International Labour Review, Vol. 121, No. 3, May-June 1982

Regulations governing social security for persons moving within the European Community

Alain COËFFARD*

1. Introduction

The new provisions extending the application of the regulations governing social security for migrant workers in the European Communities[1] to self-employed persons and the members of their families will enter into force on 1 July 1982. By that time the International Labour Conference will doubtless have adopted a new Convention on the maintenance of migrant workers' rights in respect of social security. There could be no better time, therefore, to sum up the social security situation of persons moving within the Community.

Historical background

Regulations Nos. 3 and 4 on social security for migrant workers were–as their numbers indicate–among the very first legislative instruments issued in pursuance of the Treaty establishing the European Economic Community, dated 25 March 1957 (hereinafter referred to as the Treaty of Rome). Coming into force on 1 January 1959, these regulations replaced the bilateral and multilateral agreements previously in force between the member States,[2] and thus constituted–if one considers the general and non-categorised range of persons and all the branches of social security covered as well as the application of the three general principles of co-ordination, namely equality of treatment, aggregation and payment of benefits abroad–the first multinational instrument of such a comprehensive character. Over the years these regulations have been extended to frontier workers, seasonal workers and seafarers, and have also been improved in various ways.

* Chief Administrator to the Commission of the European Communities, Acting Secretary-General of the Administrative Commission on Social Security for Migrant Workers. Responsibility for the opinions expressed in this article rests solely with the author and should not be considered as reflecting the position of the Commission of the European Communities or its services.

In 1972 the Community adopted two new regulations[3] which completed the general revision of the relevant instruments and introduced some major improvements. The provisions adopted at that date, when the entry of new member States necessitated some adjustments, constitute the main elements of the scheme at present applicable to employed persons and the members of their families moving within the Community.

Finally, the impending extension of these regulations to self-employed persons by the middle of the year will represent the last important stage in this process of evolution.

Socio-economic data

Roughly speaking there are three categories of migrant workers.

The one with the longest history is composed of frontier workers, whose present numbers are estimated at around 115,000, but the numerically largest is made up of persons migrating between regions with a heavy concentration of agricultural activities and the more industrialised ones (see table 1 in the appendix).

For some time now the economic difficulties facing the countries of immigration, combined with industrial development and rising standards of living in the countries of emigration, have been slowing down these migratory flows. On the other hand, the expansion of economic, commercial, cultural and scientific exchanges has led to an increase in labour mobility among all the member States, for instance in the case of international transport workers or persons posted by an undertaking to perform work in one of its branches located in another member State, workers seconded to an undertaking carrying out work in another member State, teaching personnel or research workers sent by the administration originally employing them to the territory of another member State, or artistic workers. The number of such migrants, who constitute the third category, is bound to increase as the economic and human integration of the Community progresses. The same applies to self-employed persons for whom the removal of obstacles to free establishment and the unrestricted performance of services, a process in course of completion, has begun to produce its effects.

Nevertheless, migration within the Community is still marked by an imbalance in manpower exchanges between its member States, and the situation is bound to get even worse when Spain and Portugal join the Community.[4]

The European Community is also marked by the heterogeneousness of the social security systems of its member States both in terms of the actual concept of social security and as regards the level of benefits, structures, methods of financing and administration. It is easy to imagine the difficulties involved in introducing uniform regulations for systems as different as the Danish one which, in almost all branches, offers all residents a personal entitlement to benefits without contributions or employment conditions and

is financed almost exclusively out of public funds, and the Italian system, which is organised primarily for the benefit of workers and where entitlement to benefits and the amount of these depend on the length of the period of insurance. As for the systems of the other member States, they exhibit practically every possible variant of these two basic approaches.

The Community's institutional and legal framework

The general objectives of the member States in founding the Community were to establish the bases for a progressive strengthening of the union between the peoples of Europe and to take joint action to ensure the constant improvement of the conditions of work and employment of the population. One of the things the member States have to do to achieve these objectives is remove the barriers to free movement of persons, which includes removing existing obstacles in the field of social security.

