringent in a number of areas which have been the subject of debate during the development of Directive 2011/98/EU ('Single Permit' Directive) and Directive 2009/50/EC ('Blue Card' Directive) • C118 is more stringent than Regulation 883/2004 on its application to wholly internal situations within the EU (Convention Articles 3(1) and 10(1)); the guarantee by a Member State to its own nationals abroad of access to social security (Convention Articles 5 and 6); the requirement that administrative assistance between Member States shall be free of charge (Convention Article 11; Regulation Article 76). • C118 is more stringent than the *acquis* where it provides for maximum conditions of residence in relation to equality of treatment (Convention Article 4(a)-(c); Directive 2004/38/EC, Article 24; Regulation (EU) No 492/2011, Article 7(2)); • Regulation 883/2004 is more stringent than the Convention on the scope of equality of treatment (Regulation Article 3; Convention Article 2(1)); the number of Member State social security systems that shall be applicable to an EU citizen or third country national (Convention Article 7(3); Regulation Article 11).
Assessment of external	• The Union possesses implied exclusive external competence in relation to the coordination of social security within the EU. There are 'common rules' on social security coordination, underpinned by hard law: Regulation

competence		883/2004 on the coordination of social security systems (as last amended by Regulation 465/2012), aiming to ensure free movement of Community workers/EU citizens and equality of treatment. EU coordination of social security between Member States sets a procedural standard, as opposed to minimum requirements, and in that respect it has the same element of compulsion as substantive global harmonisation. The effectiveness of such coordination requires that the Union possesses exclusive competence. • C118 Articles 1-2(2); 3-11 engage Union implied exclusive external competence, as they relate to the equal treatment of nationals and non-nationals by States with regards social security rights. • The Convention therefore falls as a whole under **Union implied exclusive external competence**, and **Member States require Council authorisation** in order to ratify the Convention.
Ranking criteria		• **Compatibility:** C118 is wholly compatible with the EU *acquis* • **Value added: High** • C118 would add materially to the scope of equal treatment in social security within the EU acquis: while Regulation (EU) 1231/2010 provides that the EU rules on the coordination of social security systems apply to non-EU nationals who are legally residing in the EU and who are working in a cross-border situation, the EU Member States which ratify C118 also assume the obligation to apply the principle of equality of treatment also as regards situations where no cross-border situation within the EU is involved. • The Convention is also more generous than the *acquis* in terms of the export of benefits. • **Importance to the EU: High** • The European Commission has stated that '[t]he standards and measures of the ILO also complement the acquis in areas which are not covered or only partly covered by legislation and Community policies, such as [...] social security' (See Com (2006) 249, p.4). The Commission continues that '[i]t is important that the Member States continue the process of ratification and application, in particular of conventions which have been brought up-to-date' (p.5). • In its submission to the EESC on the European Commission Communication on The External Dimension of EU Social Security Coordination (COM(2012) 153, the ILO called for the Commission to 'to analyse the impact of the Treaty on the Functioning of the EU on the ratification by EU Member states of the up to date ILO Conventions 118 and 157 as well as on the migrant workers conventions 97 and 143 and to consider initiatives for removing the possible obstacles to ratification as the Conventions probably affect EU exclusive competences in the field of mobility and social security coordination.' • **Importance to the ILO: High**
Implications	***Compatibilit***	There are **no significant compatibility concerns**. This means that the EU can promote ratification.

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	Competence	Many of C102's provisions, and its predominant purpose, fall under Union implied exclusive external competence as regards coordination of social security, reflecting the fact that the Convention engages equal access to social security for nationals and non-nationals. The Convention therefore falls as a whole under **Union exclusive external competence**, and **Member States require Council authorisation** in order to ratify the Convention in the interests of the Union.
	Priority	**High**

