

**No. 5012**

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**CZECHOSLOVAKIA  
and  
SWITZERLAND**

**Convention on social security (with Final Protocol). Signed  
at Berne, on 4 June 1959**

*Official texts: Czech and German.*

*Registered by Czechoslovakia on 3 February 1960.*

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**TCHÉCOSLOVAQUIE  
et  
SUISSE**

**Convention sur la sécurité sociale (avec Protocole final).  
Signée à Berne, le 4 juin 1959**

*Textes officiels tchèque et allemand.*

*Enregistrée par la Tchécoslovaquie le 3 février 1960.*

[TRANSLATION — TRADUCTION]

No. 5012. CONVENTION<sup>1</sup> ON SOCIAL SECURITY BETWEEN THE CZECHOSLOVAK REPUBLIC AND THE SWISS CONFEDERATION. SIGNED AT BERNE, ON 4 JUNE 1959

The President of the Czechoslovak Republic and the Swiss Federal Council, being desirous of regulating relations between the two States in the matter of social security, have decided to conclude a convention and for this purpose have appointed as their plenipotentiaries :

The President of the Czechoslovak Republic :

Mr. Evžen Erban, Director of the National Social Security Office

The Swiss Federal Council :

Mr. Arnold Saxer, Director of the Federal Office of Social Insurance,

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

TITLE I

GENERAL PROVISIONS

*Article 1*

1. The provisions of this Convention shall apply,

(1) *In the case of Switzerland, to*

- (a) The federal legislation concerning old age and survivors insurance;
- (b) The federal legislation concerning insurance against industrial accidents, non-industrial accidents and occupational diseases.

(2) *In the case of Czechoslovakia, to*

- (a) The legislation concerning the pension security of employed persons;
- (b) The legislation concerning the pension insurance of members of united agricultural co-operatives, independent farmers and other self-employed persons;

<sup>1</sup> Came into force on 1 December 1959, the first day of the second month following the exchange of the instruments of ratification, in accordance with article 18. The exchange of the instruments of ratification took place at Prague on 28 October 1959.

(c) The legislation concerning the preventive and therapeutic treatment of employed persons provided for under article 10 of this Convention.

2. This Convention shall also apply to all statutory provisions codifying, amending or supplementing the legislation referred to in paragraph 1 of this article. However, it shall not apply to :

- (a) Statutory provisions establishing a new branch of social security, unless agreement to that effect is reached between the Contracting States;
- (b) Statutory provisions extending the social security schemes existing in one of the Contracting States to new categories of beneficiaries, unless the Government of that Contracting State fails to lodge with the Government of the other Contracting State, within three months from the date of official publication of the said statutory provisions, a declaration to the contrary.

#### *Article 2*

Save as otherwise provided in this Convention and its annexes, Swiss and Czechoslovak nationals shall enjoy equality of treatment with regard to the rights and obligations arising from the social security schemes referred to in article 1.

#### *Article 3*

1. A national of one of the Contracting States employed in the territory of the other State shall be subject to the legislation of the latter State even if he is ordinarily resident in the territory of the former State or his employer or the principal place of business of the undertaking which employs him is in the territory of the former State.

2. This principle shall be subject to the following exceptions :

- (a) An employed person sent temporarily by an undertaking having its principal place of business in one of the Contracting States to the territory of the other State shall during the period of his employment in the latter State remain subject to the legislation of the State in which the undertaking has its principal place of business;
- (b) A person who is employed in the territory of one of the Contracting States by a private or public transport enterprise having its principal place of business in the other State and who is not a national of the former State shall be subject to the statutory provisions of the State in which the enterprise has its principal place of business;
- (c) Members of diplomatic and consular missions shall be subject to the legislation of the State they represent, provided that they are nationals of that State. The same rule shall apply to persons employed in the personal service of members of such missions, provided that they are nationals of the State represented.

*Article 4*

The competent administrative authorities of the two Contracting States may, by agreement, provide for exceptions to the rules set forth in article 3.

*Article 5*

1. Czechoslovak and Swiss nationals who are entitled to benefits under the legislation referred to in article 1 shall receive such benefits in full and without curtailment so long as they are resident in the territory of one of the two Contracting States. Any supplements and increments introduced by one of the Contracting States and paid by that State to its own nationals in the other State shall also be granted on the same conditions and to the same extent to nationals of the other State resident in its own territory.

2. Benefits granted by one of the Contracting States under the legislation referred to in article 1 shall be accorded to nationals of the other State who are resident in a third State on the same conditions and to the same extent as to nationals of the first State who are resident in a third State with which the first State has not concluded a social security convention.

*Article 6*

Provisions in the legislation of one of the Contracting States relating to the reduction or suspension of overlapping benefits shall apply only to benefits granted under the legislation of that State.

