

No. 3835

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**ITALY**  
**and**  
**FEDERAL REPUBLIC OF GERMANY**

**Convention on Social Security (with Final Protocol).**  
**Signed at Rome, on 5 May 1953**

*Official texts: Italian and German.*

*Registered by Italy on 15 May 1957.*

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**ITALIE**  
**et**  
**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Convention sur l'assurance sociale (avec Protocole final).**  
**Signée à Rome, le 5 mai 1953**

*Textes officiels italien et allemand.*

*Enregistrée par l'Italie le 15 mai 1957.*

[TRANSLATION — TRADUCTION]

No. 3835. CONVENTION<sup>1</sup> BETWEEN THE ITALIAN REPUBLIC AND THE FEDERAL REPUBLIC OF GERMANY ON SOCIAL SECURITY. SIGNED AT ROME, ON 5 MAY 1953

THE PRESIDENT OF THE ITALIAN REPUBLIC

and

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

Desirous of regulating mutual relations between their two countries in the field of social security, have resolved to conclude a convention and for this purpose have appointed as their plenipotentiaries :

The President of the Italian Republic :

Professor Francesco Maria Dominedò, Under-Secretary for Foreign Affairs ;

The President of the Federal Republic of Germany :

Mr. Maximilian Sauerborn, State Secretary in the Federal Ministry of Labour,

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

PART I

GENERAL PRINCIPLES

*Article 1*

- (1) The following legislative measures shall be covered by this Convention :
1. In the Italian Republic :
    - (a) The legislation respecting sickness insurance ;
    - (b) The legislation respecting tuberculosis insurance ;
    - (c) The legislation respecting economic assistance and health insurance for working mothers, in so far as this involves payments in cash and in kind by social insurance institutions during pregnancy and after birth ;
    - (d) The legislation respecting insurance against industrial accidents and occupational diseases ;

<sup>1</sup> Came into force on 1 April 1956, in accordance with article 40, the exchange of the instruments of ratification having taken place at Bonn on 23 March 1956.

- (e) The legislation respecting general insurance against invalidity and old age, as well as survivors' insurance ;
  - (f) The legislation respecting special types of insurance prescribed for specific occupational groups, provided they concern risks and benefits which are covered by the legislative measures listed under the preceding sub-headings ;
2. In the Federal Republic of Germany :
- (a) The legislation respecting sickness insurance ;
  - (b) The legislation respecting the protection of working mothers, in so far as this involves payments in cash and in kind by the legally constituted sickness insurance institutions during pregnancy and after birth ;
  - (c) The legislation respecting accident insurance ;
  - (d) The legislation respecting wage-earners' pension insurance (invalidity insurance), salary-earners' pension insurance (salaried employees' insurance), and mine workers' pension insurance.

(2) This Convention shall apply to all laws and other provisions issued for the purpose of carrying out, supplementing or amending the legislative measures mentioned in paragraph 1. The Convention shall apply to any laws or other provisions which extend existing legislative measures to a new branch of social security or to a new class of beneficiaries, provided that no objections are raised against such an extension by the Government of one Contracting State to the Government of the other Contracting State within three months after the official notification of the legislation in question.

#### *Article 2*

(1) Italian nationals residing in the Federal Republic of Germany and German nationals residing in the Italian Republic shall be subject to the legislative measures mentioned in article 1. In that respect, they shall have the same rights and duties as nationals of the Contracting State in whose territory they are residing.

(2) Italian and German nationals residing in the territory of one of the two States who cease or have ceased to be insured under an insurance system of the other Contracting State may become voluntarily insured in the country of residence subject to the same conditions and time-limits as insured persons who have withdrawn from the insurance system of that country. For that purpose, the insurance periods to be counted in the two States for the right to voluntary insurance shall be aggregated, irrespective of whether the said periods relate, or have related, to a compulsory or voluntary form of insurance. If, under the foregoing provisions, the continued insurance under the German wage-earning employees' pension insurance system (invalidity insurance) or the salaried employees' pension insurance system (salaried employees' insurance), is admissible, such continued insurance shall take effect only in that one of the two insurance systems which is competent in accordance with the nature of the last employment in the Italian Republic subject to compulsory insurance.

*Article 3*

(1) Nationals of either of the two Contracting States who are resident in the territory of the other State shall be entitled to the social insurance benefits which are to be granted under the provisions of each of the two Contracting States in accordance with this Convention, including additional allowances from the public funds, without any restriction except as may be provided by mutual agreement.