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Having decided upon the adoption of certain proposals with regard to equality of treatment of nationals and non-nationals in social security, which is the fifth item on the agenda of the session, and	**Treaty Provisions:** Article 5 TFEU 3. The Union may take initiatives to ensure coordination of Member States' social policies. Article 18 TFEU Within the scope of application of the Treaties, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt rules designed to prohibit such discrimination. Article 21 TFEU 1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect. 2. If action by the Union should prove necessary to attain this objective and the Treaties have not provided the necessary powers, the European	**Compatible objectives.**	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The measures are EU coordinating measures. **Union and Member State shared competence as to international commitments that engage Directive 2011/98/EU and Directive 2009/50/EC:** The preambles of the Directives state, respectively, that (1) For the gradual establishment of an area of freedom, security and justice, the Treaty on the Functioning of the European Union (TFEU) provides for measures to be adopted in the fields of asylum, immigration and protection of the rights of third-country nationals. (1) For the gradual establishment of an area of freedom, security and justice, the Treaty provides for measures to be adopted in the fields of asylum, immigration and protection of the rights of third-country nationals. Under Article 4(2)(j) TFEU, establishment of an area of freedom, security and justice falls under shared Union and Member

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	Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1. 3. For the same purposes as those referred to in paragraph 1 and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament. Article 48 TFEU The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure, adopt such measures in the field of social security as are necessary to provide freedom of movement for workers; to this end, they shall make arrangements to secure for employed and self-employed migrant workers and their dependants: (a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount		State competence. **Union and Member State shared competence as to international commitments that engage Regulation (EU) No 492/201:** Under Article 4(2)(a) TFEU, the internal market falls under Union and Member State shared competence. **Union and Member State shared competence as to international commitments that engage Directive 2004/38/EC:** Under Article 4(2)(a) TFEU, the internal market falls under Union and Member State shared competence.

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	of benefit, of all periods taken into account under the laws of the several countries; (b) payment of benefits to persons resident in the territories of Member States. Article 79(2)(b) TFEU 1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings. 2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures in the following areas: (b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States; Article 352 TFEU – flexibility clause		

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	Specific measures: European Parliament and Council Regulation (EC) No 883/2004 on the coordination of social security systems European Parliament and Council Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland) European Parliament and Council Regulation (EC) No 1231/2010 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality European Parliament and Council Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State Council Directive 2009/50/EC on the conditions of entry and residence of		

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	third-country nationals for the purposes of highly qualified employment European Parliament and Council Regulation (EU) No 492/2011on freedom of movement for workers within the Union (codification) (Text with EEA relevance). European Parliament and Council Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC		
Article 1 In this Convention-- (a) the term ***legislation*** includes any social security rules as well as laws and regulations; (b) the term ***benefits*** refers to all benefits, grants and pensions, including any supplements or increments;			

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(c) the term ***benefits granted under transitional schemes*** means either benefits granted to persons who have exceeded a prescribed age at the date when the legislation applicable came into force, or benefits granted as a transitional measure in consideration of events occurring or periods completed outside the present boundaries of the territory of a Member; (d) the term ***death grant*** means any lump sum payable in the event of death; (e) the term ***residence*** means ordinary residence; (f) the term ***prescribed*** means determined by or in virtue of national legislation as defined in subparagraph (a) above; (g) the term ***refugee*** has the meaning assigned to it in Article 1 of the Convention relating to the Status of			

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Refugees of 28 July 1951; (h) the term ***stateless person*** has the meaning assigned to it in Article 1 of the Convention relating to the Status of Stateless Persons of 28 September 1954.			
Article 2 1. Each Member may accept the obligations of this Convention in respect of any one or more of the following branches of social security for which it has in effective operation legislation covering its own nationals within its own territory: (a) medical care; (b) sickness benefit; (c) maternity benefit; (d) invalidity benefit; (e) old-age benefit; (f) survivors' benefit; (g) employment injury benefit; (h) unemployment benefit; and (i) family benefit.	Regulation 883/2004 Article 3 1. This Regulation shall apply to all legislation concerning the following branches of social security: (a) sickness benefits; (b) maternity and equivalent paternity benefits; (c) invalidity benefits; (d) old-age benefits; (e) survivors' benefits; (f) benefits in respect of accidents at work and occupational diseases; (g) death grants; (h) unemployment benefits; (i) pre-retirement benefits; (j) family benefits.	**Regulation more stringent than the Convention, but compatible regulation:** The Regulation does not exempt Member States from providing access to any area of social security. Further, the Regulation provides for equal treatment regarding paternity and pre-retirement benefits, where as these are not explicitly mentioned by the Convention.	**Union implied exclusive external competence as to Regulation (EC) No 883/2004:** See preamble.
2. Each Member for which this Convention is in force	See above.		