## TITLE II

## SPECIAL PROVISIONS

## Chapter 1

## OLD AGE AND DEATH BENEFITS

*Article 7*

1. Czechoslovak nationals who are or have been contributors to Swiss old age and survivors insurance shall be entitled to the regular annuity on the same conditions as Swiss nationals if, at the time when the insurable event occurs, they :

- (a) Have paid Swiss old age and survivors insurance contributions for a total period of at least five full years; or
- (b) Have been resident in Switzerland for a total period of at least ten years (including five years of uninterrupted residence immediately preceding the

occurrence of the insurable event), and have during that period paid Swiss old age and survivors insurance contributions for a total period of at least one full year.

2. On the death of a Czechoslovak national fulfilling the conditions laid down in paragraph 1 (a) or (b), his survivors shall be entitled to the regular annuity under Swiss old age and survivors insurance.

3. Czechoslovak nationals who, at the time when the insurable event occurs, do not satisfy the conditions laid down in paragraph 1 (a) or (b), and their survivors, shall be entitled to require the transfer to the Czechoslovak social security system of contributions paid by the insured person to the Swiss old age and survivors insurance, provided that

- (a) They reside in Czechoslovakia and enjoy or may acquire entitlement to Czechoslovak social security benefits solely by virtue of Czechoslovak legislation or in application of the provisions of this Convention;
- (b) They reside in Switzerland or a third State and enjoy or may acquire entitlement to Czechoslovak social security benefits solely by virtue of Czechoslovak legislation.

4. If the conditions set forth in paragraph 3 relating to the transfer of contributions are not satisfied, the contributions shall be refunded to the insured person or his survivors.

5. Following the transfer or refund of contributions, Czechoslovak nationals and their survivors shall have no further claim under Swiss old age and survivors insurance by virtue of such contributions.

#### *Article 8*

1. In determining the annuities payable in the case of old age or death by virtue of the Czechoslovak provisions, insurance periods completed under the Swiss old age and survivors insurance system shall be allowed for, provided that these periods amount in the aggregate to at least six months and do not overlap insurance periods completed under the Czechoslovak social security system.

2. When, in conformity with paragraph 1, the Czechoslovak social security benefit is granted with due allowance for Swiss insurance periods, it shall be calculated as follows :

- (a) The Czechoslovak social security shall determine the amount of the benefit to which the beneficiary would be entitled if all the the insurance periods to be allowed for in conformity with paragraph 1 had been completed solely under the Czechoslovak social security system;
- (b) On this basis, the Czechoslovak social security shall determine the benefit

payable according to the ratio between the duration of the insurance periods completed under the Czechoslovak social security system and the aggregate duration of the periods completed in the territory of both Contracting States, those completed in Switzerland being disregarded to the extent that they overlap those completed in Czechoslovakia;

- (c) Where the contributions paid to Swiss old age and survivors insurance have been transferred, in conformity with article 7, paragraph 3, to the Czechoslovak social security system, the benefit shall be determined exclusively in accordance with the provisions of sub-paragraph (a).

3. Where an entitled person qualifies for an old age or death benefit under the legislation in force in both Contracting States and the amount of the annuity which he is entitled to claim exclusively under Czechoslovak legislation exceeds the aggregate annuity which would result from the application of paragraphs 1 and 2, he may require the Czechoslovak social security to pay him the difference.

#### *Article 9*

1. The interim annuities provided for in the Swiss legislation on old age and survivors insurance shall be granted to Czechoslovak nationals resident in Switzerland under the same conditions as to Swiss nationals, provided that they have resided in Switzerland for an uninterrupted period of ten years prior to the application and that during that time there has been no transfer or refund of contributions.

2. The social annuities provided for in the Czechoslovak legislation on social security shall be granted to Swiss nationals resident in Czechoslovakia under the same conditions as to Czechoslovak nationals.

### Chapter II

#### BENEFITS FOR INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

#### *Article 10*

A person covered under the legislation of one of the Contracting States against industrial accident or occupational disease who suffers an industrial accident or contracts an occupational disease in the territory of the other State shall be entitled to claim all necessary medical treatment from the competent institution of the State in whose territory he is residing. In this case, the competent institution of the Contracting State to whose legislation the person concerned is subject shall reimburse the cost of such treatment to the institution which provided it.

TITLE III  
MISCELLANEOUS PROVISIONS

*Article 11*

1. The competent administrative authorities :
- (a) Shall agree on such administrative arrangements as may be required for the application of this Convention. In particular, they may agree each to appoint liaison bodies which will correspond with each other directly;
  - (b) Shall inform each other of all measures taken by them for the application of this Convention;
  - (c) Shall inform each other as soon as possible of any changes made in their legislation.

