

No. 5260

**SWEDEN
and
SWITZERLAND**

**Convention on social insurance (with Final Protocol).
Signed at Berne, on 17 December 1954**

Official texts: Swedish and German.

Registered by Sweden on 22 July 1960.

**SUÈDE
et
SUISSE**

**Convention sur les assurances sociales (avec Protocole
final). Signée à Berne, le 17 décembre 1954**

Textes officiels suédois et allemand.

Enregistrée par la Suède le 22 juillet 1960.

[TRANSLATION¹ — TRADUCTION]

No. 5260. CONVENTION² ON SOCIAL INSURANCE BETWEEN
THE KINGDOM OF SWEDEN AND THE SWISS CON-
FEDERATION. SIGNED AT BERNE, ON 17 DECEMBER
1954

The Kingdom of Sweden and the Swiss Confederation, desiring to enable citizens of the two countries, in so far as possible, to benefit from Swedish and Swiss social insurance legislation, have decided to conclude a Convention on this matter.

For that purpose, the following persons have been appointed as plenipotentiaries :

By His Majesty the King of Sweden :

Mr. T. L. Hammarström, Swedish Ambassador at Berne;

By the Swiss Federal Council :

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

The plenipotentiaries, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

PART I. GENERAL PROVISIONS

Article 1

1. This Convention shall apply to the following legislation :

(1) In Switzerland—

- (a) the federal legislation respecting old-age and survivors' insurance;
- (b) the federal legislation respecting insurance against industrial accidents and diseases and non-occupational accidents.

(2) In Sweden—

- (a) the legislation respecting national pensions;
- (b) the legislation respecting allowances for widows, widowers with children and special child allowances for the children of widows and disabled persons, etc.;
- (c) the legislation respecting insurance against industrial accidents and occupational diseases.

¹ Translation by the International Labour Office (International Labour Office, *Legislative Series*, May-June 1956), with the exception of the preamble of the Convention and of the final paragraphs of the Convention and of the Final Protocol.

² Came into force on 1 September 1955, the first day of the month following the exchange of the instruments of ratification, in accordance with article 17. The instruments of ratification were exchanged at Stockholm on 28 July 1955.

2. This Convention shall also apply to all legislative or administrative enactments codifying, amending or supplementing the legislation listed in paragraph 1 of this article.

3. This Convention shall apply to all legislative or administrative enactments extending the existing schemes to new categories of persons, unless one of the contracting States objects within three months of being officially notified of the enactment under paragraph 1 of article 11 of this Convention.

Article 2

Save as otherwise provided in this Convention, Swedish and Swiss nationals shall be placed on the same footing with respect to their rights and obligations in the branches of social insurance listed in article 1. A person who has lost the nationality of one of the contracting States but has not acquired a new nationality shall be treated as a national of that State.

Article 3

1. For the purposes of the branches of social insurance specified in items (1) (a) and (2) (a) and (b) of paragraph 1 of article 1, the Swedish legislation shall apply to nationals of either contracting State who are resident and are registered in the Kingdom of Sweden, and the Swiss legislation shall apply to nationals of either contracting State who are resident or gainfully occupied in Switzerland.

2. The above principle shall admit of the following exceptions :

- (a) If employees of an undertaking having its principal place of business in one of the contracting States are sent to the territory of the other State, the provisions of the State in which the undertaking has its principal place of business shall continue to be applicable for the first 12 months of their stay in the other State. If the employment in the other State exceeds 12 months, the legislation of the first State may by way of exception continue to apply if and for such time as the competent authorities of the second State consent thereto.
- (b) Nationals of either State who belong to the travelling personnel of road transport undertakings and are employed alternately on the territory of the two States shall be subject to the legislation of the State in which the undertaking has its principal place of business. If, however, they are resident in their home State its legislation shall apply. The above rules shall apply to air crews of air transport undertakings of the two contracting States.

- (c) Diplomatic and consular officers *de carrière* and the chancellery staff of diplomatic and consular missions sent from one contracting State to the other shall be subject to the legislation of the sending State if they are nationals of that State. The same rule shall apply to other employees of such missions and to persons in the personal service of members of the said missions if they are nationals of the sending State and no special arrangement concerning the rules applying in the workplace has been made.

Article 4

1. For the purposes of the branches of insurance listed in items (1) (b) and (2) (c) of paragraph 1 of article 1, the legislation of the contracting State in which the person's insurable employment takes place shall be applied.

