



**#RightsMigrateToo**

**EXTENDING SOCIAL PROTECTION TO MIGRANT WORKERS IN  
THE ECOWAS REGION: A capacity building toolkit on the  
ECOWAS General Convention on Social Security**

INTRODUCTION TO THE ECOWAS GENERAL  
CONVENTION ON SOCIAL SECURITY:  
ORIGIN, CONTEXT, PRINCIPLES AND KEY  
PROVISIONS.

**MODULE 4**

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## Learning objectives

At the end of the module, participants will be able to:

- ▶ Appreciate the political, economic and social context that led to the adoption of the ECOWAS General Convention on Social Security, in order to better understand the objectives pursued and the challenges involved.
- ▶ Understand the guiding principles of the ECOWAS General Convention on Social Security and their exceptions.
- ▶ Master in a synthetic way the main provisions governing the personal and material scope of application.
- ▶ Understand the conventional complaints and redress mechanism available to insured persons and social security funds, as well as the administrative and financial implications of the financial and coordination arrangements resulting from the application of the General Convention

## Introduction

Migration is a right enshrined in the Universal Declaration of Human Rights proclaimed by the United Nations in 1948 (Article 13.2). Substantial progress was made in the development of new legal instruments and mechanisms for further regional economic and social integration among the States concerned with the establishment of the Economic Community of West African States (ECOWAS) on 28 May 1975. Composed of 15 States, it aims at intensifying their regional economic cooperation links and ensuring free movement within the area.

The Protocol of 29 May 1979 on the free movement of persons, the right of residence and establishment and the Protocol of 29 May 1982 on the code of conduct for community citizenship have been updated and supplemented with a view to improving the legal protection of Community nationals.

In 2008, ECOWAS adopted a common approach to migration, which is a systemic framework to govern national migration policies and related phenomena (refugee management, fight against human trafficking, promotion of legal migration, etc.).

A legal framework adopted to promote mobility and regulate migration was not able to provide social protection for migrant workers because of the difficulty of reconciling the sovereign right of each State to protect its labour market with the fundamental rights of individuals who, by choice or necessity, migrate for employment abroad.

That is why ECOWAS has focused on coordinating the social security systems of member states in order to maximize the impact of the implementation of workers' free movement and promote development.

The adoption in 2013 of the Supplementary Act to the ECOWAS Convention on Social Security makes it possible to guarantee social coverage for migrant workers and their families by extending the territorial scope and coordinating the national social security systems of the 15 member states.

# 1. Overview of the ECOWAS General Convention on Social Security

## 1.1 Main aspects, characteristics and scope

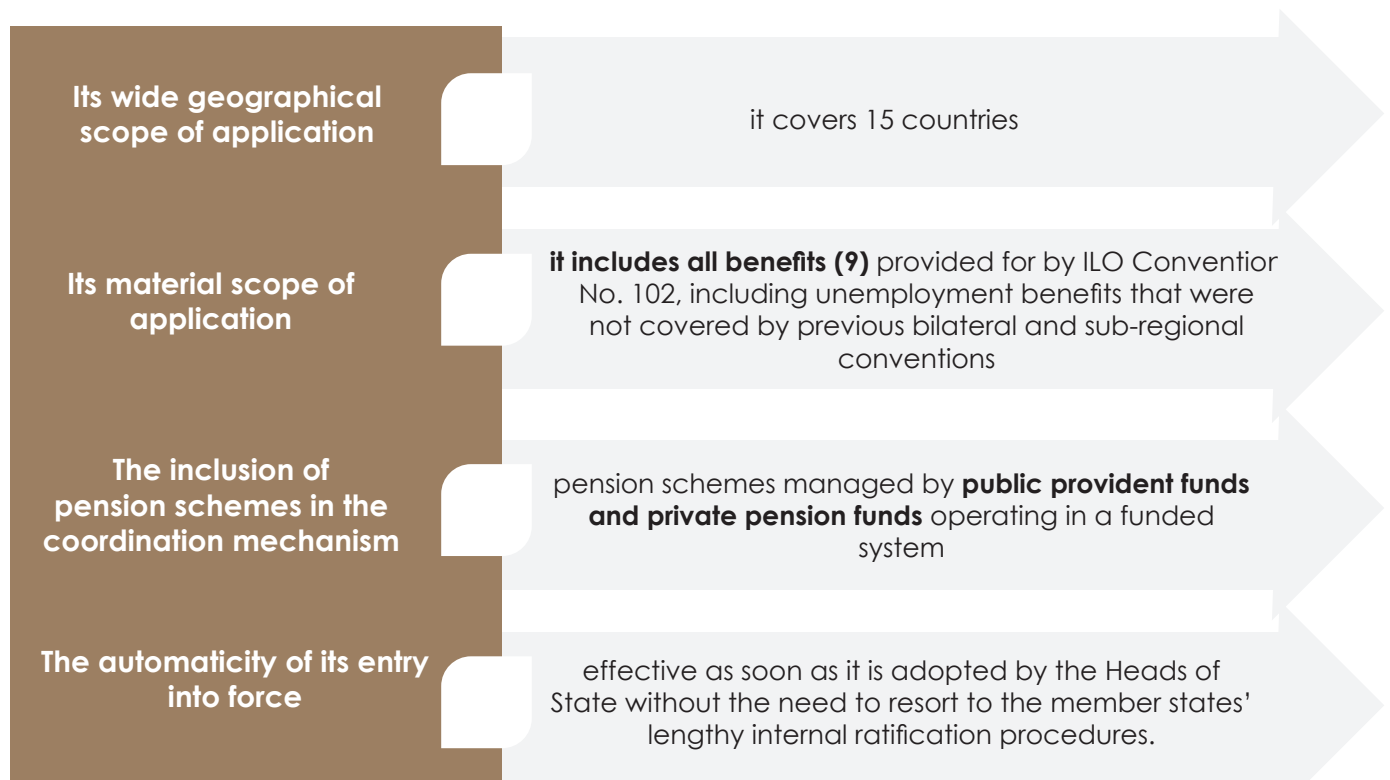
While free movement encourages migration between the member states of the region, the Convention complements the system by enshrining and guaranteeing the social security rights of migrant workers. As such, it constitutes a necessary guarantee.