(2) The social insurance benefits of one of the two Contracting States, including additional allowances from the public funds, shall be granted to nationals of the other State who are resident in the territory of a third State under the same conditions and to the same extent as to its own nationals when resident in the third State.

(3) The provisions of paragraphs (1) and (2) shall apply notwithstanding any domestic legislation respecting the exclusion of claims or the suspension or withdrawal of benefits on account of temporary or permanent residence abroad.

(4) For the purposes of the provisions of each of the two Contracting States concerning the settlement of claims, permanent or temporary residence in the territory of the other State shall not be deemed to be permanent or temporary residence in a foreign country in the case of Italian and German nationals.

*Article 4*

When giving effect to social insurance measures the principle shall be to apply the regulations of the Contracting State in whose territory the occupation covered by the insurance is exercised.

*Article 5*

(1) The principle laid down in article 4 shall be subject to the following exceptions :

1. If an employee of an undertaking in the territory of one of the two Contracting States is transferred for a limited time to the territory of the other State, or if a person who is self-employed in one of the two Contracting States exercises his occupation for a limited time in the territory of the other State, the regulations of that State shall continue to apply where the employee's undertaking or the occupation of the self-employed person has its head office provided that residence in the other territory does not exceed six months. This shall also apply if the employee or self-employed person, by reason of the special nature of his occupation, resides in the territory of the other State on repeated occasions, provided that no single period of residence exceeds six months. If, for unforeseeable reasons, the period of his employment in the territory of the other Contracting State exceeds the limit of six months, the regulations of the State in which his undertaking has its head office may, by way of exception and subject to

the approval of the supreme administrative authorities of the State in which he is temporarily employed, continue to be applied.

2. If employees of a public transport undertaking which has its head office in the territory of one of the two Contracting States are temporarily employed as travelling personnel in the territory of the other State, only the regulations of that State in which the undertaking has its head office shall be applicable. This shall also apply to the employees of an air line having its head office in the territory of one of the two Contracting States, provided that they are nationals of that State and are engaged in flying or ground duties in the territory of the other State, as well as to the other employees of these undertakings irrespective of their nationality who are temporarily transferred to the territory of the other State.
3. The crew of a sea-going vessel shall be subject to the regulations of the Contracting State under whose flag the vessel is sailing. Persons who are engaged in a port of one of the two Contracting States for the work of loading, unloading or repairs or as watchmen for such a vessel shall be subject to the regulations of the State in whose territory the port is situated.
4. Employees of a public administrative department of one Contracting State who are posted to the territory of the other shall be subject to the regulations of the office by which they are posted.
5. Members of diplomatic and consular missions of the two Contracting States—with the exception of honorary consuls—their office personnel and those employed by them for personal services shall be subject to the regulations of the Contracting State of which they are nationals. However, persons who are not regular civil servants, clerical staff or are employed for personal services may, subject to the approval of the highest Government authority responsible for the diplomatic or consular missions of their State, request to be insured in accordance with the regulations of the State in which they are employed, provided that such request is made within three months after they enter upon their duties. If the employment relationship already existed at the date of coming into force of this Convention, the period of three months shall run from the said date.

(2) The supreme administrative authorities of the two Contracting States may by agreement provide for additional exceptions to the principle laid down in article 4; they may further, by mutual agreement, permit modification of the provisions of paragraph 1 in its application to individual cases or groups of cases.

#### *Article 6*

(1) If, under the regulations of one of the two Contracting States, a social security benefit, or allowances of some other kind, or a position of employment or social security relationship have certain legal effects upon a right to social

security benefits, compulsory insurance, exemption from insurance or voluntary insurance, the same legal consequences shall follow from similar benefits or other allowances paid by the other State, or from a similar employment or insurance relationship in the other State.

(2) If, according to paragraph 1, allowances paid by one Contracting State result in the reduction or suspension of benefits of both Contracting States, only such part of the allowances may be used by the respective insurance boards in calculating the reduction or suspension as corresponds to the relative periods of contribution and replacement which are taken as a basis in calculating benefit payments in the Italian and German social security schemes.

## PART II

### INSURANCE COVERING SICKNESS, TUBERCULOSIS, MATERNITY AND DEATH (FUNERAL BENEFIT)

#### *Article 7*

Italian and German nationals who remove from the territory of one Contracting State to that of the other shall, together with their legally entitled dependants, be entitled to receive insurance benefits from the other State covering sickness, tuberculosis, maternity and death (funeral benefit), provided that :

1. They have engaged in an occupation which is subject by law to compulsory insurance in the State to which they have removed, or have entered a voluntary insurance system in that State,
2. They fulfil the conditions required for eligibility for benefit under the legislation of the State to which they have removed ; for this purpose, the contribution and insurance periods which have accrued in both States shall be aggregated.