With this in mind, the Treaty of Rome stipulates that any discrimination on grounds of nationality is prohibited[5] and that arrangements are to be made to secure for migrant workers and their dependants the aggregation of qualifying periods and payment of benefits throughout the territory of the Community.[6] The Council of the European Communities, acting on a proposal of the Commission of the European Communities and after having consulted the European Parliament and the Economic and Social Committee, is required to establish this system through the adoption of regulations, all of whose provisions are to be binding and directly applicable in the member States. The Court of Justice of the European Communities is given the task of making uniform interpretations both of the Treaty and of acts in pursuance thereof as well as verifying that these are in conformity with the Treaty, thus ensuring that the instruments–i.e. Article 51 of the Treaty and the social security Regulations–tally with the obligations and rights which free movement entails. In addition, the Commission must ensure that the member States fulfil the obligations placed upon them by these Regulations and refer any infringements to the Court of Justice.

By rendering the principle of reciprocity pointless; by promoting, on the other hand, the adoption of uniform rules which are not subject to the balance of power between the member States; and by placing the rights of beneficiaries above the financial and administrative aspects of co-ordination, this institutional and legal framework has made it possible, despite the imbalances and disparities, to guarantee migrant workers in the Community protection of a high level and great legal effectiveness. However, every medal has its reverse side: while well-defined obligations have enabled the Community to advance far and fast, as is the case with the co-ordination of social security schemes for employed persons, it has taken a fairly long time for the same rights to be granted to self-employed persons because the obligations concerning them are less clearly defined. Similarly, the differences which remain in respect of the obligation to ensure free movement of

all nationals of the Community, regardless of their occupational status, have prevented the adoption of regulations applicable to all insured persons, despite a recent attempt in this direction. Finally, because of the relative inflexibility of the framework, it has not been possible to respond with the desired ease and rapidity to developments in the social security sphere.

2. General principles underlying the Regulation[7]

Scope

The new Regulation applies, as far as persons covered are concerned, to employed or self-employed persons, who are nationals of one of the member States or who are stateless persons or refugees; the members of their families and their survivors, regardless of nationality; survivors (nationals of a member State, stateless persons or refugees) of a worker who was a national of a third country; and civil servants and other public employees subject to a scheme applicable to employed persons.

The identification of a worker as employed or self-employed is to be made in the light of the legislation applicable to him and branch by branch, regardless of how his activity is designated by labour law. Likewise, members of the family are those defined as such by the applicable legislation.

The concept of "worker" naturally embraces persons who are prevented from carrying out their activity as a result of incapacity for work or unemployment, those in receipt of a pension and even, in certain cases, non-employed persons who continue to be insured voluntarily under a scheme covering employed or self-employed persons.

It should be stressed that the Community Regulation, initially designed for migrant workers, applies to all workers and their dependants, irrespective of the reasons for their movement within the Community.

As far as the matters covered are concerned, the Regulation applies to all legislations of the member States concerning sickness, maternity, invalidity, old-age, survivors', industrial accident and occupational disease benefits; death grants; unemployment benefits; and family benefits–regardless of whether the schemes are contributory or non-contributory.

The Regulation does not apply to special schemes for civil servants, social and medical assistance or benefit schemes for war victims, nor does it apply to schemes established by collective agreements, with the exception of unemployment assistance schemes and the French unemployment insurance scheme.

The Regulation does not define its territorial scope but it is the same as that of the Treaty of Rome.[8] It should, however, be noted that if the legislations of member States are applicable to workers who have been employed outside their territories, the persons concerned may take advantage of the application of the Regulation when they return to the territory of the Community.

As regards the persons and matters covered, the Regulation replaces all the agreements binding the member States, with the exception of the Agreement on Social Security for Rhine Boatmen and the European Convention concerning the Social Security of Workers Engaged in International Transport. One result of this is that the old bilateral agreements between member States are applicable only to nationals of countries which are not members of the Community, in particular under the European Interim Agreements. The European Convention on Social Security[9] is also applicable to nationals of Community countries who would be entitled to benefits not only from the member States but also from another Party to the said Convention.

The Regulation does not affect obligations arising from any Convention adopted by the International Labour Conference which has entered into force in one or more member States or from the European Interim Agreements.