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shall comply with its provisions in respect of the branch or branches of social security for which it has accepted the obligations of the Convention.			
3. Each Member shall specify in its ratification in respect of which branch or branches of social security it accepts the obligations of this Convention.			
4. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of the Convention in respect of one or more branches of social security not already specified in its ratification.			
5. The undertakings referred to in paragraph 4 of this Article shall be deemed to be an integral part of the ratification and to have the force of ratification as from the date of notification.			
6. For the purpose of the			

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application of this Convention, each Member accepting the obligations thereof in respect of any branch of social security which has legislation providing for benefits of the type indicated in clause (a) or (b) below shall communicate to the Director-General of the International Labour Office a statement indicating the benefits provided for by its legislation which it considers to be-- (a) benefits other than those the grant of which depends either on direct financial participation by the persons protected or their employer, or on a qualifying period of occupational activity; or			
(b) benefits granted under transitional schemes.			
7. The communication referred to in paragraph 6 of this Article shall be made at the time of ratification or at the time of notification in accordance with paragraph 4			

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of this Article; as regards any legislation adopted subsequently, the communication shall be made within three months of the date of the adoption of such legislation.			
Article 3 1. Each Member for which this Convention is in force shall grant within its territory to the nationals of any other Member for which the Convention is in force equality of treatment under its legislation with its own nationals, both as regards coverage and as regards the right to benefits, in respect of every branch of social security for which it has accepted the obligations of the Convention.	**Treaty Provisions:** Article 5 TFEU 3. The Union may take initiatives to ensure coordination of Member States' social policies. Article 18 TFEU Within the scope of application of the Treaties, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt rules designed to prohibit such discrimination. Article 21 TFEU 1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties	**Convention broader than the Regulations, but compatible regulation:** The Regulations do not apply to wholly internal situations within a single Member State. EU citizens and third country nationals are required to move between Member States for Regulations 883/2004 and 1231/2010 to apply. Further, Regulation 883/2004 does not apply to medical assistance.	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The Regulations are coordinating measures. **Union and Member State shared competence as to international commitments that engage Directive 2011/98/EU and Directive 2009/50/EC:** See preamble. **Union and Member State shared competence as to international commitments that engage Regulation (EU) No 492/201:** Under Article 4(2)(a) TFEU, the internal market falls under Union and Member State shared competence. **Union and Member State shared competence as to international commitments that engage Directive 2004/38/EC:**

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	and by the measures adopted to give them effect. 2. If action by the Union should prove necessary to attain this objective and the Treaties have not provided the necessary powers, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1. 3. For the same purposes as those referred to in paragraph 1 and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament. Article 48 TFEU The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure, adopt such measures in the field of social security as are necessary to provide freedom of movement for		See preamble.

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	workers; to this end, they shall make arrangements to secure for employed and self-employed migrant workers and their dependants: (a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the several countries; (b) payment of benefits to persons resident in the territories of Member States. Article 79(2)(b) TFEU 1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings. 2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures in the following areas: (b) the definition of the rights of third-country nationals residing legally in a		

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	Member State, including the conditions governing freedom of movement and of residence in other Member States; Article 352 TFEU – flexibility clause **Specific measures:** European Parliament and Council Regulation (EC) No 883/2004 on the coordination of social security systems Article 4 Equality of treatment Unless otherwise provided for by this Regulation, persons to whom this Regulation applies shall enjoy the same benefits and be subject to the same obligations under the legislation of any Member State as the nationals thereof. 5. This Regulation shall not apply to social and medical assistance or to benefit schemes for victims of war or its consequences. European Parliament and Council Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (Text with		