#### *Article 8*

If an insured person is entitled to receive benefits in respect of the same event giving rise to the claim from the insurance institutions of both Contracting States, he, and his legally entitled dependants, may claim benefits from only one insurance institution. The benefits must be paid by the insurance institution of the State in which the insured was residing at the time when the event giving rise to the claim took place.

#### *Article 9*

(1) An insured person who has a claim against an insurance institution of one of the two Contracting States and removes to the territory of the other State

after the occurrence of the event giving rise to the claim shall retain his claim, provided that the competent insurance institution has previously assented to his change of residence. Such assent may only be refused by reason of illness on the part of the insured. With respect to maternity benefits, the assent may be given before the occurrence of the event giving rise to the claim. The insurance institution may give assent subsequent to the event provided that the insured fulfils the necessary requirements and can give good and sufficient reasons for not having requested permission earlier.

(2) An insured person shall retain his claim against the insurance institution to which he belongs even if the event on which his claim is based takes place in the territory of the other Contracting State.

(3) The provisions of paragraphs 1 and 2 shall likewise apply to the legally entitled dependants of the insured.

#### *Article 10*

(1) In the cases covered by article 9, benefits in kind shall be paid by the competent insurance institution of the insured's place of residence in accordance with the regulations by which that institution is governed. In addition, the competent insurance institution of the insured's place of residence shall, at the request of the insurance institution which is responsible for the claim, pay cash benefits in accordance with the regulations governing the latter, which shall inform the disbursing institution of the amount of such cash benefits and the maximum period for which they are to be paid.

(2) The insurance institution responsible for the claim shall reimburse the insurance institution of the other State which paid the benefits for any expenses arising in that connexion. Details concerning the repayment of expenses shall be settled between the supreme administrative authorities of the two Contracting States ; lump sums may also be fixed for repayment.

(3) The supreme administrative authorities of the two Contracting States shall agree on guiding principles for carrying out the provisions of paragraphs 1 and 2.

#### *Article 11*

The legally entitled dependants of an insured person who has a claim on an insurance institution of one of the two Contracting States shall, if resident in the territory of the other State, receive benefits from the insurance institution responsible for the dependant's place of residence in accordance with the regulations by which that institution is governed. The periods during which benefits have already been paid for the same insurance claim shall be deducted from the maximum period for which such benefits can be paid. The cost of the benefits shall be borne by the insurance institution to which the insured person belongs. That insurance

institution shall reimburse the insurance institution which paid the benefits for any expenses arising out of such payments ; article 10, paragraph 2, second sentence, and paragraph 3 shall apply, *mutatis mutandis*.

### PART III

#### INSURANCE AGAINST INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

##### *Article 12*

The provisions of articles 9 and 10 shall apply, *mutatis mutandis*, to insurance against industrial accidents and occupational diseases, but shall be limited to benefits in cash and in kind which, under Italian law, have to be paid during the temporary period of incapacity for work and, under German law, until medical treatment has been completed.

##### *Article 13*

In determining the obligation to pay sickness benefits and the degree of incapacity for work in connexion with industrial accidents or occupational diseases to which the law of one Contracting State is to be applied, account shall be taken of previous industrial accidents or occupational diseases to which the law of the other Contracting State is to be applied in the same way as previous accidents or occupational diseases which were subject to the legislation of the first State. Previous industrial accidents or occupational diseases shall be deemed to include both accidents or diseases for which compensation is paid and those in which the degree of incapacity for work is below the minimum prescribed for compensation. Compensation for a subsequent accident or subsequent occupational disease however shall only be paid if the law to be applied to the accident or occupational disease so provides.

##### *Article 14*

(1) If compensation for occupational diseases must be paid under the legislation of either of the two Contracting States such benefits shall be paid by the insurance institution of that State in whose territory work was last performed of a type which entailed the special risk of the occupational disease in question.

(2) If, after receiving compensation for an occupational disease from one of the two Contracting States, an insured person submits a claim for the same disease in the other State, the insurance institution of the first State shall also be obliged to pay the subsequent benefits.



*Article 15*

(1) Insurance institutions of either of the two Contracting States which investigate an industrial accident or occupational disease suffered by a national of the other Contracting State shall inform the competent diplomatic or consular authorities of that State of the results of said investigation.

(2) Diplomatic and consular authorities shall have the same right as the parties concerned to inspect the records of the investigation and follow the subsequent proceedings.