Insurance

A person may be insured under the legislation of only one member State at any given time; the provisions of such legislation then apply as if the person concerned were carrying out all his activities in the territory of that State, with all that this implies in respect of his status (employed or self-employed person), basis of assessment, calculation and collection of contributions, and determination and calculation of benefit entitlements. This principle of applicability of the legislation of a single State is designed to limit the legal disputes which would undoubtedly arise in the determination of benefit entitlements. It should be noted, however, that there is a loophole in the system in the case of persons who are working for an employer in one member State and self-employed in another, who are simultaneously subject to the legislation of each of these member States, but this is limited to relations between only some of the member States.

The second principle is that each person is insured under the legislation of the member State in whose territory he pursues his activity, even if he is resident or his employer has his headquarters in the territory of another member State.[10]

The member States may, however, by common agreement, provide for exceptions to these rules in the interests of certain workers or categories of workers.

Finally, it should be noted that persons may join a voluntary insurance scheme in one member State while residing in another, and the periods completed in another member State are taken into account where admission to voluntary insurance is conditional upon completion of insurance periods in the State concerned.

Determination of entitlement to benefits

Determination of the legislation applicable

As a rule, the legislation to be taken into account in examining the entitlements of the person concerned is that to which he is subject at the time the contingency arises. This is the case with benefits in kind and short-term cash benefits as well as certain long-term benefits such as occupational accident or disease pensions and "Type A" disability pensions[11] where the worker has been subject solely to "risk" legislation providing for this type of benefit.

This does not mean that, in case of need, the person concerned may not have recourse to legislation to which he was previously subject if he still has an entitlement thereunder.

In the case of long-term benefits other than those just mentioned, more than one legislation may be applicable and the worker may lay claim to his entitlements under each.

Finally, for the grant of unemployment benefit to frontier workers and other workers who are not resident in the country of employment, the legislation applicable is that of the country of residence.

Determination of entitlement

Where, with reference to national regulations alone, the person concerned does not meet the conditions laid down by the legislation applicable for entitlement to benefits, the institution which applies this legislation must bear in mind the following two Community rules: *equality of treatment,* i.e. there must be no discrimination on the basis of nationality even if the person concerned is resident in the territory of another member State, and *aggregation* of periods completed both in the country of origin and abroad. To this end, periods of insurance, occupational activity or residence completed in a member State are taken into account by any other member State as if they had been completed in the territory of the latter. This rule is aimed not only at crediting periods of insurance, occupational activity or residence completed abroad as periods of the same nature completed in the country of origin but also at crediting periods of insurance as periods of occupational activity or residence, etc.,[12] depending on the nature of the periods to be taken into account by the competent legislation.

The periods completed abroad are generally taken into account by adding them to a period, however brief, completed in the country of origin, provided, of course, that the person concerned had been insured in the member State which is reponsible for paying the benefits.

Such aggregation, in the strict sense of the term, does not apply to unemployment benefits for frontier workers. In this case periods of insurance or employment completed in the country of employment are treated purely and simply as periods completed in the country of residence. Moreover, the

notion of aggregation has been enlarged with a view to assimilating subjection to the legislation of a member State at the time the contingency arises to subjection to the legislation under which the benefits in question are claimed, in cases where such subjection constitutes the sole condition for entitlement.

Calculation of benefits

Here, too, a distinction must be drawn between benefits in kind, short-term cash benefits and benefits under a so-called "risk" legislation which are granted in their entirety even if entitlement has been acquired only after aggregation of the other long-term benefits. For these last benefits, the use of the aggregation process to acquire entitlement involves calculation of benefits on a pro rata basis, i.e. the award of a benefit for the period of insurance completed in the country liable for payment proportional to the total length of the periods completed in the Community.

Where benefits are calculated on the basis of wages, contributions or other considerations over a reference period which is longer than that in which the worker has been subject to the legislation in question, account is taken of wages, contributions or other considerations only for the time during which the worker was subject to that legislation.

If the amount of benefit varies according to whether or not the person concerned has a family, the members of the family are taken into consideration even if they are resident in another member State.