Its objective is to guarantee to all nationals of the member states the benefit, in the territory of the contracting parties, of social security legislation under the same conditions as nationals.

The General Convention on Social Security includes 63 articles divided into 6 titles as follows:



Four main elements characterize it: résumée par les trois points ci-dessous :



The personal scope of the ECOWAS General Convention on Social Security can be summarized in the following three points:



The Convention has been supplemented by an Administrative Arrangement composed of 66 articles setting out the procedures for the application of its provisions and three (3) Annexes. These shall determine respectively the competent authorities and institutions of each Contracting Party and the institutions competent for the issue of secondment certificates.

## 1.2 Inspiration and basic principles of the ECOWAS General Convention on Social Security to ensure the coordination of schemes

The Convention is based on the standards governing multilateral instruments for the coordination of national social security systems, which have been mainly enacted by the International Labour Organization (ILO) through its relevant Conventions.

In fact, the Convention essentially bases its legal framework on the principles underlying Convention No. 97 (Revised) on migrant workers, 1949, Convention No. 143 on migrant workers (supplementary provisions), 1975, and their accompanying Recommendations Nos. 86 and 151, in particular those concerning equal treatment between national workers and migrant workers in a regular situation and the minimum standards of protection applicable to all migrant workers.

The main purpose of these instruments is the elimination of discrimination in the living conditions of legal migrants, although the two conventions offer different ways to achieve this goal.

The provisions on equal treatment, contained in article 6 of Convention No. 97 and Part II of Convention No. 143, apply only to migrant workers (and members of their families) who are legally admitted to the country.

Convention No. 97 prohibits unequal treatment, whether arising from legislation or administrative practice. Member states must ensure the effective enforcement of equality legislation, in particular through labour inspectorates or other supervisory authorities. By requiring the application of "treatment no less favourable than that which it applies to its own nationals", the Convention authorises the application to migrant workers of treatment which is equivalent in its effects to that enjoyed by nationals.

In addition, **article 6, paragraph 1**, requires the elimination of discriminatory legislative provisions and administrative practices with regard to working conditions, trade union membership, housing, **social security**, employment taxes and access to justice.

Convention No. 143 and Recommendation No. 151 go further in the intention of promoting equal opportunities and eliminating discriminatory practices against migrant workers. The national equality policy referred to in article 10 of Convention No. 143 focuses in particular on differences in treatment and opportunities based on nationality.

Finally, other ILO standards deal comprehensively with the issue of social security for migrant workers. The two main instruments on this subject are the **Equality of Treatment (Social Security) Convention, 1962 (No. 118)** and the **Maintenance of Social Security Rights Convention, 1982 (No. 157)**. Both contain provisions relating to all nine branches of social security.

However, while a State that ratifies Convention No. 118 may limit its application to some of these branches, such flexibility is not provided by Convention No. 157. In fact, as soon as a state party to the Convention has a legislation covering a specific branch, it is required to apply the provisions of the Convention to that branch.

These two instruments provide for the possibility for states parties to derogate from their provisions by means of special arrangements concluded between them, provided that they do not affect the rights and obligations of other states parties and that the issues covered by them are settled under conditions which, on the whole, are at least as favourable as those provided for by these two conventions. Conventions Nos. 118 and 157 thus establish a system based on a number of fundamental principles, the first of which is equal treatment, the maintenance of acquired rights and the maintenance of rights in the process of acquisition.

### 1.3 Basic principles of the ECOWAS General Convention on Social Security

Taking into account the guiding principles laid down in this regard by the ILO, the **ECOWAS General Convention on Social Security** makes it possible to protect the social security rights of migrant workers and to correct the problems created by the territoriality and diversity of national social security systems

These basic principles, which are found in the ECOWAS General Convention on Social Security and which are largely inspired by the principles listed in the ILO instruments (see Module 2) and similar to those found in countless bilateral or multilateral social security conventions (see Module 3), are four in number:



### a) Equal treatment

The Convention states the principle of equal treatment between nationals of the Contracting Parties in its Article 6.

**ARTICLE 6 :** *Persons who residing in the territory of a Contracting Party and to whom this Convention is applicable shall have the **same rights and obligations** under the legislation of every Contracting Party as the nationals of the latter party. The provisions of paragraph 1 of this Article shall not adversely affect the provisions of the legislation of any Contracting Party regarding the interested parties' participation in the administration or competent jurisdictions on social security.*

In accordance with the principle of equal treatment, non-national workers must enjoy the same conditions in the host country as national workers in terms of liability and entitlement to social security benefits.

This principle requires the Contracting Parties to apply their legislation to nationals of other Contracting Parties in the same way as to their own citizens. Consequently, **it prohibits States from discriminating against foreign nationals, either directly or indirectly.**

Direct discrimination occurs when a national rule or regulation openly treats nationals and non-nationals differently.

