

N° 3293.

FRANCE ET SUISSE

Convention concernant l'assistance
aux indigents, avec protocole de
signature. Signés à Paris, le 9
septembre 1931.

**FRANCE
AND SWITZERLAND**

Convention concerning Assistance to
Indigent Persons, with Protocol
of Signature. Signed at Paris, Sep-
tember 9, 1931.

¹ TRADUCTION. — TRANSLATION.No. 3293. — CONVENTION ² BETWEEN FRANCE AND SWITZERLAND CONCERNING ASSISTANCE TO INDIGENT PERSONS. SIGNED AT PARIS, SEPTEMBER 9, 1931.

French official text communicated by the Swiss Federal Council. The registration of this Convention took place November 9, 1933.

THE FEDERAL COUNCIL OF THE SWISS CONFEDERATION and THE PRESIDENT OF THE FRENCH REPUBLIC, being desirous of extending as far as possible to their respective nationals national treatment in the matter of assistance to indigent persons, have resolved with this object to conclude a Convention and have appointed as their Plenipotentiaries :

THE FEDERAL COUNCIL OF THE SWISS CONFEDERATION :

- M. A. DUNANT, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation at Paris, and
- M. H. ROTHMUND, Chief of the Police Division in the Federal Department of Justice and Police ;

THE PRESIDENT OF THE FRENCH REPUBLIC :

- M. Aristide BRIAND, Minister for Foreign Affairs ;

Who, having communicated their full powers, found in good and due form, have agreed on the following provisions :

Article 1.

Each of the Contracting Parties undertakes that indigent nationals of the other Party residing in its territory shall receive, on a footing of equality with its own nationals and on the same conditions as the latter, such assistance as they may require, including medical attendance and hospital treatment and, if necessary, suitable burial, in so far as concerns :

- (a) Persons suffering from physical or mental disease, or aged or infirm persons incapable of providing for themselves ;
- (b) Children for whose upkeep neither their family nor third parties are making adequate provision ;
- (c) Pregnant women, women in childbed, or nursing mothers.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² The exchange of ratifications took place at Paris, July 31, 1933.

Article 2.

The country of residence shall have the right either to repatriate to the country of origin nationals of the last-named country who have become a burden on the public health services or to demand from the country of origin a refund of the costs of assistance.

Notwithstanding, repatriation shall be avoided when the assistance is of a temporary character, more particularly in the case of assistance to women in childbed.

Article 3.

The country of residence shall notify to the country of origin, according to conditions to be further defined in an administrative agreement, cases of assistance involving the application of the provisions of Article 2. It shall state for each person assisted whether it intends to adopt the procedure of repatriation or whether it demands a refund of the costs of assistance.

The country of origin shall inform the country of residence within thirty days after the receipt of each notification, whether it recognises the assisted person as its national. It shall at the same time state its preference as regards repatriation or refund.

If the country of origin pronounces in favour of a refund, the country of residence shall in principle renounce repatriation, but it may maintain its decision, giving the special reasons for so doing.

The country of origin shall have the right to demand at any time the repatriation of its nationals who have been assisted in the country of residence. The decision shall in every case rest with the last-named country.

If the country of origin does not recognise the assisted person as its national, or if it has an imperative reason for refusing both repatriation and responsibility for the costs of assistance, it shall communicate the necessary grounds therefor to the country of residence within the period of thirty days fixed above.

Article 4.

The costs involved by assistance shall be borne by the country of residence until the date of the receipt by the country of origin of the notification referred to in Article 3 and during the thirty days following that date. All subsequent costs of assistance shall be borne by the country of origin until the cessation of the assistance or until the date of repatriation. The cost of transport as far as the frontier of the country of origin shall be borne by the country of residence.

Article 5.

If the repatriation is not carried out within thirty days after acceptance by the country of origin, the latter shall be released, on the expiry of that period, from the obligation to refund the costs, unless the assisted person is not capable of being transported or obstacles have occurred in the meantime which are not due to the country of residence, more particularly conditions of health precluding transport. Notice of the circumstances which prevent transport shall be given to the country of origin as soon as possible and at latest on the thirtieth day as from the acceptance of the repatriation by the latter.

Article 6.

The general accounts of the costs of assistance shall be closed each year at December 31. They shall be sent by each of the two countries to the other through diplomatic channels on March 31.

During the following quarter there shall be a final settlement of accounts and all adjustments of claims up to the amount of the sums due by either party.

Article 7.

Each of the Contracting Parties undertakes not to remove from its territory nationals of the other Party coming under one of the categories for which Article 1 provides, for the reason that they are in receipt of public assistance, save only by way of repatriation and under the conditions for which the present Convention provides.

The provision of the preceding paragraph shall not preclude the application of police measures such as expulsion, even to a person in receipt of assistance, if such measures are the normal penalty for infractions of laws or regulations. Nevertheless the application of such measures shall be suspended for such time as the status of the assisted person constitutes an obstacle thereto.

Article 8.

Detailed measures in application of the present Convention shall be determined by administrative agreement.