Payment of benefits

The payment of benefits in the Community is governed by the principle whereby the persons covered by the Regulations are entitled, without restrictions, to receive such benefits whatever the member State on whose territory they are permanently or temporarily resident. As a general rule, the benefits paid on the territory of a member State other than the competent State are those provided for in the competent legislation. This is the case with cash benefits for sickness and with invalidity, old-age, survivors', industrial accident or occupational disease pensions as well as, in principle, family benefits. There are, however, certain exceptions.

As regards unemployment insurance, the exception constitutes the rule because of the obvious link between the grant of benefits and the stipulation that the beneficiary must remain at the disposal of the employment market of the country paying the benefit. Nevertheless, in order to promote manpower mobility, unemployed workers in one member State may investigate the employment market of the others while continuing to receive their unemployment benefits for a maximum period of three months. The question of unemployed frontier workers is of quite a different nature and has been discussed above.

Unlike the other member States, France does not pay family benefits abroad but reimburses the country in which the members of the family are resident for the family allowances paid by it.

Finally, the most important exception is in the payment of benefits in kind for sickness, maternity or occupational accidents and diseases. For obvious reasons of administrative convenience, the benefits granted are those provided for under the legislation of the country of permanent or temporary residence of the persons concerned, who receive the same treatment as if they were insured in that country. These benefits are then reimbursed by the competent member State.

Overlapping of benefits

The fact that only one legislation is applicable tends to eliminate the causes of overlapping of benefits by preventing a person from being subject to more than one legislation at one and the same time. In the case of several legislations being applied in succession, the consequences are the same since, very often, they only produce effects which are limited in time following the cessation of insurance, at least in so far as concerns short-term benefits and those whose payment is conditional upon the person being subject to the legislation applicable at the time the contingency arises. In practice, the legislations generally leave little room for overlapping of similar benefits of this type. Overlapping may, however, occur in the following cases:

- where the beneficiary or his spouse is engaged in an occupational activity in another member State: this entails overlapping of entitlements to sickness benefits and family allowances;
- where the persons concerned are residing in a member State where residence alone gives entitlement to these same benefits;
- where, finally, some legislations–Greece, Ireland and the United Kingdom–extend the right to benefits for a fairly long time following the cessation of insurance.

Under these circumstances it may be considered that the Community regulations directly prohibit overlapping by designating a single competent legislation and suspending entitlements under the other legislations. There is no uniform rule governing the choice of the competent legislation. Nevertheless, the general tendency is for the entitlement arising out of the worker's activity in the country in which he exercises it to take precedence over the entitlement arising solely out of residence in another member State; where an occupational activity is exercised in both countries, priority is given to entitlements in the country of residence.

Unlike the cases just described, overlapping of long-term benefits, except for those provided for by "risk" legislations, is not prohibited but subject to a statutory limitation in the case of benefits of the same type,[13] or to the national provisions prohibiting overlapping in the case of benefits of

a different type.[14] The application of these national rules is nevertheless subject to certain procedures aimed at preventing inequitable reductions.

Cost of benefits

The cost of the benefits is borne naturally by the competent country or, in the case of long-term benefits, by the competent countries, i.e. generally the country or countries in which the worker carries on or carried on his occupational activity. With one exception,[15] the costs are never shared between the countries under whose legislation the worker has been insured.

However long the period in which the worker has been insured under the legislation of a member State, the latter bears the whole cost of the benefits payable by it. This rule goes so far that even the cost of unemployment benefits for frontier workers–paid, it should be recalled, by the country of residence–are entirely borne by the latter, as are the costs of additional benefits such as sickness or family benefits.

Where the benefits are paid by a member State other than the competent State on behalf of the latter the costs are reimbursed. This is naturally the case for benefits in kind, as well as for family benefits paid on behalf of France. The involvement of the institution of the country of residence is also obligatory in the case of the payment of unemployment benefits abroad. The Community regulations are very flexible as far as the reimbursement procedures are concerned.

The competent bodies

Within the institutional machinery of the Community, it is the Commission which is responsible for drawing up proposals aimed at introducing or amending Community regulations. This task, which entails detailed knowledge of national legislations, the consequences of their amendment for the application of the co-ordination rules and the results of such amendments, would be impossible without the information furnished by the Administrative Commission, which is made up of government representatives of the member States. The Administrative Commission also takes decisions on certain questions of interpretation or application which do not call for the intervention of the legislator and deals with various financial or technical matters.