2. The above principle shall admit of the following exceptions :

- (a) Those prescribed in items (a) and (c) of paragraph 2 of article 3.
- (b) The travelling personnel of rail and road transport undertakings who are employed alternately on the territory of the two States shall be subject to the legislation of the State in which the undertaking has its principal place of business. The same rule shall apply to air crews of air transport undertakings of the two contracting States.

Article 5

The supreme administrative authorities of the two contracting States may by mutual agreement except individual cases from the provisions of articles 3 and 4.

PART II. SPECIAL PROVISIONS

CHAPTER 1. INSURANCE IN RESPECT OF OLD AGE, DEATH AND INVALIDITY

Article 6

1. Swedish nationals who belong to the Swiss old-age and survivors' insurance scheme shall, for such time as they are resident in Switzerland, have a right to the ordinary pension under that scheme on the same conditions as Swiss nationals if on the occurrence of the contingency—

- (a) they have paid contributions to Swiss old-age and survivors' insurance for a total of five complete years or more; or
- (b) they have resided in Switzerland for a total of ten years or more (including at least five years without interruption immediately prior to the occurrence

of the contingency) and during that period have paid contributions to Swiss old-age and survivors' insurance for a total of one complete year or more. Any short period of absence from Switzerland shall be disregarded.

2. On the death of a Swedish national who fulfils either of the conditions laid down in paragraph 1 (*a*) or (*b*), his survivors shall be entitled to the ordinary pensions under Swiss old-age and survivors' insurance for such time as they are resident in Switzerland.

3. Swedish nationals who fulfil neither of the conditions laid down in paragraph 1 or the survivors of such persons may claim repayment of the insured person's contributions to Swiss old-age and survivors' insurance—

- (*a*) where in all probability they are leaving Switzerland permanently; or
- (*b*) on the occurrence of the contingency.

Swedish nationals whose contributions have been repaid shall have no further claim on Swiss old-age and survivors' insurance in respect of the said contributions. They shall be entitled to claim an ordinary Swiss old-age or survivors' insurance pension only if they fulfil the conditions laid down in item (*a*) of paragraph 1 in relation to a period later than that for which the returned contributions were paid.

Article 7

The interim pensions from Swiss old-age and survivors' insurance shall be granted, subject to the same conditions as for Swiss nationals, to Swedish nationals who do not fulfil the conditions laid down in paragraph 1 or 2 of article 6 for the grant of an ordinary pension, if they have resided in Switzerland for at least five years without interruption immediately prior to the date on which the pension is claimed and have not during that period obtained repayment of their contributions under paragraph 3 of article 6. Any short period of absence from Switzerland shall be disregarded.

Article 8

1. Swiss nationals shall be entitled, for such time as they are resident in Sweden, subject to the same conditions and drawing the same supplementary amounts as Swedish nationals,—

- (*a*) to the general old-age pension, if they have resided in Sweden for at least five years without interruption immediately prior to the date on which the pension is claimed or, being 67 years of age or over, have already become entitled to an invalidity pension, a sickness allowance or a widow's pension and are still entitled thereto at the time of claiming the general pension;

- (b) to the invalidity pension and sickness allowance, if at the time of claiming they have been resident in Sweden for at least five years without interruption, or if at the time of claiming they have been resident in Sweden for one year without interruption and during that period have been in a fit state of health, physically and mentally, to work normally for remuneration;
- (c) to widows' pensions or allowances for widows or widowers with children, if the deceased person through whom benefit is claimed resided in Sweden for at least five years without interruption immediately prior to his death or at the time of his death, was entitled to an invalidity pension or sickness allowance (subject in the last two cases to the condition that the survivor must himself reside in Sweden on the date of the death) or if the surviving spouse has resided for the last five years without interruption immediately prior to the date on which he or she claims;
- (d) to the special children's allowance, if the father, stepfather or mother of the child is entitled to the benefits enumerated above in (a) to (c) or if the child himself has resided in Sweden without interruption for the last five years preceding the date on which the claim is made.

Any short period of absence from Sweden shall be disregarded.

2. Swiss nationals and their survivors who are not entitled to any of the benefits enumerated in paragraph 1 above may claim repayment of all contributions paid to the Swedish National Pension and Insurance Fund when in all probability they are definitely leaving Swedish territory, on presentation of the receipts for such contributions. Swiss nationals whose contributions have been repaid shall have no further claim to Swedish old-age or invalidity pensions unless they fulfil the conditions laid down in paragraph 1 above in relation to a period later than that for which the returned contributions were paid.