Indirect discrimination corresponds to a situation where national regulations seem a priori neutral, when in reality they have a more severe impact on non-citizens than on nationals. An example is a requirement that family benefits will only be paid for children born in the State's territory. It has the effect that a national of the country whose child was born in another State will not receive any benefit.

Although this rule seems to apply a priori to both nationals and foreigners, in reality, however, a foreign national is more likely to have a child born abroad. The rule thus has a much stronger impact on foreigners than on nationals: it is therefore indirectly discriminatory

### b) Determination of the applicable legislation (article 11)

#### ► The principle

The problems caused by positive and negative legal conflicts can be avoided by stipulating that, in all circumstances, the law of a single State is applicable, and by defining a rule or system of rules setting out that applicable law. Once the applicable legislation has been defined, the migrant will pay their contributions and receive benefits in accordance with that legislation.

One of the main objectives of the Community's conventional system is to prevent a migrant worker from being subject simultaneously to two or more national social security systems and to ensure that, when travelling, a migrant worker is not totally deprived of social protection.

In this perspective, it is provided, with a few exceptions, that a Community national moving within ECOWAS is subject to a single legislation, that of the member state in which they carry out their professional activity, even if they reside in the territory of another member state.

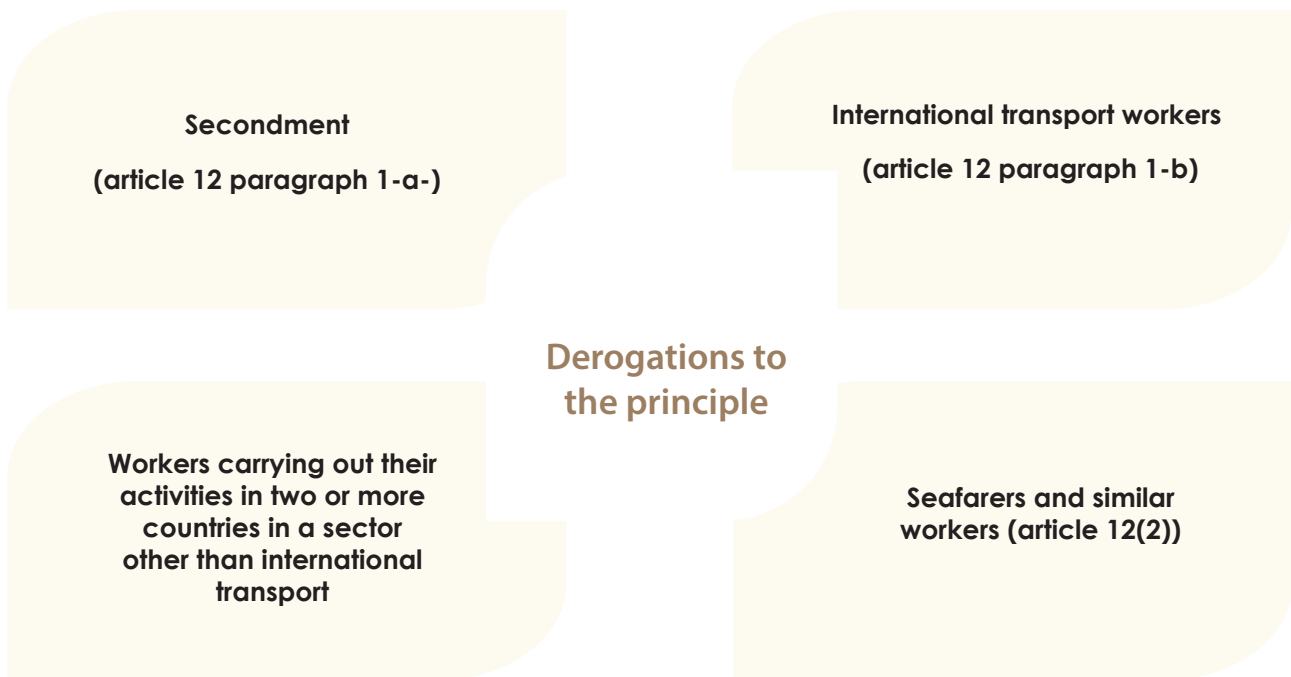
Consequently, the applicable legislation is defined as that of the state of employment (*lex loci laboris*). However, there are exceptions to this principle.



## ► Derogations to the principle

The determination of the applicable legislation is not always easy and special rules are often necessary to deal with the more complex situations that may arise in the context of migration. Consequently, derogations have been made to the principle.

First of all, special rules are often required for the employees in the transport sector who, as a consequence, work in several states. In this situation, the applicable legislation is often that of the country where the company has established its registered office. In addition, seafarers are generally covered by the law of the flag. Special rules also apply to persons working in more than one state or those with self-employment status in one country and employee status in another.



### ► *Secondment*

An employer may send one of its employees to the territory of another Contracting Party to perform work on its behalf or to work in one of its offices or branches based in another State. This period is considered as a period of secondment. The period of secondment must be foreseeable, must not exceed 6 months and must not replace a colleague who has reached the end of his secondment period. Such a worker shall remain subject to the legislation of the state where he or she was initially posted. The period of secondment may be extended for 6 months, provided that the competent authority of the Contracting Party to which the worker is posted gives its consent..

### ► *International transport workers*

Workers of international transport companies normally operating in the territory of more than one member state are subject to the legislation applicable in the country where their company has its registered office.