Since 1972 the Commission and the Administrative Commission have been assisted by the Advisory Committee on Social Security for Migrant Workers whose tripartite composition enables the views of the "users" to be heard.

Representatives of the International Labour Office attend, *ipso jure,* the meetings of the Administrative Commission and the Advisory Committee, to which they give technical assistance either in the form of advice on the questions on the agenda, which is always appreciated, or in the form of studies and draft texts to assist the discussions.

3. Problems and prospects

While the high level of protection guaranteed by the Community Regulations gives legitimate grounds for satisfaction, this should not disguise the fact that the Community is at present faced with a number of problems in this field. To understand these problems better it will be necessary to think back to the ultimate goal of free movement of persons. Very early on, the Court of Justice found itself having to assert that the co-ordination rules, whether in pursuance of Article 51 of the Treaty of Rome or the regulations issued thereunder, were subordinate to the achievement of this objective and that these rules were to be interpreted in the light of the latter.

The first principle which the Court deduced from this is that of the inviolability of the rights acquired by a worker in a member State solely through the application of the national rules, i.e. without its being necessary to have recourse to the aggregation process. The second is that of the autonomous character of the social security schemes of the member States, which must be scrupulously respected by the Community legislator, even if this entails compensating for the deficiencies which would prevent the worker from acquiring rights under these schemes.

This limited concept of co-ordination does not indicate, a priori, how the inviolability of the acquired rights is to be reconciled with the purpose of some social security benefits where these do not have the character of a deferred wage but are aimed at providing insured persons with complete protection regardless of the contributions paid, as is the case with the Type A invalidity legislations. In order to respect the internal cohesion of their insurance systems, the member States concerned have revived or introduced national rules prohibiting overlapping, moves which have been accepted by the Court as consonant with the autonomy of the systems. It remains to be seen how far the application of these rules will lead to a reduction in these benefits and how they can be applied without weighing down an already cumbersome procedure for the award of benefits.

The theory of the inviolability of acquired rights has more recently been echoed in the interpretation of the provisions relating to the grant of benefits for children of pension holders and for orphans. For reasons of administrative simplicity, the grant of such benefits–pension supplements or increases, family allowances, special allowances, orphans' pensions–obeys the same rules, i.e. the application of a single legislation, even if the pension holder or the deceased worker was subject to several legislations with the entitlements arising therefrom. The Court of Justice has condemned this system since it can considerably reduce the amount of benefits received (a mere transfer of residence entails a change in the legislation applicable). Without in this case disputing the possibility of limiting the overlapping of benefits deriving from the simultaneous application of two legislations, this interpretation results in the grant of a supplement aimed at ensuring in every case that benefits are at

the highest level as well as in the formulation of much more complex procedures.

In both these fields the Court's interpretation gives these provisions an import far removed from their immediate significance, resulting in a legal uncertainty which is all the more regrettable in that it is protracted by reason of the difficulty of applying the principles stated. A more general problem arises from the fact that as legal protection becomes more and more highly developed and precise, so too do the technical arrangements increase in complexity, a factor which could possibly lead, in the last analysis, to a diminution in the effective protection of insured persons.

The gap between the Community co-ordination principles and the development of national legislation is also revealed in connection with the extension of new forms of social protection which no longer owe anything to the traditional concept. This problem arose with the entry of Denmark, Ireland and the United Kingdom, where the existence of systems applicable to the entire population, sometimes exclusively financed out of public funds, called for and continues to call for special efforts to be made to adapt the Community regulations with a view to respecting their guiding principles. This type of adaptation will no longer suffice for integrating the non-contributory schemes with which the member States attempt to offset the combined shortcomings of their legal systems and social assistance schemes. New co-ordination procedures will have to be devised in this field; the concept of payment of benefits abroad, in particular, no longer seems to correspond to the realities of social security benefits.