2. For the purposes of this Convention, the competent administrative authorities shall be :

*In the case of the Czechoslovak Republic:*

As regards the legislation referred to in article 1, paragraph 2 (a) and (b) : the National Social Security Office at Prague;

As regards the legislation referred to in article 1, paragraph 2 (c) : the Ministry of Health at Prague;

*In the case of Switzerland:*

The Federal Office of Social Insurance at Berne.

*Article 12*

1. For the purposes of this Convention, the competent authorities and institutions shall furnish assistance to each other as if the matter in question were one affecting the application of their own social security legislation.

2. The competent administrative authorities shall, in particular, agree upon the measures to be adopted for the medical and administrative supervision of persons receiving benefits by virtue of this Convention.

3. The administrative authorities of the Czechoslovak Republic shall facilitate the application of optional Swiss insurance to Swiss nationals resident in Czechoslovak territory.

*Article 13*

1. Any exemption from, or reduction of, charges and stamp taxes provided by the legislation of either Contracting State in respect of documents to be produced under the legislation of that State shall be extended to documents required to be produced under the legislation of the other State.

2. The competent authorities and institutions of the two Contracting States shall not require documents to be produced in pursuance of this Convention to be legalized by a diplomatic or consular authority.

3. Documents, applications and letters to be produced in pursuance of this Convention may be drafted in the official languages of either of the two Contracting States.

#### *Article 14*

Any claim, notice or appeal required to be delivered within a prescribed period to an institution of one Contracting State shall be deemed to be delivered in good time if it is delivered within the same period to the corresponding institution of the other State. In such case, the latter institution shall forward the claim, notice or appeal without delay to the competent institution of the former State.

#### *Article 15*

1. The institutions responsible for making payments under this Convention shall be held to discharge their responsibility validly by payment in the currency of their country.

2. Transfers required to be made in pursuance of this Convention shall be effected in accordance with the relevant payment agreements in force between the Contracting States at the time of transfer.

3. If either Contracting State places restrictions on the exchange of foreign currency, measures shall be taken without delay, by agreement between the two States, to ensure the reciprocal transfer of sums due in accordance with the provisions of this Convention.

#### *Article 16*

1. Any difficulties arising in connexion with the application of this Convention shall be resolved by agreement between the competent administrative authorities of the two Contracting States.

2. Where no solution can be reached in this manner within a period of six months, the dispute shall be submitted to an arbitral body, the composition and procedure of which shall be determined by agreement between the Governments of the two Contracting States. The arbitral body shall settle the dispute in accordance with the principles and spirit of this Convention.

### TITLE IV

### TRANSITIONAL AND FINAL PROVISIONS

#### *Article 17*

1. The provisions of this Convention shall also apply from the date of its entry into force to cases which occurred prior to that date.



2. In the application of the provisions of this Convention, allowance shall also be made for insurance or employment periods completed before its entry into force. The same shall apply, for the purposes of article 7, paragraph 1 (b), and article 9, paragraph 1, to periods of residence completed in Switzerland.

3. Cases in which benefits have not yet been payable under the domestic legislation of either Contracting State shall be decided anew in accordance with the provisions of this Convention. Any benefits shall be granted in such cases subject to domestic regulations concerning the limitation of claims, but shall take effect only from the date of entry into force of the Convention.

#### *Article 18*

1. This Convention, and the Final Protocol,<sup>1</sup> which constitutes an integral part thereof, shall require ratification. The instruments of ratification shall be exchanged at Prague as soon as possible.

2. This Convention shall enter into force on the first day of the second month following the exchange of the instruments of ratification.

#### *Article 19*

1. This Convention is concluded for a period of one year. Thereafter it shall continue in force from year to year unless notice of termination is given by either Contracting State three months before the expiry of the period.

2. In the event of the termination of the Convention, any rights acquired in accordance with its provisions shall be maintained. Rights in process of acquisition by virtue of the provisions of this Convention shall be dealt with by arrangement between the two Contracting States.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting States have signed this Convention and have thereto affixed their seals.

DONE in duplicate at Berne on 4 June 1959, in the Czech and German languages, both texts being equally authentic.

For the Czechoslovak Republic :

For the Swiss Confederation :

ERBAN

SAXER

<sup>1</sup> See p. 160 of this volume.

## FINAL PROTOCOL

On signing this day the Convention on social security<sup>1</sup> between the Czechoslovak Republic and the Swiss Confederation, the undersigned plenipotentiaries of the two Contracting States have agreed as follows :

1. Czechoslovak nationals in Switzerland or in third States may not claim rights based on the Convention except upon production of a valid document of nationality issued by the competent diplomatic or local consular mission of their country of origin. The Convention shall not apply to persons whose Czechoslovak nationality has been withdrawn under Czechoslovak law.