This principle applies unless they are based in a branch of their company located in another member country. In this case, they shall be subject to the social legislation of that country. The same applies if they are predominantly employed in another country where their company does not have a permanent representation.

► *Workers carrying out their activities in two or more countries in a sector other than international transport*

If such worker reside in one of the states where they carry on their activity, or if they are employed by several employers in different states, they shall be subject to the legislation of their state of residence.

However, if the employee does not reside in a state where he or she works, they shall be subject to the legislation of the state in which the employer who employs them has his or her registered office or domicile.

► *Seafarers and similar workers*

Paragraph 2 (i) of Article 12 of the Convention extends the provisions concerning secondment of Article 12, paragraph 1, with regard to wage workers who are normally employed on a ship flying the flag of a contracting party or in the territory of that party and who are seconded to work aboard a ship flying the flag of another contracting party. Such workers shall remain subject to the legislation applicable to the company which seconded them to carry out work on its behalf on that other vessel under the same conditions as other seconded workers.

Similarly, under paragraph (ii) of the same article, employed or self-employed persons who do not navigate and who, in the territorial waters or port of a Contracting Party, carry out an activity on a ship flying the flag of another Contracting Party, are subject to the legislation of the first Party, provided that they are not registered on the crew roll.

Sub-paragraph (iii) concerns workers employed on board a ship and paid by a person or enterprise other than the shipowner, having his domicile or registered office in the State where such workers reside. In such cases, the legislation of that State shall apply, irrespective of whether the vessel on which the person concerned is employed flies another flag.

### c) Maintenance of rights acquired or in the process of being acquired

► **Maintenance of acquired rights and prorata temporis aggregation**

The maintenance of acquired rights allows migrant workers to receive the benefits due to them by a State, even when they cease to reside in its territory. This principle, which is essential for the social protection of migrant workers, aims at ensuring that they are treated equally in practice and not only legally.

The basic principle of maintaining acquired rights stipulates that **periods of residence, employment or any other economic activity** in one State should be **recognised in other countries**. This **accumulation of periods** of residence, employment or economic activity is called "aggregation" (**Article 16 of the Convention**).

**ARTICLE 16** : Where the legislation of a Contracting Party makes the acquisition or maintenance of entitlement to benefits conditional upon the completion of periods of insurance, the institution that applies that legislation shall, to that end and for the purpose of aggregation, take account of the periods of insurance completed under the legislation of any other Contracting Party, as if they were periods completed under the legislation of the first party.

# EXAMPLE 1 :

States A, B and C require 20 years, 15 years and 10 years of insurance, respectively, to qualify for an old-age pension.



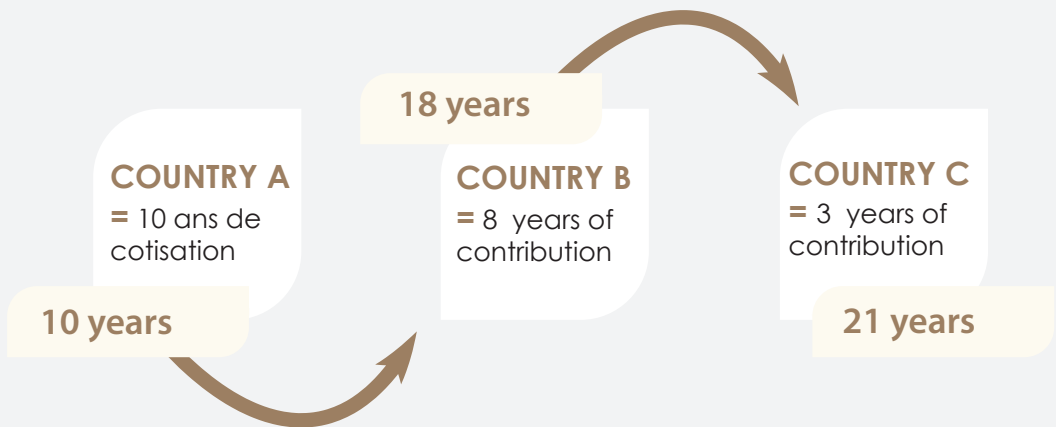
## Situation without aggregation

A person who has completed 10 years of insurance in State A, 8 years in State B and 3 years in State C will not be entitled to an old-age pension in any of the three (3) national systems.



## Situation with aggregation

It is this injustice and its disastrous consequences for migrant workers that can be avoided by applying the principle of aggregation. This way, this worker will be able to validate 21 years of employment, and thus comply with the rules of any of the three countries.



Periods of residence, employment and paid activity not only determine a person's entitlement to a benefit, but also often play a role in calculating the amount of the benefit.