*Article 16*

If the owner of an undertaking whose principal place of business is situated in the territory of one of the two Contracting States engages in work in the territory of the other State of a type subject to compulsory industrial accident insurance in that territory, he shall not be required to pay larger contributions to this insurance scheme by reason of the fact that the principal place of business of his undertaking is not situated in the territory of the Contracting State in which the work is being done.

## PART IV

PENSION INSURANCE (INSURANCE COVERING INVALIDITY OR INCAPACITY TO CARRY ON AN OCCUPATION, AS WELL AS OLD AGE AND DEATH—PENSION INSURANCE)

*Article 17*

(1) In the case of persons who were insured in one or more branches of the pension system in both Contracting States, the periods (contribution periods) for which contributions have been paid and which have to be taken into account by both insurance institutions shall be added together, both with respect to the acquisition of the right to benefits and the maintenance or recovery of the said right. This shall also apply to substitute periods which, under the regulations of both Contracting States, are deemed to be equivalent to contribution periods. Other substitute periods shall be taken into account only by the insurance institution of the Contracting State under the regulations of which such periods are deemed to be equivalent to contribution periods. Contribution and substitute periods which overlap shall be counted only once in each State. Insurance periods governed only by Italian law which are neither contribution periods nor substitute periods shall be taken into account only by the Italian insurance institution, even if the insurance relationship was first entered into under the German pension insurance system. Substitute periods which are to be taken into account according to the legislative provisions of both Contracting States shall, for the purpose of calculating benefits, be taken into account only in that State in the insurance scheme of which the last contribution previous to the substitute period was paid.

(2) If, under the regulations of both Contracting States, the insured's right to certain benefits depends on the fact that the insurance periods were completed by him while engaged in an occupation subject to some special insurance system, such periods shall be added, as provided in paragraph 1, only to the corresponding periods which must be taken into account by the insurance institutions of the other State. If, in one of the two Contracting States, there is no special insurance system for this specific occupational group, the period which should be covered by such special insurance in that State shall be aggregated with the contribution periods which have been completed in the other State in the insurance system covering the occupational group in question. If, in spite of the aggregation of the periods mentioned in the two preceding sentences, the insured has no right to the benefits from the special insurance system referred to in the first sentence, the periods completed in both States shall be aggregated as provided in paragraph 1.

#### *Article 18*

(1) With respect to the application of article 17, benefits shall be determined by the insurance institutions of both Contracting States in the following manner :

1. Each insurance institution shall determine whether, in accordance with the legislation of its own country and with due regard to this Convention, the insured person fulfils the conditions entitling him to benefits.
2. If a claim to benefit is admitted, it shall be calculated in accordance with the domestic legislation binding upon the insurance institution making the calculation. For that purpose, German insurance institutions shall add supplementary amounts in respect of the contribution and substitute periods which have been completed in Italy. The supplementary amounts shall be computed on the basis of the average annual remuneration resulting from the calculation of the sum total of the remuneration during the entire period of employment in Germany, to the extent that they were to be taken into account according to German legislation for the calculation of the contribution to the pension insurance system. Contribution and substitute periods completed in the German insurance system shall be taken into account by the Italian insurance institution up to the average annual amount resulting from the calculation of the sum total of the contributions paid to the Italian insurance system. The pension thus calculated shall be paid up to that fraction which corresponds to the proportion of the domestic contribution and substitute periods, taken into account by the responsible insurance institution in computing the benefits, to the sum total of contribution and substitute periods taken into account in computing benefits from the insurance institutions of both States.

(2) If the benefits to be paid by the insurance institutions of both States do not amount to the minimum pension of the State in which the benefit is paid, the insurance institution of that State shall pay the additional amount required to make up the minimum pension. The insurance institutions of both States shall

pay such fraction of the additional amount as corresponds to the proportion which the contribution and substitute periods that have accrued in each of those States at the time the pension was determined bear to the sum-total of contribution and substitute periods.

(3) If, under the regulations of the two Contracting States, there is, with respect to article 17 and this article, a right to a pension in only one of these States and if the pension to be paid in that State does not amount to the minimum pension, then the insurance institution that determines the pension shall, in addition to its own share, pay such part of the difference between that share and the minimum pension as corresponds to the proportion which the contribution and substitute periods completed in each State at the time when the pension was determined bear to the total contribution and substitute periods completed in both States. If, with respect to article 17 and this article, a pension claim subsequently becomes valid under the regulations of both States and if the total of these pensions does not amount to the minimum pension of the State in which the pension is paid, the provisions of paragraph 2 shall apply.