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	relevance for the EEA and for Switzerland) European Parliament and Council Regulation (EC) No 1231/2010 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality Article 1 Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 shall apply to nationals of third countries who are not already covered by those Regulations solely on the ground of their nationality, as well as to members of their families and to their survivors, provided that they are legally resident in the territory of a Member State and are in a situation which is not confined in all respects within a single Member State. European Parliament and Council Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State		

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	Article 12 1. Third-country workers as referred to in points (b) and (c) of Article 3(1) shall enjoy equal treatment with nationals of the Member State where they reside with regard to: (e) branches of social security, as defined in Regulation (EC) No 883/2004; Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment Article 14 1. EU Blue Card holders shall enjoy equal treatment with nationals of the Member State issuing the Blue Card, as regards: (e) provisions in national law regarding the branches of social security as defined in Regulation (EEC) No 1408/71. The special provisions in the Annex to Regulation (EC) No 859/2003 shall apply accordingly; European Parliament and Council Regulation (EU) No 492/2011on freedom of movement for workers		

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	within the Union (codification) (Text with EEA relevance). Article 7 1. A worker who is a national of a Member State may not, in the territory of another Member State, be treated differently from national workers by reason of his nationality in respect of any conditions of employment and work, in particular as regards remuneration, dismissal, and, should he become unemployed, reinstatement or re-employment. 2. He shall enjoy the same social and tax advantages as national workers. European Parliament and Council Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC Article 24 Equal treatment 1. Subject to such specific provisions		

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	as are expressly provided for in the Treaty and secondary law, all Union citizens residing on the basis of this Directive in the territory of the host Member State shall enjoy equal treatment with the nationals of that Member State within the scope of the Treaty. The benefit of this right shall be extended to family members who are not nationals of a Member State and who have the right of residence or permanent residence. 2. By way of derogation from paragraph 1, the host Member State shall not be obliged to confer entitlement to social assistance during the first three months of residence or, where appropriate, the longer period provided for in Article 14(4)(b), nor shall it be obliged, prior to acquisition of the right of permanent residence, to grant maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons other than workers, self-employed persons, persons who retain such status and members of their families.		
2. In the case of survivors' benefits, such equality of treatment shall also be	See above.		

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granted to the survivors of the nationals of a Member for which the Convention is in force, irrespective of the nationality of such survivors.			
3. Nothing in the preceding paragraphs of this Article shall require a Member to apply the provisions of these paragraphs, in respect of the benefits of a specified branch of social security, to the nationals of another Member which has legislation relating to that branch but does not grant equality of treatment in respect thereof to the nationals of the first Member.	See above.	The Convention stipulates a reciprocity condition for the provision of benefits. In contrast, the EU *acquis* does not. Rather, it determines which Member State's social security system will apply in its entirety to EU citizens and third country nationals who have moved between EU Member States.	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The Regulations are coordinating measures.
Article 4 1. Equality of treatment as regards the grant of benefits shall be accorded without any condition of residence: Provided that equality of treatment in respect of the benefits of a specified branch of social security may be made conditional on residence in the case of	Regulation 883/2004 Regulation 987/2009 Regulation 1231/2010	**Compatible regulation.**	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The Regulations are coordinating measures.

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nationals of any Member the legislation of which makes the grant of benefits under that branch conditional on residence on its territory.			
2. Notwithstanding the provisions of paragraph 1 of this Article, the grant of the benefits referred to in paragraph 6 (a) of Article 2--other than medical care, sickness benefit, employment injury benefit and family benefit--may be made subject to the condition that the beneficiary has resided on the territory of the Member in virtue of the legislation of which the benefit is due, or, in the case of a survivor, that the deceased had resided there, for a period which shall not exceed--			
(a) six months immediately preceding the filing of claim, for grant of maternity benefit and unemployment benefit;	Regulation 883/2004 Preamble (4) It is necessary to respect the special characteristics of national social security legislation and to draw up only a system of coordination.	**Convention stricter than EU social security coordination, but compatible regulation:** Regulation 883/2004 is a coordinating Regulation and does not set maximum	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The Regulations are coordinating measures.