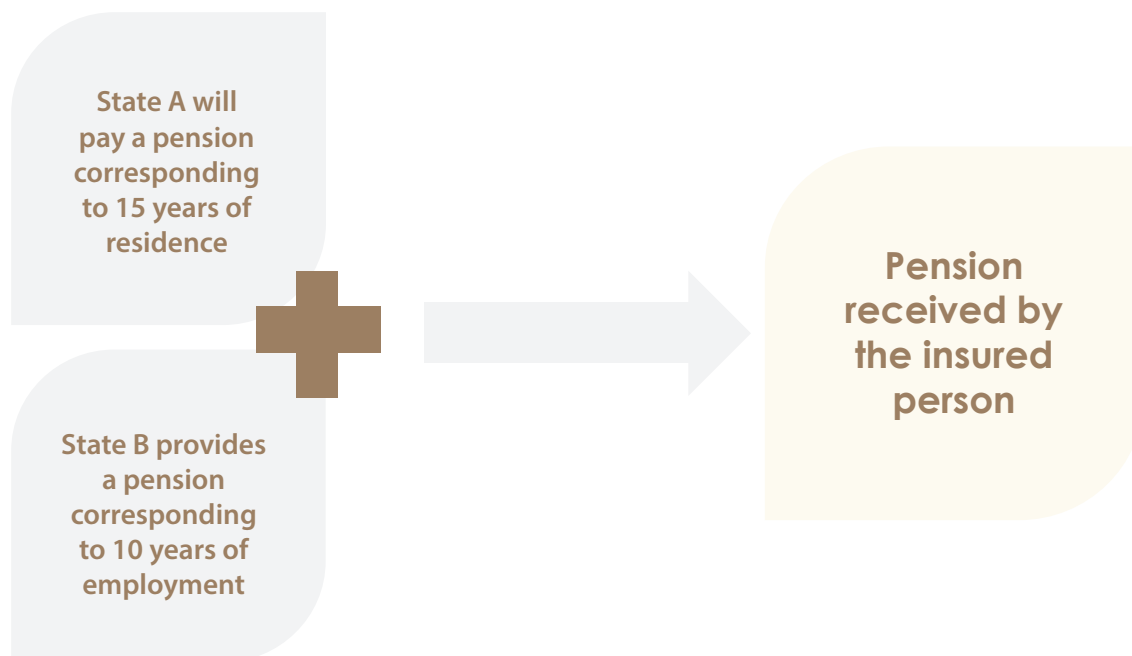
If the principle of aggregation was to be applied solely to the responsibility of the competent State body, it would give rise to serious inequalities. Although the problem is less prevalent for short-term benefits such as sickness benefits, it can become crucial for long-term benefits such as disability or old age.

## EXAMPLE 2

A worker resides and works for 15 years in State A where they have paid their social security contributions. If he or she then works in State B for 10 years, retires and applies for an old-age pension, it would not be fair for State B to pay him or her a pension equal to that of an individual who worked 25 years in State B. The consequence would be that State A would have received 15 years of contributions without having to pay anything, State B being obliged to pay a long-term benefit while it would have received contributions for 10 years only.

This injustice is avoided thanks to the "*pro rata temporis*" rule according to which each State pays a pension proportional to the length of the beneficiary's contribution in that State. This principle is laid down in Article 17 of the Convention

Thus, in our example, State A will pay a pension corresponding to 15 years of residence and State B a pension corresponding to 10 years of employment.



The method for calculating these proportional pensions must guarantee the rights of the migrant worker by applying the proportional supplement rule, which applies when the amount of the pension to which an insured person could be entitled under the legislation of a Member State, without the application of the aggregation and *pro rata temporis* distribution method, is greater than the total amount of the pension they obtain under this method. The competent institution of that State must provide a supplement corresponding to the difference between these two amounts (guarantee of the Community insured's real rights).

### ► Maintenance of rights in the process of being acquired

With regard to the retention of rights in the process of acquisition, certain provisions of national legislation may give rise to particular difficulties in their application to migrant workers. This is the case with the qualifying conditions for entitlement to benefits, which would require them to complete a new qualifying period each time they change their State of residence. A migrant worker would then receive, for example, only a very small retirement pension compared to the one to which they would have been entitled if they had contributed, throughout their career, to the social security system of a single State. To mitigate this risk, the maintenance of rights being acquired makes it possible to add up the periods of subjection of migrant workers under the social security legislation of the various countries where they have resided.

Similarly, the inclusion of insurance periods of less than one year (Article 19) requires the institutions to include periods below the legal thresholds for the provision of benefits in the aggregation of all insurance periods completed by migrant insured persons in all Member States. Therefore, the persons concerned will not be deprived of the benefit of these periods of insurance which, according to the applicable legislation, do not entitle them to any rights.

#### d) Exportation of benefits

The portability of social security rights is the ability to preserve, maintain and transfer social security rights acquired or in the process of being acquired, regardless of nationality and country of residence. Without portability, migrants may suffer financial losses when they leave the destination country or their country of origin.

Conversely, they could receive social benefits or health care from their country of origin, even if they have spent most of their working lives in other ECOWAS countries.

The principle of the exportation of benefits is that if someone already enjoying or likely to enjoy one of the benefits covered by the ECOWAS Convention settles in another State, their benefits must be paid by the State of origin. The amount of the benefit must not be reduced in any way solely because of the change of residence.

The principle also applies to short-term benefits such as unemployment benefits: persons seeking employment in another State will continue to receive benefits from their country of origin.

**Benefits in kind** may also be exported, for example medical treatment which will be provided in another State at the expense of the patient's country of origin. This possibility can be important when a person falls ill during their statutory leave.

It may also apply to any Community insured whose state of **health** requires a particular intervention that is not practised in their country of origin

## 2. The scope of application of the Convention

The Convention covers the general and special contributory and mandatory schemes of the Member States as well as funded provident funds.

### 2.1 Persons covered

According to Article 4, the ECOWAS Convention covers all workers who are nationals of a Member State as well as members of their families and their survivors. It also covers refugees and stateless persons residing in the territory of a Party - and who are, or have been, subject to the social security legislation of one or more Contracting Parties.

Survivors of workers who, without having had the nationality of a Party, have been subject to the legislation of one or more Parties, are also entitled to benefit from the provisions of the Convention, provided that they are nationals of a Party.