(4) If under the insurance system of one of the two Contracting States not more than twenty-six contribution weeks (six contributing months) are to be taken into account for the calculation of a pension, no claim for benefits can be made against this insurance system unless the waiting period is deemed to be completed under the domestic legislation governing the said system or unless completion of that period is not necessary. If, accordingly, there is no claim to benefits, the benefits to be paid out of the other insurance system under paragraph 1, subparagraph 2, shall not be reduced.

#### *Article 19*

If a claim is valid under the regulations of one of the two Contracting States even if regard is not had to article 17, and if a claim is not valid in the territory of the other Contracting State even having regard to article 17, the insurance institution in the former State shall compute benefits according to the regulations of that State without regard to article 18. If a claim subsequently becomes valid against the insurance institution of the other Contracting State having regard to article 17, then article 18 shall apply.

#### *Article 20*

If the total amount of the pensions computed in accordance with this Convention are less than the pension to which a claimant in one of the two Contracting States would be entitled under the regulations of that State alone, without regard to article 17, the insurance institution of that State shall increase the pension payable by it by the amount of the difference. The conversion shall be calculated

for the date on which the increased pension, including the aforesaid difference, was computed. A fresh calculation of the pension shall take place only in cases where the rate of conversion changes by more than 10 per cent.

PART V

COMMON AND MISCELLANEOUS PROVISIONS

Chapter I

PAYMENT OPERATIONS — CURRENCY CONVENTION

*Article 21*

(1) Insurance institutions responsible for paying benefits under this Convention shall pay cash benefits in their own currency, which shall have the effect of a legal discharge.

(2) Transfers falling due under this Convention shall be treated as current payments and shall be made in accordance with the Payments Agreement in force between the two Contracting States on the date of the transfer. This shall also apply to transfers to a third State provided that there is a payment agreement with that State.

(3) If under the regulations in one of the two Contracting States payments to a foreign country depend upon the fulfilment of specified formalities, the regulations applying to nationals shall apply equally to persons and institutions paying or receiving benefits under this Convention.

(4) Cash benefits under pension systems, as well as pensions and funeral benefit under accident insurance systems which are to be paid by the insurance institutions of one of the two Contracting States to a claimant in another State, shall be paid by the insurance institution which is competent for the claimant's place of residence and charged to the account of the responsible insurance institution in accordance with the regulations by which the latter is governed. Further details, particularly those concerning the mutual repayment of costs and the instructions for payment to be issued, shall be agreed upon by the supreme administrative authorities of the two Contracting States. In addition, those authorities may agree upon an arrangement for the payment of certain pensions which differs from that referred to in the first sentence of this paragraph.

*Article 22*

If, in establishing a claim on the social insurance scheme of one of the two Contracting States, it is necessary to compute the amount of a social insurance benefit or other moneys in the currency of the other State, that amount shall be converted in accordance with the provisions concerning social insurance transfers

which are contained in the payments agreement in force at the time between the two States, with due regard to the respective conditions for settlement in force for the time being in each State.

## Chapter II

### ADMINISTRATIVE ASSISTANCE

#### *Article 23*

(1) The social insurance institutions, associations and authorities of the Contracting States shall, in carrying out this Convention, give each other mutual assistance to the same extent as if the administration of their own social insurance were involved ; this mutual assistance shall be free of charge. Likewise if the social insurance authorities of one State find it necessary to make inquiries and collect evidence in the other State, they may, for that purpose, call upon the diplomatic or consular authorities which represent that State in the country where their own main office is located. Medical examinations which are carried out in connexion with the social insurance system of one Contracting State and concern persons residing in the territory of the other State shall, at the request of the responsible insurance institution and at the latter's expense, be carried out by the insurance institution of the State of residence of the persons to be examined. The supreme administrative authorities of the two Contracting States may agree on further details concerning the repayment of costs.

(2) Claims derived from contributions in arrears which are held by insurance institutions of one Contracting State shall, in case of enforced execution procedure, bankruptcies and settlements in the other State, enjoy the same rights as corresponding claims held by insurance institutions of the latter State.

(3) If a benefit is to be computed on the basis of insurance periods in both States, the insurance institutions concerned, before computing that benefit shall if they intend to refuse the benefit give each other an opportunity to express their opinions and state the reasons.

#### *Article 24*

(1) Exemptions from fees and taxes granted by the legislation of one of the two Contracting States for the administration of its social insurance system shall also apply to insured persons and their employers, to claimants, persons possessing rights to insurance benefits, to insurance institutions and their associations, as well as to the social insurance authorities of the other State.