This brings us to one of the most hotly debated subjects, namely, the grant of family benefits for members of the family who are not resident in the worker's country of employment. Here, too, the development of the legislations has put them out of step with the Community rules which, with one exception, provide for the payment of family benefits in a country other than the country of employment. The proposal of the Commission to have this system applied by all the member States is meeting with the opposition not only of France (see above) but also of other member States. The explanation lies in part in the fact that these countries find it to be in their own interest, their country-of-residence system enabling them to offer the highest benefits for children residing on their territory and lower benefits for children residing abroad. It has to be admitted, however, that there are fewer and fewer member States in which family benefits are considered as a part of wages and not as a contribution by the nation as a whole to the maintenance and education of children. Ultimately, however, the fact that a reversal of the rules would severely penalise the great mass of families concerned strongly influences the choice.

All these problems arise at a time of economic and social difficulties. On the one hand, the anxieties caused by the financial imbalance in certain social security schemes are hardly conducive to the granting of new benefits to migrant workers; they may even lead to the suppression or reduction of some

benefits which might be thought, rightly or wrongly, to lie outside the bounds of the strict obligations imposed by the Treaty.

On the other hand, the state of the labour market itself has revealed the inaptness of the provisions adopted at a time of economic growth for dealing with the situation of the unemployed. This is the case with the provisions governing the payment of unemployment benefits abroad, the limited effect of which cannot offset the impossibility for an expatriate worker in a member State, where the chances of finding another job are almost nil, of transferring his residence to a member State where the chances will not perhaps be any better but where he will find himself in a more familiar and reassuring environment. The latest proposal submitted by the Commission to the Council is designed to cope with this situation by enabling these workers to retain a right to unemployment benefits and also enable workers who have been retired early, and thus excluded from the employment market, to move to another country.

Two longer-term objectives also merit attention. The first is the incorporation into the co-ordinated Community system of the social security schemes originating in collective agreements, the importance of which must not be overlooked. The second is to provide coverage one day for non-working insured persons in a Community in which economic considerations are a means of achieving this end and not the end itself. It would also be to the honour of the Community if it were to establish for nationals of third countries moving (albeit not freely) within the Community a scheme which, if not identical, would at least be similar to that covering nationals of its own countries. A first step in this direction has in fact been taken within the framework of the separate agreements linking the Community with Turkey, Portugal, Algeria, Morocco, Tunisia and Yugoslavia.

Coming back to the short-term prospects, the difficulties involved in Community co-ordination could provide the occasion for a new approach since the present concept of co-ordination seems to have been taken as far as it can go. The quest for a system of protection which is perhaps less legally refined but more effective in practice should be the immediate objective of all the Community and national institutions involved in the drafting, interpretation and application of Community regulations.

This entails the adoption of easily understood and readily applicable provisions, which presupposes that they should retain a general character and that legislating on all the particular cases which might arise should be avoided. In return, more frequent recourse should be had to delegations of powers provided for by the Treaty itself or to the discretionary powers of the national authorities, depending on the special circumstances of the cases to be settled.

In a similar vein, might it not be a good thing to reconsider in some cases the need for strict uniformity in the co-ordination rules? After all, the bulk of the situations to be regulated, in some branches, occur in a bilateral or, possibly, trilateral setting; it should thus be possible, where necessary, to

find solutions which are perfectly consonant with the objectives laid down in the Treaty–although different from the solutions adopted in another framework–at the same time guaranteeing migrant workers equal treatment more effectively (and doubtless as surely) as might be expected from the application of identical detailed rules.

Finally, as regards the harmonisation of national legislation, rejected as soon as it was mooted, perhaps the last word has not yet been said on this subject. After all, the financial difficulties besetting social security schemes and the repercussions of social security financing on employment and the productivity of undertakings are among the most burning issues of the day. It is not impossible that member States may adopt parallel measures in this field, thus setting in motion a harmonisation process which would facilitate co-ordination.

4. Conclusion

By offering migrant workers a high level of protection equivalent to that granted to non-migrant workers and guaranteed by effective institutional and legal controls; and by extending such protection first to all employed persons and the members of their families moving within the Community (including those moving for reasons not connected with employment) and later to self-employed persons, the European Community can pride itself on an exemplary achievement which is all the more important in that it is in an area where the human aspect far outweighs the economic aspects that have long been at the centre of the Community's preoccupations. This achievement was certainly facilitated by specific and stringent legal and institutional structures but it would have been unthinkable without the community spirit and social consciousness which have always inspired work in this field, thus making it possible to transcend the particularities and interests of each member State.