Finally, it should be noted that the Convention also covers the voluntarily insured by providing for optional continued insurance (Articles 7 and 13): this is the possibility open to workers who were covered by the compulsory scheme and who no longer meet the conditions for such liability, to pay their contributions personally for the old age branch or to buy back periods of inactivity

## 2.2 Social benefits

The Convention applies to the nine (9) categories of benefits provided for in ILO Convention No. 102 concerning minimum standards of social security:



However, the need to limit the provision of benefits of the same kind or of several benefits relating to the same period of compulsory insurance for the same insured person has led to the introduction of provisions preventing the accumulation of benefits.

The Convention expressly states that no one may invoke its provisions to claim several benefits relating to the same illness or maternity, or several benefits relating to the same period of compulsory insurance.

In addition, some States apply rules limiting the cumulation of benefits with other benefits or with income, or with a professional activity. These rules provide for the reduction, suspension for a given period of time or even the termination of the service.

The Convention states that when applying these rules, a Contracting Party may take into account any benefit or income received in the territory of another Contracting Party as well as the professional activity pursued in the territory of another Contracting Party.

The Convention is intended to be applicable to the general and special mandatory contributory schemes of the Contracting Parties, including schemes relating to the obligations of the employer and provident fund schemes.

Furthermore, "Bilateral or multilateral agreements between two or more contracting parties shall determine, whenever practicable, the conditions under which the Convention shall be applied to the provident schemes or funds instituted by collective agreements rendered compulsory by governments".

It should also be stressed that all parts of the Convention are immediately applicable, while some multilateral conventions - such as those of the European Union - determine which parts are immediately applicable and which will be the subject of specific agreements between Member States. According to this instrument, "special provisions concerning sickness [...] and family benefits, with the exception of the cumulation of periods, however, remains subject to the conclusion of bilateral or multilateral agreements between the Parties."

Finally, the Convention shall be extended to any social security scheme which may subsequently be established under the legislation of any Contracting Party and shall allow the maintenance of more favourable provisions resulting from bilateral or multilateral social security conventions in force previously concluded between Contracting Parties.

## 3. Settlement of disputes between Contracting Parties

It is governed by the provisions of Articles 48, 52 and 53 of the Convention, which distinguish between complaints and appeals by Community insured and disputes between Member States relating to the application of the Convention.

### 3.1 Complaints and appeals by the community insured

The Convention establishes in principle cooperation between States in the treatment of the rights of migrant workers.

Consequently, their managing bodies must deal with requests for information and assistance among themselves with due expedition.

In this sense, if the deadlines for the submission of a complaint for benefits or an appeal for benefits are respected, any file sent to an authority, institution or court of a non competent Contracting Party must be transmitted without delay to the competent authority of the competent Party. In this case, the date of submission of the file to the non-competent Contracting Party shall be considered as proof date.

Likewise, no complaint may be rejected on the grounds that it is written in an official language other than that of the Party to which it is addressed; the official languages of all Contracting Parties having the status of ECOWAS languages.

With regard to mutual administrative assistance, Article 51 of the Convention regulates the recovery of amounts unduly received by a beneficiary of social benefits. In this case, this sum shall be deducted from the benefits due to the person concerned and transferred to the competent State

Each Contracting Party shall also respect enforceable court decisions or enforceable titles issued in the other Party with regard to social security contributions and other entitlements, applying to them the same treatment as that accorded to decisions and titles of the same nature presented on its own territory.

Finally, it should be noted that a substitution mechanism has been set up for appeals against third parties in the event of accidents at work (Article 52).

### 3.2 Settlement of disputes between Contracting Parties

With regard to the settlement of disputes, the Convention encourages Contracting Parties to first resort to negotiation. In the event of failure, the dispute shall be submitted to an arbitration committee whose decision shall be final.

However, each Party may refer the matter to the Committee of Experts on the Application of the Convention if it considers that the matter decided is of clear interest to all Member States. The study made by the said Committee shall be communicated to all Member States.

In order to preserve the right of the Community insured in the event of a dispute between the competent institutions of two or more Contracting Parties concerning either the applicable legislation or the determination of the institution responsible for providing benefits, they shall provisionally receive the benefits provided for by the legislation applied by the institution of the place of residence or, if the person concerned does not reside in the territory of one of the Contracting Parties concerned, by the legislation of the Contracting Party to which they were last subjected. After the dispute has been settled, the cost of the benefits provisionally provided shall be borne by the institution recognised as competent to provide the benefits.

In conclusion, we believe that while the search for consensus and the primacy given to negotiation and arbitration are to be welcomed in a Community context, it would not be useful to provide in the Convention for a possibility of judicial recourse in social security matters before the ECOWAS Court of Justice, if only for the benefit of the Community insured.

This would make it possible to have a body of case law produced by this Court which would contribute to the consolidation of Community social security law

## 4. Mechanisms for financial arrangements and coordination

Article 50 of the Convention provides that the payment of cash benefits by the institution of a Contracting Party to a person in the territory of another Contracting Party shall be made in the currency of the debtor Party. However, the latter may make the payment in the currency of the country in which the person concerned is located.

In addition, it provides for the reimbursement of benefits provided by the institution of one Contracting Party on behalf of the institution of another Contracting Party, and that the debt must be expressed in the currency of the Contracting Party whose institution has paid the benefits. The debtor institution shall be entitled to make the repayment in that currency, unless otherwise agreed between the Contracting Parties.

In addition, the debtor institution must bear the transfer costs which, in no case, must be borne by the beneficiary insured.