(2) All files, documents and other written instruments which have to be produced in connexion with the application of this Convention shall be exempt from authentication or certification by diplomatic or consular authorities.

*Article 25*

The social insurance institutions, associations, authorities and tribunals of the two Contracting States shall deal directly with each other, with the insured persons and with their representatives in carrying out this Convention.

*Article 26*

The diplomatic and consular authorities of the two Contracting States are authorized, without being required to possess any special power of attorney, to represent those of their own nationals who possess rights to insurance benefits in their dealings with all social insurance institutions, authorities and tribunals of the other State.

*Article 27*

(1) Petitions which are submitted to the insurance institutions or other competent offices of one Contracting State shall also be regarded as petitions to the insurance institutions or other competent offices of the other Contracting State.

(2) Legal appeals which have to be lodged within the prescribed period with an office of one of the two Contracting States authorized to receive appeals shall be deemed to have been lodged within the time-limit if they are submitted within that time-limit to a corresponding office of the other State. In that case, the latter office shall forward the application for appeal to the competent office without delay. If the office where the appeal has been lodged does not know which is the competent office, the appeal may be forwarded through the supreme administrative authorities of the two Contracting States.

*Article 28*

Requests which are addressed to the social insurance institutions, authorities or tribunals of the two Contracting States, as well as other documents used for the purposes of social insurance administration, shall not be refused because they are written in the official language of the other State.

## Chapter III

*SCOPE OF APPLICATION OF THE CONVENTION**Article 29*

The insurance institutions in the German Federal Republic shall assume the following claims to benefits and claims based on rights from qualifying periods which arose before 1 May 1945 in the German accident insurance system and the

German pension insurance system, or which were taken over into those insurance systems from the insurance systems of other States before that date :

1. In the accident insurance system : claims arising out of industrial accidents and occupational diseases which occurred in the territory of the German Federal Republic or on board sea-going vessels whose home port was located in that territory and which were sailing under the German flag, including cases that arose prior to the establishment of the German Federal Republic; industrial accidents or occupational diseases within the meaning of this provision shall also include cases which were connected with an occupation in the territory of the German Federal Republic but which occurred outside of that territory.
2. In pension insurance systems : claims which have been acquired and claims based on rights from qualifying periods arising out of :
  - (a) Contribution and substitute periods which were completed in the territory of the German Federal Republic, including those that were completed before the establishment of the German Federal Republic ;
  - (b) Contribution and substitute periods which were completed in German pension insurance systems outside the territory of the German Federal Republic, in so far as those periods are to be taken into account in the case of persons possessing rights to insurance benefits who reside in the territory of the German Federal Republic, provided that :
    - (aa) The insured person, at the time of membership in the German pension insurance system, was in the last stage, covered by compulsory insurance within the territory of the German Federal Republic, or was covered mainly by compulsory or voluntary insurance within that territory, or
    - (bb) The contribution and substitute periods had already been computed in connexion with a benefit which was paid by some insurance institution having its main office within the territory of the German Federal Republic before this Convention entered into force.

#### Chapter IV

#### IMPLEMENTATION AND INTERPRETATION OF THE CONVENTION

#### Article 30

(1) The supreme administrative authorities of the two Contracting States shall enter into a direct agreement with each other concerning the detailed measures which will be required to carry out this Convention, in so far as mutual agreement is necessary for that purpose. They may, in particular, enter into agreements on the following subjects :

1. The appointment by each party of liaison offices to facilitate implementation of this Convention and deal with each other direct ;
2. The medical and administrative supervision of persons entitled to benefits.

In case liaison offices are established, the liaison offices in the German Federal Republic which serve, respectively, the wage-earning employees' pension insurance system (sickness insurance), the salaried employees' pension insurance system (salary-earners' insurance) and the mine-workers' pension insurance system shall also be responsible for verifying claims for benefits submitted under Part IV of the Convention, provided that such responsibility does not lie with the Federal Railway Insurance Institution (Bundesbahn-Versicherungsanstalt) or the Seamen's Fund (Seekasse). Decisions concerning legal appeals which are brought against the findings of these offices by duly qualified claimants residing outside the German Federal Republic shall be made by the Superior Insurance Office (Oberversicherungsamt) of the district in which the liaison office whose decision is contested is situated.

(2) The supreme administrative authorities shall keep each other regularly informed about changes in their domestic legislation in social insurance matters.