2. It is noted :

- a) That the Swiss federal legislation contains no provision involving discrimination between Swiss and Czechoslovak nationals as regards rights and obligations under the legislation (not covered by the Convention) concerning sickness and tuberculosis insurance.
- (b) That the Czechoslovak legislation contains no provision involving discrimination between Swiss and Czechoslovak nationals as regards rights and obligations under the legislation concerning the sickness insurance of employed persons.

The two Contracting States declare their agreement to maintain this equality of treatment so far as possible.

3. The Swiss side declares that it is prepared in principle to include sickness insurance, when it has been introduced in Switzerland, in the Convention, and to make an agreement for this purpose in accordance with article 1, paragraph 2 (a), of the Convention.

The Czechoslovak side declares that until such an agreement is reached, disability pensions under the Czechoslovak social security system shall be paid to Swiss nationals living in Switzerland or in a third State, the amount of these pensions being determined by the Czechoslovak regulations concerning the payment of pensions abroad.

4. The principle of equality laid down in article 2 of the Convention shall not include :

*On the Czechoslovak side:*

The provisions concerning personal pensions and pensions for services performed; the provisions concerning the maintenance of rights during interruptions of employment of more than two years in cases where no disability or partial disability pension has been granted; and the provisions concerning allowance for periods of employment or insurance in a third State.

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<sup>1</sup> See p. 144 of this volume.

*On the Swiss side:*

The provisions concerning the optional old age and survivors insurance of Swiss nationals abroad.

5. Article 3, paragraph 2 (a) and (b), of the Convention shall apply to all employees, of whatever nationality, who are sent from one of the Contracting States to the other.

6. For the purposes of article 3, paragraph 2 (a), of the Convention, a person shall be deemed to have been sent temporarily to the territory of the other Contracting State if the duration of his employment there has not exceeded three years. If his employment in the other State exceeds this period, his affiliation with the social security system of the first State may by way of exception be continued, with the agreement of the administrative authorities of the two States and for as long as they may decide.

7. Periods of residence in Switzerland for the purposes of article 7, paragraph 1, and article 9, paragraph 1, of the Convention shall include periods completed before 1 January 1948.

8. Periods during which Czechoslovak nationals in Switzerland were exempted from the application of the legislation on old age and survivors insurance shall not be considered as periods of residence for the purposes of article 7, paragraph 1, and article 9, paragraph 1, of the Convention.

9. A Czechoslovak national resident in Switzerland who, during the five years preceding the occurrence of the insurable event, has left Switzerland for a period not exceeding two months each year, shall not be deemed to have interrupted his residence in Switzerland within the meaning of article 7, paragraph 1 (b), of the Convention. The foregoing also applies *mutatis mutandis* to the period of ten years specified in article 9, paragraph 1, of the Convention.

10. Czechoslovak nationals who have been awarded an interim annuity under Swiss old age and survivors insurance by virtue of article 9, paragraph 1, of the Convention shall not thereafter be entitled to require the transfer or refund of contributions under article 7, paragraphs 3 and 4, of the Convention.

11. Refunds of contributions paid to the Swiss old age and survivors insurance made before the entry into force of the Convention shall not preclude the award of interim annuities under article 9, paragraph 1, of the Convention; in these cases, however, the refunded contributions shall be set off against the pensions to be awarded.

12. Pensions paid to Czechoslovak nationals and Swiss nationals resident in Switzerland whose claims on the Czechoslovak social security antedate 1 January 1957 shall be maintained at their existing levels, save that after the entry into force of the Convention the monthly value of such pensions shall be

not less than the equivalent of one hundred Swiss francs for old age pensions, eighty Swiss francs for widows' pensions and forty Swiss francs for orphans' pensions.

13. Where Czechoslovak pensions paid to Swiss nationals resident outside Czechoslovakia have been suspended owing to the absence of reciprocity arrangements, their payment shall be renewed on the entry into force of the Convention with effect retroactive to the date of such suspension.

14. The Czechoslovak side declares that Swiss nationals resident in Czechoslovakia, in Switzerland or in third States shall be treated on equal terms with Czechoslovak nationals in the countries concerned as regards their claims arising from former industrial insurance arrangements.

This Protocol is an integral part of the Convention signed this day, and shall enter into force on the same conditions and for the same period as the Convention.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting States have signed this Protocol and have thereto affixed their seals.

DONE in duplicate at Berne on 4 June 1959 in the Czech and German languages, both texts being equally authentic.

For the Czechoslovak Republic :

For the Swiss Confederation :

ERBAN

SAXER