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	(5) It is necessary, within the framework of such coordination, to guarantee within the Community equality of treatment under the different national legislation for the persons concerned. CHAPTER 1 Sickness, maternity and equivalent paternity benefits Article 17 An insured person or members of his/her family who reside in a Member State other than the competent Member State shall receive in the Member State of residence benefits in kind provided, on behalf of the competent institution, by the institution of the place of residence, in accordance with the provisions of the legislation it applies, as though they were insured under the said legislation. Article 11 General rules 1. Persons to whom this Regulation applies shall be subject to the legislation of a single Member State only. Such legislation shall be determined in accordance with this	residence conditions for the social security systems of Member States. However, Directive 2004/38/EC Article 24 provides that EU citizens must lawfully reside on the territory of another Member State for three months before they become entitled to equal social assistance to nationals of the Member State by virtue of their EU citizenship.	

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	Title. (c) a person receiving unemployment benefits in accordance with Article 65 under the legislation of the Member State of residence shall be subject to the legislation of that Member State; Regulation 1231/2010 Article 1 Regulation (EU) No 492/2011 Article 7 1. A worker who is a national of a Member State may not, in the territory of another Member State, be treated differently from national workers by reason of his nationality in respect of any conditions of employment and work, in particular as regards remuneration, dismissal, and, should he become unemployed, reinstatement or re-employment. 2. He shall enjoy the same social and tax advantages as national workers. Directive 2004/38/EC Article 24 Equal treatment 1. Subject to such specific provisions as are expressly provided for in the Treaty and secondary law, all Union		

Convention Provisions	EU acquis engaged by Convention's provisions, and relevant EU instruments	Compatibility of Convention's provisions with relevant EU standard	External competence in relation to the Convention's provisions
	citizens residing on the basis of this Directive in the territory of the host Member State shall enjoy equal treatment with the nationals of that Member State within the scope of the Treaty. The benefit of this right shall be extended to family members who are not nationals of a Member State and who have the right of residence or permanent residence. 2. By way of derogation from paragraph 1, the host Member State shall not be obliged to confer entitlement to social assistance during the first three months of residence or, where appropriate, the longer period provided for in Article 14(4)(b), nor shall it be obliged, prior to acquisition of the right of permanent residence, to grant maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons other than workers, self-employed persons, persons who retain such status and members of their families.		
(b) five consecutive years immediately preceding the filing of claim, for grant of invalidity benefit, or immediately preceding death, for grant of survivors'	Regulation 883/2004 Preamble, paragraphs 3 and 5 CHAPTER 4 Invalidity benefits Articles 44-46 (too long to cite) CHAPTER 5	**Convention stricter than EU social security coordination, but compatible regulation, but compatible regulation:**	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The Regulations are coordinating measures.

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Convention Provisions	EU acquis engaged by Convention's provisions, and relevant EU instruments	Compatibility of Convention's provisions with relevant EU standard	External competence in relation to the Convention's provisions
benefit;	Old-age and survivors' pensions Article 50 General provisions 1. All the competent institutions shall determine entitlement to benefit, under all the legislations of the Member States to which the person concerned has been subject, when a request for award has been submitted, unless the person concerned expressly requests deferment of the award of old-age benefits under the legislation of one or more Member States. Regulation 1231/2010 Article 1	The Regulation is a coordinating Regulation and does not set maximum residence conditions for the social security systems of Member States.	
(c) ten years after the age of 18, which may include five consecutive years immediately preceding the filing of claim, for grant of old-age benefit.	See above.		
3. Special provisions may be prescribed in respect of benefits granted under transitional schemes.			
4. The measures necessary to prevent the cumulation of benefits shall be determined, as necessary, by special	Regulation 883/2004 Article 10 Prevention of overlapping of benefits Unless otherwise specified, this	**Compatible objectives.**	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:**