(3) The social insurance institutions, associations and authorities of the two Contracting States shall keep each other informed of all measures taken by them for the purpose of giving effect to this Convention.

#### *Article 31*

(1) Disputes concerning the interpretation or application of this Convention shall be settled by mutual agreement between the supreme administrative authorities of the two Contracting States.

(2) If a dispute cannot be settled in this way, it shall, at the request of one of the two Contracting States, be submitted to an arbitration board.

(3) The arbitration board shall be constituted in such a manner, that as each case arises, the supreme administrative authorities of the two Contracting States shall each appoint one representative and those two representatives shall agree upon a member of a third State to serve as umpire. If the representative and umpire are not appointed within three months after one Contracting State has announced its intention to appeal to an arbitration board, each Contracting State may, in the absence of some other agreement, request the President of the International Court of Justice at The Hague to make the necessary appointments. If the President is a national of one of the two Contracting States, or is prevented for some other reason from making the appointments, they shall be made by one of his official representatives.

(4) The arbitration board shall make its decisions on the basis of this Convention with due regard for the generally recognized principles of law.



(5) The arbitration board shall reach its decisions by a majority vote. The decisions shall be binding. Each Contracting State shall bear the expenses of its own representative. The remaining expenses shall be borne by the two Contracting States in equal parts. In all other matters, the arbitration board shall decide on its own procedure.

#### *Article 32*

If contributions are paid to an insurance institution of one of the two Contracting States although they should have been paid to an insurance institution of the other State, the first insurance institution shall be regarded as the qualified recipient until the proper recipient is determined by mutual agreement or until the dispute respecting competence is settled by a legally valid decision as prescribed in article 31. Such agreement or decision shall only apply to insurance contributions falling due in the future and to insurance claims arising in the future.

#### *Article 33*

(1) If a dispute arises between the social insurance institutions or authorities of the two States concerning the law which is to be applied, the person entitled to receive benefits shall be given an advance payment until the dispute is settled in the manner prescribed in articles 31 and 32.

(2) The insurance institution with which the claimant was last insured shall be responsible for making the advance payment and in cases of doubt the insurance institution with which the claim was first lodged.

(3) The advance payment made to the claimant by the insurance institution concerned shall consist of those benefits which it was obliged to pay under the laws governing its operations.

(4) The amount disbursed by the insurance institution making the advance payment shall be repaid, in a lump sum, by the insurance institution having final responsibility. If the amount which the claimant received in advance payment is greater than the final benefits to which he was entitled for the period in question, the insurance institution having final responsibility shall charge the difference against future benefits to be paid, up to an amount not exceeding one third of their value.

#### *Article 34*

The legal provisions of the two Contracting States concerning the right of election and eligibility for election of insured persons and their employers in the organs of the insurance institutions and their associations, as well as in the social insurance authorities, shall not be affected by the provisions of Article 2.

*Article 35*

Within the meaning of this Convention, the supreme administrative authorities shall be ;

In the Republic of Italy : the Minister for Labour and Social Welfare ;

In the German Federal Republic : the Federal Labour Minister.

## PART VI

## TRANSITIONAL AND FINAL PROVISIONS

*Article 36*

(1) The provisions of this Convention shall also apply to insurance claims which arose before it entered into force. In carrying out this Convention, consideration shall also be given to contribution and substitute periods which were completed before it went into effect.

(2) Benefits which have not yet been applied for when this Convention goes into effect shall, upon request, be computed in accordance with this Convention and with the relevant domestic legislation. Benefits which are computed or applied for before this Convention enters into force shall be paid in accordance with this Convention and with the relevant domestic legislation without requiring the submission of a new application, and if necessary they shall be computed again ; this shall not be affected by earlier, legally valid decisions.

(3) Benefits shall not be paid on the basis of the provisions of this Convention before the latter enters into force, except as otherwise provided in a supplementary agreement.

(4) The provisions of paragraph 1, first sentence, and paragraph 2 shall not apply to benefits in the sickness insurance system and under the legislation for the protection of working mothers ; in the accident insurance system they shall apply only to pensions.

*Article 37*

Refusal to apply the provisions of this Convention cannot be based on the expiration of prescriptive periods or time-limits provided that the necessary applications are submitted within a time-limit of two years after this Convention enters into force.

*Article 38*

As soon as the Government of the German Federal Republic issues a notification to that effect to the Government of the Republic of Italy, this Convention shall also apply to *Land* Berlin.

After communication of this notification, the provisions of this Convention which relate to the territory of the German Federal Republic shall also apply to the territory of *Land* Berlin.

