

Case C-23/92

Maria Grana-Novoa

v

Landesversicherungsanstalt Hessen

(Reference for a preliminary ruling
from the Bundessozialgericht)

(Social security for migrant workers — Equal treatment —
Convention concluded between a Member State and a non-member country)

Report for the Hearing	I - 4506
Opinion of Advocate General Van Gerven delivered on 28 April 1993	I - 4521
Judgment of the Court, 2 August 1993	I - 4533

Summary of the Judgment

*Social security for migrant workers — Legislation of a Member State within the meaning of Article 1(j) of Regulation No 1408/71 — Concept — Social security convention concluded between a single Member State and a non-member State — Excluded — Convention incorporated as statute law into the domestic legal order — No effect
(Regulation No 1408/71 of the Council, Art. 1(j))*

It follows from the provisions of Regulation No 1408/71 that the only international social security conventions which fall within its field of application are those to which at least two Member States are contracting par-

ties and that the regulation applies to conventions concluded with one or more non-member States only in so far as relations between Member States are concerned. On the other hand, no provision of the

regulation covers conventions concluded between a single Member State and one or more non-member States, either as regards the question whether and to what extent the scheme of the regulation is to replace them or as regards the application of the principle of equal treatment. It must therefore be concluded that the regulation was intended to exclude such conventions from its field of application.

In those circumstances Article 1(j) of Regulation No 1408/71 must be interpreted as meaning that the concept of 'legislation' referred to in that article does not cover the provisions of international social security conventions concluded between a single Member State and a non-member State. That interpretation is not invalidated by the fact that such conventions have been incorporated, as statute law, into the domestic legal order of the Member State concerned.

REPORT FOR THE HEARING in Case C-23/92 *

I — Legal provisions and factual and procedural background

1. *The rules at issue in the Federal Republic of Germany*

1. In the Federal Republic of Germany the *Reichsversicherungsordnung* (national social insurance code) makes the grant of a pension for incapacity for work dependent upon the insured person's completing a qualifying period of up to 60 months' insurance before the incapacity arises or 240 months' insurance before the application for a pension is made.

2. On 25 February 1964, Germany concluded with the Swiss Confederation a social

security convention (*Bundesgesetzblatt* 1965, II, p. 1294), amended by a supplementary convention of 9 September 1975 (BGBl. 1976, II, p. 1372).

That bilateral convention provides that for the acquisition of a right to benefits under the German rules account must be taken also of insurance periods completed according to Swiss law when the insurance periods to be taken into account under German law amount to at least 12 months.

Under that convention the principle of aggregation of insurance periods applies only to German and Swiss nationals.

* Language of the case: German.