The execution of the Convention and Agreement shall be effected by direct correspondence (1) in the case of Swiss nationals in receipt of assistance in France, between the Swiss Legation in Paris and the Ministry of Public Health, and (2) in the case of French nationals in receipt of assistance in Switzerland, between the French Embassy at Berne and the Police Division of the Federal Department of Justice and Police.

Article 9.

Differences in regard to the interpretation of the present Convention shall be settled through diplomatic channels. Either Contracting Party may require the submission of a difference of interpretation to a Mixed Commission for decision. Such Commission shall be composed of two members, of whom each of the Contracting Parties shall nominate one. If the Mixed Commission does not arrive at a settlement of the difference, the two members of whom it is composed shall nominate a third party as arbitrator by common agreement to give a casting vote.

Article 10.

The present Convention shall apply to the home territory of France.

In Algeria Swiss citizens shall enjoy, within the limits and subject to the conditions for which the Convention provides, the same treatment as that to which French citizens are entitled.

French nationals within the meaning of the present Convention are such as have the qualifications of French citizens or Algerian subjects.

Article 11.

The present Convention shall come into force three months after the exchange of the instruments of ratification. It is concluded for five years. If not denounced by either of the Contracting Parties one year before the expiry of this period, it shall remain in force until the expiry of one year from the date of its denunciation by one of the Parties. It shall replace the Convention concluded on September 27, 1882, between France and Switzerland in regard to free assistance to insane persons and foundlings.

In faith whereof the respective Plenipotentiaries have signed the present Convention in duplicate original in Paris, this ninth day of September nineteen hundred and thirty-one.

(Signed) DUNANT.

(Signed) BRIAND.

(Signed) ROTHMUND.

PROTOCOL OF SIGNATURE.

I.

The present Convention lays down the principle that the country of residence of the assisted person shall decide in the last resort whether repatriation shall be carried out or not. This rule, which has the advantage of imposing a solution, will be applied by the Contracting Parties, with the necessary moderation. Accordingly, it is not their intention to proceed to repatriation when reasons of humanity would preclude such a course, for example, when that measure would have the effect of breaking family ties or links of attachment with the country resulting from rights of citizenship ("indigénat") or from a very lengthy stay, or, again, if it would compromise the future of the assisted person.

In the same spirit, the Contracting Parties agree that repatriation may include also the husband or wife and the children of the assisted person who are under age, or the father and mother of an assisted child, but the repatriation of the said persons would be carried out only by joint agreement between the two countries.

II.

In view of the assistance enjoyed by French subjects in Switzerland outside the cases provided for in the present Convention, it is understood that, as a measure of reciprocity, Swiss subjects shall receive in France family allowances having the character of ordinary relief on condition that their families reside therein. Nevertheless, Swiss subjects shall not be entitled in France to allowances having the character of direct encouragement of the national birth rate.

III.

Persons having proceeded to one of the two countries with the manifest intention of obtaining treatment for an illness existing at the moment when they proceeded thither shall not be regarded as having the residence provided for in Article 1 of the present Convention.

IV.

In the circumstances laid down in the second paragraph of Article 2 the Contracting Parties shall also refrain from claiming the refund of assistance costs in cases when the duration of assistance only exceeds by a few days the period specified in Article 4.

V.

The two Contracting Parties agree that, in cases in which nationals of one of the two countries are supported by the public assistance authorities of the other country in circumstances of a permanent character for reasons other than those referred to in the present Convention, repatriation may be considered. It shall be effected as far as the frontier at the expense of the country of residence, and only by common agreement between the two countries.

The two Contracting Parties shall endeavour to take steps to shorten as much as possible the time-limits at present in force for repatriations.

VI.

The provisions of the present Convention refer to assisted persons whom each of the Contracting Parties recognises as its nationals. The country called upon to repatriate an assisted person may

not refuse on the ground that such person is not its national, if the assisted person is in possession either of a national passport issued to him by an authority of the country applied to, not mentioning a foreign nationality, or a registration certificate delivered to him by a diplomatic or consular agent of the said country, stating that the holder is a national thereof. In this case the country of residence may only claim repatriation. If repatriation is not effected by the latter within the period specified in Article 5 of the Convention, the country applied to shall be exempted both from the obligation to receive the assisted person and from the refund of subsequent expenses.

VII.

In signing the present Convention the Contracting Parties do not intend to affect the right of the two countries to claim the refund of their costs from the assisted person himself or from the persons legally obliged to assist him. The Contracting Parties shall provide each other with such help, as their national legislation permits, to make good such claims.

VIII.

Being anxious to ensure national treatment to the greatest possible extent to Swiss subjects in France and to French subjects in Switzerland, the Contracting Parties shall take steps to ensure that the equality of treatment laid down for the categories of assistance provided for in the present Convention shall be provided for by means of subsequent agreements, in any new developments which may take place in their legislations in this field.

In faith whereof the respective Plenipotentiaries have signed the present Protocol in duplicate originals at Paris on September 9, 1931.

(Signed) DUNANT.

(Signed) BRIAND.

(Signed) ROTHMUND.