*Article 39*

(1) This Convention shall be concluded for the period of one year after the date of its entry into force. It shall be tacitly renewed from year to year, unless it is denounced in writing by the Government of one of the two Contracting States at least three months before the expiry of the annual period.

(2) In the event of denunciation, the provisions of this Convention shall continue to apply with respect to claims which have already been acquired; restrictive provisions concerning the granting of insurance benefits in the case of residence abroad shall continue to be disregarded as regards such claims.

(3) The provisions of this Convention shall continue to apply, in accordance with a supplementary agreement, to rights acquired before the expiry of the said Convention.

*Article 40*

(1) This Convention shall be ratified. Documents of ratification shall be exchanged at Bonn as soon as possible.

(2) This Convention shall enter into force on the first day of the month following the month in which the documents of ratification were exchanged.

IN WITNESS WHEREOF the undersigned parties to this Convention have affixed their signatures and seals.

DONE at Rome on 5 May 1953 in four authentic copies, including two each in the Italian and German languages, the text of both languages being equally binding.

For the Italian Republic :  
DOMINEDÒ

For the German Federal Republic :  
SAUERBORN

FINAL PROTOCOL

In signing the Convention on social security which was concluded today<sup>1</sup> between the German Federal Republic and the Italian Republic, the plenipotentiaries of both Contracting Parties declare that agreement has been reached on the following points :

<sup>1</sup> See p. 48 of this volume.

1. The Convention shall apply to German and Italian nationals and to persons treated as such under the legislation of the two Contracting States.

2. Insured persons within the meaning of the Convention are those possessing claims under the legislation of one of the two Contracting States, and with due regard to the Convention, which are based on an insurance relationship entered into by themselves or by others.

3. Within the meaning of article 1, paragraph 1, No. 2 (a), (c) and (d), of the Convention :

Sickness insurance is insurance covering sickness, maternity and death (funeral benefit) ;

Accident insurance is insurance against industrial accidents and occupational diseases ;

Wage-earning employees pension insurance system (disability insurance), salaried employees' pension insurance system (salaried employees' insurance) and the mine-workers' pension insurance system are insurance systems which cover cases of disability or occupational incapacity, old age and death (pensions).

4. Voluntary insurance within the meaning of the Convention is voluntary enrolment in the social insurance system of one of the two Contracting States.

5. (a) Contribution and equivalent periods of the pension insurance schemes which have been completed in *Land* Berlin, as referred to in article 29, 2 (a), and article 38 of the Convention, and :

For the period up to 30 June 1945, considered to be those contribution and substitute periods which have been completed with the lawful representatives of the wage-earning employees' pension insurance system and the salaried employees' pension insurance system ;

For the period from 1 July 1945 to 31 January 1949, those completed with the Berlin Insurance Institute ;

For the period from 1 February 1949 to 31 March 1952, those completed with the Berlin-Wilmersdorf Insurance Institute ;

For the period after 1 April 1952, those completed with the *Land* Berlin Insurance Institute.

(b) Insurance institutions having their head office in *Land* Berlin within the meaning of article 29, 2 (b), (bb), and article 38 of the Convention are, for the periods indicated under (a), the insurance institutions referred to therein.

(c) The Reich Salaried Employees' Insurance Institute, the Reich Miners' Benefit Society (Reichsknappschaft) and the *Land* Brandenburg Insurance Institute shall not be considered to be insurance institutions having their main office within

the territory of the German Federal Republic and *Land* Berlin within the meaning of article 29, 2 (b), (bb), and article 38 of the Convention.

6. The Government of the German Federal Republic shall, without delay, take such action as will enable it to furnish the statement as provided in article 38 of the Convention. It is agreed that the provisions of the Convention and Final Protocol, as well as the supplementary and administrative agreements, shall enter into force at the same time in *Land* Berlin as in the territory of the German Federal Republic.

7. The provisions of the Convention shall apply, *mutatis mutandis* to benefits under German legislation concerning the protection of working mothers (article 1, (1) 2 (b), of the Convention).

8. The provisions of the Convention shall not affect the decision of the Council of the League of Nations of 21 June 1921 (*Reichsgesetzblatt* 1921, page 1289), by which the authorities responsible for the statutory accident insurance system in the territory of the German Federal Republic are obliged to pay benefits for accidents and occupational diseases which occurred outside the Federal Republic.

DONE at Rome on 5 May 1953 in four authentic copies, including two each in the Italian and German languages, the text of both languages being equally binding.

For the Italian Republic :  
DOMINEDÒ

For the German Federal Republic :  
SAUERBORN