These qualities remain more necessary than ever for keeping abreast of the development of social security in the member States and reconciling social security requirements with those of free movement at a time of great economic and social difficulties. The scale and complexity of the problems call perhaps for new ways of tackling them and different solutions to enable Community co-ordination to continue to play an effective role and to give it every opportunity to advance towards the ultimate goal of guaranteeing complete social protection for anyone moving from one member State to another.

Appendices

1. Estimates of the number of foreign workers employed in the member States, by nationality

Country of origin (nationality) \ Country of employment[1]	Belgium	Denmark	France	Germany (Fed. Rep.)	Ireland	Italy	Luxembourg	Netherlands	United Kingdom[2]	Over-all total[3]
	end 80	1.1.81	1976	30.6.80	31.10.80	annual average 1980	1.10.80	15.12.80	1971	(rounded)
Belgium		..	21 200	9 801	..	126	7 600	17 501	7 500	64 000
Denmark	700		700	3 439	..	..	100	200	2 000	7 000
France	38 500	..		52 428	..	489	8 500	2 000	16 500	119 400
Germany (Fed. Rep. of)	10 500	..	24 400		..	657	4 600	13 201	71 000	129 000
Greece	10 750	..	4 000	132 980	..	..	..	1 203	10 000	159 000
Ireland	600	..	900	2 299		177	0	2 000	452 000	458 000
Italy	90 500	..	175 800	309 226	..		11 200	12 000	72 000	672 000
Luxembourg	2 000	..	1 300	1 418	..	7		60	500	5 200
Netherlands	19 500	..	5 300	40 215	..	117	700		10 500	77 400
United Kingdom	9 750	..	12 400	34 828	..	634	400	10 000		74 000
Total E.C.	*182 800*	*14 433*	*246 000*	*586 634*	..	*2 207*	*33 100*	*58 165*	*642 000*	*1 766 000*
Algeria	3 200	..	361 000	1 583	..	..	..	..	600	367 000
Morocco	37 250	..	181 400	16 109	..	..	..	33 656	2 000	272 000
Portugal	6 250	..	385 000	58 780	..	..	13 700	4 206	10 000	478 000
Spain	32 000	..	184 500	86 547	..	..	2 300	10 420	37 000	354 000
Tunisia	4 700	..	73 700	10 000	..	..	..	1 085	200	90 000
Turkey	23 000	..	36 300	590 623	..	..	..	53 189	3 000	714 000
Yugoslavia	3 100	..	43 100	357 427	..	1 193	600	6 589	4 000	421 000
Other non-member countries	40 250	..	131 800	363 955	..	4 423	2 200	27 258	966 205[4]	1 544 000
Total non-member countries	*149 750*	*33 720*	*1 396 800*	*1 485 024*	*2 344*	*5 616*	*18 800*	*136 403*	*1 023 005*	*4 251 000*
Over-all total	**332 550**	**48 153**	**1 642 800**	**2 071 658**	**2 344**	**7 823**	**51 900**	**194 568**	**1 665 005**	**6 016 000**
incl. women	..	..	..	641 706	..	2 494	14 300	..	..	..

.. = data not available.

[1] The data concerning Greece as a country of employment are not yet available. [2] Estimates of the foreign economically active population born abroad, drawn up by the Department of Employment. [3] The figures in this column include estimates for countries for which no data are available by nationality. [4] Including 631,000 workers born in Commonwealth countries.

Source: Estimates prepared by the services of the Commission from data communicated by the member States.

2. Beneficiaries under the Community regulations and the amounts transferred under these regulations (1979)

A summary is given below of the number of beneficiaries under the Community regulations and the amount of benefits paid under these regulations during the year 1979, the latest year for which data are available. Since the information was incomplete for certain member States and branches it has sometimes been necessary to estimate the figures. As a result, when the latest data have been collected, the figures in the report being prepared by the Commission of the European Communities at the time of writing could differ slightly in respect of some categories from those given here.