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Convention Provisions	EU acquis engaged by Convention's provisions, and relevant EU instruments	Compatibility of Convention's provisions with relevant EU standard	External competence in relation to the Convention's provisions
arrangements between the Members concerned.	Regulation shall neither confer nor maintain the right to several benefits of the same kind for one and the same period of compulsory insurance		The Regulations are coordinating measures.
Article 5 1. In addition to the provisions of Article 4, each Member which has accepted the obligations of this Convention in respect of the branch or branches of social security concerned shall guarantee both to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention in respect of the branch or branches in question, when they are resident abroad, provision of invalidity benefits, old-age benefits, survivors' benefits and death grants, and employment injury pensions, subject to measures for this purpose being taken, where necessary, in accordance with Article 8.	Regulation 883/2004 Preamble (4) It is necessary to respect the special characteristics of national social security legislation and to draw up only a system of coordination. (5) It is necessary, within the framework of such coordination, to guarantee within the Community equality of treatment under the different national legislation for the persons concerned.	**Convention more stringent, but compatible regulation:** The Regulation is a coordinating Regulation and does not require the social security systems of Member States to provide social security to its own nationals abroad.	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The Regulations are coordinating measures.
2. In case of residence	See above.		

Convention Provisions	EU acquis engaged by Convention's provisions, and relevant EU instruments	Compatibility of Convention's provisions with relevant EU standard	External competence in relation to the Convention's provisions
abroad, the provision of invalidity, old-age and survivors' benefits of the type referred to in paragraph 6 (a) of Article 2 may be made subject to the participation of the Members concerned in schemes for the maintenance of rights as provided for in Article 7.			
3. The provisions of this Article do not apply to benefits granted under transitional schemes.			
Article 6 In addition to the provisions of Article 4, each Member which has accepted the obligations of this Convention in respect of family benefit shall guarantee the grant of family allowances both to its own nationals and to the nationals of any other Member which has accepted the obligations of this Convention for that branch, in respect of children who reside on the territory of any such Member, under	See Convention Article 5 above.		

Convention Provisions	EU acquis engaged by Convention's provisions, and relevant EU instruments	Compatibility of Convention's provisions with relevant EU standard	External competence in relation to the Convention's provisions
conditions and within limits to be agreed upon by the Members concerned.			
Article 7 1. Members for which this Convention is in force shall, upon terms being agreed between the Members concerned in accordance with Article 8, endeavour to participate in schemes for the maintenance of the acquired rights and rights in course of acquisition under their legislation of the nationals of Members for which the Convention is in force, for all branches of social security in respect of which the Members concerned have accepted the obligations of the Convention.	Regulation 883/2004 Article 6 Unless otherwise provided for by this Regulation, the competent institution of a Member State whose legislation makes: — the acquisition, retention, duration or recovery of the right to benefits, — the coverage by legislation, or — the access to or the exemption from compulsory, optional continued or voluntary insurance, conditional upon the completion of periods of insurance, employment, self-employment or residence shall, to the extent necessary, take into account periods of insurance, employment, self-employment or residence completed under the legislation of any other Member State as though they were periods completed under the legislation which it applies.	**Compatible regulation.**	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The Regulations are coordinating measures.
2. Such schemes shall	See above.		

Convention Provisions	EU acquis engaged by Convention's provisions, and relevant EU instruments	Compatibility of Convention's provisions with relevant EU standard	External competence in relation to the Convention's provisions
provide, in particular, for the totalisation of periods of insurance, employment or residence and of assimilated periods for the purpose of the acquisition, maintenance or recovery of rights and for the calculation of benefits.			
3. The cost of invalidity, old-age and survivors' benefits as so determined shall either be shared among the Members concerned, or be borne by the Member on whose territory the beneficiaries reside, as may be agreed upon by the Members concerned.	Preamble (15) It is necessary to subject persons moving within the Community to the social security scheme of only one single Member State in order to avoid overlapping of the applicable provisions of national legislation and the complications which could result there from. Article 11 1. Persons to whom this Regulation applies shall be subject to the legislation of a single Member State only. Such legislation shall be determined in accordance with this Title.	**EU Regulation more specific, but compatible regulation:** EU coordination of Member State social security schemes provides that only one Member State's social security scheme shall apply.	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The Regulations are coordinating measures.
Article 8 The Members for which this Convention is in force may give effect to their obligations under the provisions of Articles 5 and 7	Regulation 883/2004 Regulation 987/2009 Regulation 1231/2010		**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The Regulations are coordinating measures.