Finally, if a Community insured is successively subject to two national legislations composed of a pension scheme and a provident fund, and their membership in this fund ends following their return to the legislation of the first Contracting Party, the transactions between the pension scheme to which they were first affiliated and the provident fund are determined by the insured person who has 2 options: either he orders the transfer of the capital - to which they are entitled under the provident fund - to the Institution managing the pension scheme of the first Contracting Party, in order to buy back periods of inactivity or to increase their pension; or he personally receives such capital.



## Conclusion

The ECOWAS General Convention on Social Security reflects ECOWAS' commitment to provide effective protection to migrant workers whose situation is characterised by particular difficulties in the field of social security. In the absence of international protection, they run the risk of losing the right to the social security benefits they enjoyed in their State of origin, while in the host country they may face restrictive conditions as regards affiliation to the national social security system and the enjoyment of benefits.

Concerned by the particularly pronounced vulnerability of this category of workers, ECOWAS has endeavoured to protect them through the implementation of its General Convention on Social Security and, on this basis, also covers refugees and stateless persons residing in the territory of a Party - and who are, or have been, subject to the social security legislation of one or more Contracting Parties.

From this perspective, the Convention is based on the principles laid down by the ILO for the coordination of national social security systems and in particular on compliance with the principle of equal treatment for all Community workers, regardless of the Member State in which they carry out their professional activities. In addition to this principle, Member States are required to recognise the application of a single legislation and, where appropriate, the aggregation of entitlements and the exportation of benefits.

The ECOWAS Convention does not oblige States to change the substance of their social security legislation. Coordination instruments only affect the situation of migrants, for example by obliging States not to treat them differently from nationals.

Moreover, it safeguards the rights of insured persons in the event of a dispute between the competent institutions: on the one hand, by provisionally granting them the benefits provided for by the legislation applied by the institution of the place of residence and, on the other hand, by providing them with legal remedies and appeals against administrative decisions infringing their rights.

In this context, however, it would be useful to ensure that the Convention is widely disseminated and to include provisions formalising the right of recourse to the ECOWAS Court of Justice.



## Key learning points

- ▶ While free movement encourages migration between the Member States of the region, the Convention complements this by enshrining and guaranteeing the social security rights of migrant workers. As such, it constitutes a necessary guarantee.
- ▶ The objective of the ECOWAS General Convention on Social Security is to guarantee to all nationals of Member States the benefit, in the territory of the Contracting Parties, of social security legislation under the same conditions as nationals.
- ▶ The General Convention on Social Security includes 63 articles divided into 6 titles as follows: **1. General provisions and scope; 2. Provisions governing the applicable legislation; 3. Special provisions governing the various categories of benefits; 4. Provisions concerning the maintenance of rights between provident fund institutions and provident fund; 5. Committee of experts on social security; 6. Miscellaneous provisions.**
- ▶ It is characterized by four main aspects: Its wide geographical scope of application, since it covers **15 countries**; Its material scope of application, which **includes all the benefits** provided for by ILO Convention No. 102, including unemployment benefits which were not covered by previous bilateral and sub-regional conventions; The inclusion in the coordination mechanism of pension schemes managed by **public provident funds and private pension funds** operating in a funded system; The automaticity of its entry into force, which is effective as soon as it is adopted by the Heads of State without the need to resort to the long internal ratification procedures of the Member States.
- ▶ Drawing on the guiding principles of the ILO, the Convention protects the social security rights of migrant workers and addresses the problems created by the territoriality and diversity of national social security systems. There are four basic principles: **Equal treatment; Determination of applicable legislation; Maintenance of rights acquired or in the process of being acquired; Exportation of benefits.**
- ▶ The Convention applies to the nine (9) categories of benefits provided for in ILO Convention No. 102 concerning the minimum standards of social security: **invalidity benefits; old-age benefits; survivors' benefits; benefits in the event of an accident at work and occupational disease; family benefits; maternity benefits; medical care; sickness benefits; unemployment benefits.**



## Test your knowledge

1. **The objective of the ECOWAS General Convention on Social Security is to guarantee to all nationals of Member States the benefit, in the territory of the Contracting Parties, \_\_\_\_\_**
  - a. of work opportunities and a higher standard of living
  - b. of more suitable work opportunities and benefits
  - c. of social security legislation under the same conditions as nationals.
  - d. of social security legislation under better conditions than nationals
  
2. **The material scope of the ECOWAS General Convention on Social Security includes \_\_\_\_\_ enacted by ILO Convention No. 102, including unemployment benefits that were not covered by previous bilateral and sub-regional conventions.**
  - a. Eight benefits
  - b. Two benefits
  - c. The majority of benefits
  - d. The minority of benefits
  - e. All the benefits
  
3. **The geographical scope of application of the ECOWAS General Convention on Social Security is extended, as it covers \_\_\_\_\_.**
  - a. 13 countries
  - b. 14 countries
  - c. 15 countries
  - d. 16 countries
  
4. **The ECOWAS General Convention on Social Security is characterized by:**
  - a. a. the inclusion in the coordination mechanism of pension schemes managed by public provident funds operating in a funded system;
  - b. b. the inclusion in the coordination mechanism of pension schemes managed by private pension funds operating in a funded system;
  - c. c. the inclusion in the coordination mechanism of pension schemes managed by public provident funds and private pension funds operating in a funded system;
  
5. **For the ECOWAS General Convention on Social Security to enter into force effectively after its adoption, all Member States must ratify it.**
  - a. TRUE
  - b. FALSE
  