Generally speaking, these statistics do not cover beneficiaries who are nationals of another member State and resident on the territory of the member State responsible for payment, or their families, or the amount of benefits paid to them and their families. For example, the small number of persons receiving unemployment benefits is explained by the fact that it does not include frontier workers receiving benefits under the legislation of the member State in which they are resident and which bears the cost of their payment.

Finally, the *potential* scope of the regulations is infinitely wider since it covers the entire employed population and persons regarded as such in the member States.

Type of benefit	No. of beneficiaries	Amounts paid (Belgian francs)
Health care for members of the family and holders of pensions or allowances	41 748[1]	1 187 709 000
Health care for other categories	189 027	2 076 795 000
Cash benefits for temporary disability	994	8 519 987
Pensions or allowances	590 159	28 765 527 000
Family benefits or allowances	132 750	1 774 263 000
Unemployment benefits	1 442	1 763 737 090
Total	**956 120**	**35 576 551 077**

[1] Since the data are incomplete, it has been necessary to make estimates. The figures given may thus differ slightly from those in the next report of the Administrative Commission.

Notes

[1] Council Regulations (EEC) No. 1390/81 of 12 May 1981 extending to self-employed persons and members of their families Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons and their families moving within the Community (*Official Journal of the European Communities (OJEC)*, No. L 143, 29 May 1981), and No. 3795/81 of 8 December 1981 extending Regulation (EEC) No. 574/72 to self-employed persons and members of their families (*OJEC*, No. L 378, 31 Dec. 1981).

[2] Belgium, France, Federal Republic of Germany, Italy, Luxembourg and the Netherlands since 1958, joined by Denmark, Ireland and the United Kingdom in 1973 and Greece in 1981.

[3] Regulations (EEC) Nos. 1408/71 of 14 June 1971, mentioned above, and 574/72 fixing the procedure for implementing Regulation (EEC) No. 1408/71 (*OJEC*, No. L 74, 27 Mar. 1972; a codified version of the two Regulations appears in *OJEC*, No. C 138, 9 June 1980).

[4] Altogether, 349,000 Spaniards and 476,000 Portuguese are at present working inside the Community.

[5] Article 7.

[6] Article 51.

[7] Following its extension to self-employed workers, the title of Regulation No. 1408/71 has been changed to "Regulation on the application of social security schemes to employed persons, to self-employed persons and to their families moving within the Community".

[8] It does not include Monaco, San Marino and the Channel Islands, but does apply to the French overseas departments and territories as well as to Gibraltar.

[9] Concluded within the framework of the Council of Europe. For further details, see C. Villars: "Social security for migrant workers in the framework of the Council of Europe", in *International Labour Review*, May-June 1981.

[10] This principle is subject to many adjustments, especially in two cases: (i) where the activity is carried out in several member States, a subsidiary criterion is called for–as a rule, the place of residence of the person concerned; this affects mainly international transport workers and commercial travellers; (ii) where temporary insurance in a member State in which the activity is only carried out for a limited period of time is not–for reasons of administrative convenience–in the interests of the persons and institutions concerned (workers on secondment or self-employed persons performing work for a limited period of time in another member State). Similar rules apply, *mutatis mutandis*, to seafarers.

[11] I.e. the amount of which varies according to the period of insurance. Such benefits exist in Belgium, France, Ireland, the Netherlands and the United Kingdom as well as in Greece in the agricultural scheme. The amount of these benefits is designed to give full compensation for injury as a fixed percentage of the previous wage.

[12] However, periods of residence are taken into consideration when they have been completed as an employed or self-employed person. For entitlement to benefit in unemployment insurance schemes, the crediting of periods of employment as periods of insurance is subject to the condition that these periods of employment would have been regarded as periods of insurance if they had been completed under this scheme. This is the sole exception to automatic crediting of periods completed abroad.

[13] For example, overlapping of invalidity pensions due under the legislations of two member States.

[14] For example, overlapping of an old-age pension due under the legislation of one member State and an invalidity pension due under the legislation of another member State.

[15] While, as for the other benefits for occupational accidents or diseases, the ruling principle is that of a single competent legislation, the cost of the benefit in cases of silicosis is to be divided between all the countries in which the worker was exposed to the disease. The same provision can also be extended to other occupational diseases but so far no advantage has been taken of this possibility.