Convention Provisions	EU acquis engaged by Convention's provisions, and relevant EU instruments	Compatibility of Convention's provisions with relevant EU standard	External competence in relation to the Convention's provisions
by ratification of the Maintenance of Migrants' Pension Rights Convention, 1935, by the application of the provisions of that Convention as between particular Members by mutual agreement, or by any multilateral or bilateral agreement giving effect to these obligations.			
Article 9 The provisions of this Convention may be derogated from by agreements between Members which do not affect the rights and duties of other Members and which make provision for the maintenance of rights in course of acquisition and of acquired rights under conditions at least as favourable on the whole as those provided for in this Convention.	Regulation 883/2004 Regulation 987/2009 Regulation 1231/2010		**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The Regulations are coordinating measures.
Article 10 1. The provisions of this Convention apply to refugees and stateless	Regulation 883/2004 Article 2 Persons covered 1. This Regulation shall apply to	**Convention more stringent, but compatible regulation:** The Regulation requires	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:**

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Convention Provisions	EU acquis engaged by Convention's provisions, and relevant EU instruments	Compatibility of Convention's provisions with relevant EU standard	External competence in relation to the Convention's provisions
persons without any condition of reciprocity.	nationals of a Member State, stateless persons and refugees residing in a Member State who are or have been subject to the legislation of one or more Member States, as well as to the members of their families and to their survivors.	that refugees and stateless persons must have moved between EU Member States.	The Regulations are coordinating measures.
2. This Convention does not apply to special schemes for civil servants, special schemes for war victims, or public assistance.	(b) a civil servant shall be subject to the legislation of the Member State to which the administration employing him/her is subject;		
3. This Convention does not require any Member to apply the provisions thereof to persons who, in accordance with the provisions of international instruments, are exempted from its national social security legislation.	5. This Regulation shall not apply to social and medical assistance or to benefit schemes for victims of war or its consequences.	**Compatible regulation.**	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The Regulations are coordinating measures.
Article 11 The Members for which this Convention is in force shall afford each other administrative assistance free of charge with a view to facilitating the application of the Convention and the execution of their respective social security legislation.	Article 76 Cooperation 1. The competent authorities of the Member States shall communicate to each other all information regarding: (a) measures taken to implement this Regulation; (b) changes in their legislation which may affect the implementation of this Regulation.	**Convention more stringent, but compatible regulation:** While the general rule is that Member States shall provide administrative assistance free of charge, the Regulation permits Member States to charge for their cooperation	**Union implied exclusive external competence as to Regulation (EC) No 883/2004, Regulation (EC) No 987/2009, Regulation No 1231/2010:** The Regulations are coordinating measures.

Convention Provisions	EU acquis engaged by Convention's provisions, and relevant EU instruments	Compatibility of Convention's provisions with relevant EU standard	External competence in relation to the Convention's provisions
	2. For the purposes of this Regulation, the authorities and institutions of the Member States shall lend one another their good offices and act as though implementing their own legislation. The administrative assistance given by the said authorities and institutions shall, as a rule, be free of charge. However, the Administrative Commission shall establish the nature of reimbursable expenses and the limits above which their reimbursement is due.	according to a limit established by the Administrative Commission.	
Article 12 1. This Convention does not apply to benefits payable prior to the coming into force of the Convention for the Member concerned in respect of the branch of social security under which the benefit is payable.			
2. The extent to which the Convention applies to benefits attributable to contingencies occurring before its coming into force for the Member concerned in respect of the branch of social security under which the benefit is payable			

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Convention Provisions	EU acquis engaged by Convention's provisions, and relevant EU instruments	Compatibility of Convention's provisions with relevant EU standard	External competence in relation to the Convention's provisions
thereafter shall be determined by multilateral or bilateral agreement or in default thereof by the legislation of the Member concerned.			
Article 13 This Convention shall not be regarded as revising any existing Convention.			
Articles 14 – 21 ***Final provisions***			

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