

INTERNATIONAL SOCIAL SECURITY STANDARDS

Current Views and Interpretation Matters

Edited by

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PREFACE

Nowadays international law plays an important role in many areas of law. This is also true for social security systems, but this area of law appears to have a special status. This can clearly be seen in discussions on the revision of the EC Treaty or the proposed constitutional treaty for the European Union: ‘hands off social security!’ Still, a series of international instruments on social security have been developed in the framework of, in particular, the International Labour Organisation (ILO) and the Council of Europe.

In order to gain more knowledge of the impact and role of these standards, experts from several countries have made a study of the meaning of the instruments in their country. This led to a publication in the spring of 2006 on the impact of international social security standards on national social security law.¹ Since this book touched on many interesting issues, we thought it useful to organise a symposium in order to have an exchange of ideas of experts and persons who are in practice working with the standards. This symposium was held on 3 November 2006 at Tilburg University. It received financial support from the Stichting Instituut Gak, the Netherlands. I am grateful to the speakers at the conference for contributing to the success of the project and to the making of this book.

The present book contains the edited presentations made during the conference. They are preceded by an introduction to the conventions and followed by a chapter in which we put the contributions into perspective and draw some conclusions from them.

In the Annex we include materials which may be useful to the reader. Among these is the European Code of Social Security; since several chapters refer to the code readers may wish to have it within reach. In addition we include the texts of national case law in which conventions were given direct effect or in which such direct effect was denied. The Dutch texts are so far not available in English and we think that it is worthwhile that now also others than Dutch speakers are able to read them.

¹ Frans Pennings (ed.), *Between Soft and Hard Law. The Impact of International Social Security Standards on National Social Security Law*, The Hague 2006.

The book is part of the project 'Europe and social security', funded by the Stichting Instituut Gak, in which four PhD students participate under my supervision. Of them, Tineke Dijkhoff and Maria Korda investigate the contents and meaning of ILO and Council of Europe instruments on social security and study the role of these instruments in some European countries. Barbara Hofman studies whether new developments in Dutch social security are consistent with international standards, which study may also lead to proposals for the reform of these standards. Saskia Montebovi started a study on the effects of cross-border movement on these new forms of social security.²

The first three of the PhD students were already employed at the time of the conference; they supported me very much in organising the conference and in converting the contributions into readable texts. Kees Boos helped me to organise the conference, to edit the book and to correct the texts. Paula Vonk-Cunningham translated judgments 1 to 6 included in the Annex of this book.

Tilburg, 1 November 2007

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² For more information, see <www.tilburguniversity.nl/faculties/law/departments>, go to social law, research, Europe and social security.

LIST OF ABBREVIATIONS

AAW	Algemene Arbeidsongeschiktheidswet (National Law Relating to Incapacity for Work)
AB	Administratiefrechtelijke Beslissingen (Administrative Law Decisions – Dutch magazine)
ABP	Algemene Burgerlijke Pensioenwet (Public Servants' Superannuation Act)
Anw	Algemene nabestaandenwet (National Survivor Benefits Act)
AOG	Adjudication Officer's Guide
AOW	Algemene Ouderdomswet (National Old-Age Pension Act)
Awb	Algemene wet bestuursrecht (National Administrative Law Act)
AWBZ	Algemene Wet Bijzondere Ziektekosten (Exceptional Medical Expenses Act)
AWW	Algemene Weduwen- en Wezenwet (National Law on Widows and Orphans)
BW	Burgerlijk Wetboek (Netherlands Civil Code)
BEU	Wet beperking export uitkeringen (Benefit Restrictions (Foreign Residence) Act)
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CGTP-IN	General Confederation of Portuguese Workers
CRvB	Centrale Raad van Beroep (Central Appeals Court)
CS-CO	Committee of Experts on Standard Setting in the Social Security Field
CS-SS	Committee of Experts on Social Security
CEE	Central and Eastern European
CEEC	Central and Eastern European Countries
EC	European Community
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECSR	European Committee of Social Rights
ECSS	European Convention on Social Security
EI	Education International
ESC	European Social Charter
EU	European Union
FNV	Federatie Nederlandse Vakbeweging (Netherlands Trade Union Confederation)

List of Abbreviations

FYROM	Former Yugoslav Republic of Macedonia
GDP	gross domestic product
HR	Hoge Raad (Supreme Court of the Netherlands)
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
CFTU	International Confederation of Free Trade Unions
ICJ	International Court of Justice
IKA	Idryma Kinonikon Asfaliseon (Social Insurance Administration – Greece)
ILC	International Labour Conference
ILO	International Labour Organisation
LAI	(Swiss) Law on Invalidity Insurance
Lisv	Landelijk Instituut Sociale Verzekeringen (National Social Insurance Institute)
NGO	Non-Governmental Organisation
NLG	Nederlandse gulden (Dutch Guilder)
OECD	Organisation for Economic Co-Operation and Development
PSI	Public Services International
RSV	Rechtspraak Sociale Verzekering (Dutch magazine with law reports)
SER	Sociaal-Economische Raad (Dutch Social and Economic Council)
Stb	Staatsblad (Dutch Official Journal)
SVB	Sociale Verzekeringsbank (Social Insurance Bank)
Trb	Tractatenblad (Dutch Treaty Series)
TW	Toeslagenwet (Benefit Supplements Act)
UK	United Kingdom
UN	United Nations
USZO	Uitvoeringsinstelling Sociale Zekerheid voor Overheids- en Onderwijspersoneel (Benefits Agency for the Public Service and Education Sector)
Uwv	Uitvoeringsinstituut werknemersverzekeringen (Employees' Benefits Administration)
Wajong	Wet arbeidsongeschiktheidsvoorziening voor jonggehandicapten (Disability Assistance Act for the Young Disabled)
WAO	Wet op de arbeidsongeschiktheidsverzekering (Disability Insurance Act)
Wet BEU	Wet beperking export uitkeringen (Benefit Restrictions (Foreign Residence) Act)
WIA	Wet Werk en Inkomen naar Arbeidsvermogen (Work and Income (Capacity for Work) Act)
WWB	Wet Werk en Bijstand (Work and Social Assistance Act)
Zfw	Ziekenfondswet (Health Insurance Act)