6. **The Convention is based on the standards governing multilateral instruments for the coordination of national social security systems, which have been mainly enacted by the International Labour Organization (ILO) through its relevant Conventions.**
  - a. TRUE
  - b. FALSE

- 7. The basic principles of the Convention to ensure coordination of the schemes are as follows:**
- The maintenance of rights acquired or in the process of being acquired
  - Equal treatment
  - Exportation of benefits
  - Determination of the applicable legislation
- 8. One of the main objectives of the conventional Community system is to :**
- Protect the right of migrant workers to be subject to two or more national social security schemes
  - Prevent a migrant worker from being simultaneously subject to two or more national social security systems
- 9. The basic principle of maintaining acquired rights stipulates that periods of residence, employment or any other economic activity in one State should be recognised in other countries. This cumulation of periods of residence, employment or economic activity is called \_\_\_\_\_.**
- Harmonisation
  - Accumulation
  - Coordination
  - Aggregation
- 10. States A, B and C require 20 years, 15 years and 10 years of insurance respectively to qualify for an old-age pension. A migrant worker has completed 10 years of insurance in State A, 8 years in State B and 3 years in State C.**
- Tick the right answers**
- Even if the principle of aggregation applies, according to the "pro rata temporis" rule, the worker will not be entitled to an old-age pension in any of the three (3) national systems
  - If the principle of aggregation does not apply, the worker will not be entitled to an old-age pension in any of the three (3) national systems.
  - If the principle of aggregation applies, the worker will be able to demonstrate 21 years of employment, and thus comply with the rules of any of the three countries.
  - If the principle of aggregation and the "pro rata temporis" rule apply; and knowing that the worker has paid social contributions in countries A and B, when he retires in country C, the worker will be able to claim an old-age pension in country C equivalent to 21 years' work.
- 11. The principle of the exportation of benefits states that if someone already benefiting or likely to benefit from one of the benefits covered by the ECOWAS Convention settles in another State, his benefit must be paid by the State of origin.**
- TRUE
  - FALSE

1) c ; 2) e ; 3) c ; 4) c ; 5) b ; 6) a ; 7) a, b, c, d ; 8) b ; 9) d ; 10) c ; 11) a

Correct answers :



# Training activities :

## Training activity I: Aggregation exercise



### Aggregation exercise

#### Objectives :

- ▶ Discussing about the importance of protecting and respecting the principle of aggregation.
- ▶ Reflecting on the challenges of the aggregation principle



### Instructions for the trainer

Divide participants into 4 groups and share the following data with each group.

- States A, B and C require 20 years, 15 years and 10 years of insurance respectively to qualify for an old-age pension.
- A female migrant worker has completed 10 years of insurance in State A, 8 years in State B and 3 years in State C.

Afterwards, participants will discuss the following questions:

1. If the aggregation principle is not respected, is the migrant worker entitled to an old-age pension in a country?
2. If the aggregation principle is respected, in which country will the migrant worker be granted an old-age pension?
3. If the principle of "prorata temporis" is respected, can the migrant worker apply to country A for an old-age pension equivalent to 21 years' work?

At the end of the discussions, participants will share their results with the rest of the group.



### Tips

- ▶ Encourage all participants to actively participate in group discussions.



### Materials

- ▶ Writing material.
- ▶ Set of Post-its.



### Time

- ▶ 25 min for group discussions
- ▶ 10 min for final conclusions.

## Training activity II: 15% Solutions



### Objectives:

- ▶ Highlighting the contribution of each member of the work team
- ▶ Taking the lead and proposing innovative solutions to address the challenge of exporting benefits and the portability of social protection rights of migrant workers.

### 15% Solutions



### Instructions for the trainer

Participants will discuss and develop collective solutions to the problem of “exporting benefits to the ECOWAS region”.

First, the activity is carried out individually, by an unlimited number of people, then in pairs and small groups. Each participant has the opportunity to contribute.

- ▶ 5 minutes : Each participant prepares his own list of 15% solutions.
- ▶ 5 minutes : Each participant shares their ideas with a small group (3-4 members).
- ▶ 5 minutes : Group members play the role of consultants (asking for clarification of questions and offering advice).

Once all participants have contributed to the development of collective solutions, the groups will be able to present their conclusions in the plenary session.

Once the 1st cycle has been completed, if considered appropriate, the activity can start again with a new topic or problem..



### Tips

- ▶ Encourage all participants to actively participate in group discussions.
- ▶ The proposed topic “exportation of benefits” is an example of a problem, but the exercise can be adapted with different topics (e. g. cumulation of benefits; aggregation; portability, etc.)



### Materials

- ▶ Writing material.
- ▶ Set of Post-its.



### Time

- ▶ 15 min for cycle of discussion and development of ideas
- ▶ 10 min for final conclusions.



## EXTENDING SOCIAL PROTECTION TO MIGRANT WORKERS IN THE ECOWAS REGION: A capacity building toolkit on the ECOWAS General Convention on Social Security

**Module 1:** Social protection in ECOWAS: States, issues, challenges and policy responses

**Module 2:** Social protection for migrant workers: An overview

**Module 3:** Concepts and international standards on coordination of social security

**Module 4:** Introduction to the ECOWAS General Convention on Social Security: Origin, context, principles and key provisions

**Module 5:** Implementation of the ECOWAS General Convention on Social Security: Coordination of social security in the ECOWAS region

**Module 6:** Bilateral and multilateral social security agreements involving contracting parties of the ECOWAS General Convention on Social Security

**Module 7:** Gaps in the ECOWAS General Convention on Social Security

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