CHAPTER 2. INSURANCE AGAINST ACCIDENTS AND OCCUPATIONAL DISEASES

Article 9

1. Nationals of one contracting State who are awarded benefit under the legislation of the other State respecting insurance against industrial accidents and occupational diseases shall receive the same supplements as are paid to nationals of the second State.

2. Cash benefits shall be paid in full outside the territory of the contracting State.

Article 10

Where a pension has been awarded to an insured person in respect of an accident or occupational disease and, as a result of another accident or occupational disease, a new pension must be fixed for the same insured person by an insurance carrier in the other State, the insurance carrier shall take into consideration the existing pension as if it were responsible for the payment of that pension.

PART III. MISCELLANEOUS PROVISIONS

Article 11

1. The supreme administrative authorities shall—

- (a) in agreement draft such administrative provisions as are required for the application of this Convention (they may, *inter alia*, agree that a liaison body shall be set up by each State for the purpose of facilitating communication between the insurance institutions of the two States);
- (b) inform each other of all measures adopted for the implementation of this Convention;
- (c) inform each other as soon as possible of all amendments to their legislation.

2. The supreme administrative authorities for the purposes of this Convention shall be—

in Switzerland—

the Federal Social Insurance Office at Berne;

in Sweden—

- (a) as regards the obligations referred to in articles 11, paragraph 1 (a), 12, paragraph 2, and 16, paragraph 1 : the Crown;
- (b) as regards all other obligations : the Pensions Office, for the legislation referred to in article 1, paragraph 1, subparagraph (2) (a) and (b);
the National Insurance Institution as regards the legislation respecting industrial accidents and occupational diseases.

Article 12

1. The competent authorities and institutions of the two contracting States shall, in giving effect to this Convention, afford each other assistance to the same extent as would be appropriate in the administration of their own legislation. This provision shall likewise apply as regards the administration, in Sweden, of Swiss optional insurance for Swiss nationals living abroad.

2. The supreme administrative authorities shall, in particular, agree upon the measures to be adopted for medical and administrative supervision of persons entitled to benefit under this Convention.

Article 13

1. Any exemption from or reduction of stamp duty and fees prescribed in the legislation of one contracting State for documents to be produced under that legislation shall be extended to documents to be produced under the legislation of the other State.

2. The competent authorities and institutions of the two States shall not require legalisation by the diplomatic or consular authorities of documents to be produced to them for the purposes of this Convention.

Article 14

Any claim, notice or appeal that is required to be lodged within a prescribed time with an institution in one contracting State shall be deemed to have been duly made if lodged within the same time with a corresponding institution in the other State. In such cases the latter institution shall without delay transmit the claim, notice or appeal to the appropriate institution in the other State.

Article 15

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

2. Any transfers required under this Convention shall be made in accordance with the payments agreement between the two contracting States in force at the time of such transfer.

3. In the event of restrictions on currency exchange being imposed by either State, the two Governments shall without delay take agreed action to insure the reciprocal transfer of payments due in accordance with the provisions of this Convention.

Article 16

1. Any difficulty in the application of this Convention shall be resolved by agreement between the supreme administrative authorities of the two contracting States.

2. If it is impossible to find a solution in this manner, the matter shall be determined by an arbitral body according to the principles and spirit of this Convention. The composition and procedure of the said arbitral body shall be determined by agreement between the King of Sweden and the Swiss Government.

PART IV. FINAL AND TRANSITIONAL PROVISIONS

Article 17

1. This Convention, which is drawn up in German and Swedish, shall be ratified, and the instruments of ratification shall be exchanged at Stockholm as soon as possible.

2. It shall come into force on the first day of the second month following the exchange of the instruments of ratification.

Article 18

1. This Convention is concluded for one year. It shall continue in force from year to year unless it is denounced in writing by one of the contracting States three months before the expiration of the current period.

2. In the event of the denunciation of this Convention any rights already acquired by a person under its provisions shall be maintained. Rights in process of acquisition under the provisions of this Convention shall be determined by the terms of a negotiated agreement.

Article 19

The provisions of articles 6 to 8 shall have effect even where the contingency insured against occurred prior to the date of the coming into force of the Convention, but no benefit to which a person is entitled under the provisions of this Convention shall be payable in respect of the period preceding its coming into force. The provisions of paragraph 3 of article 6 shall be applicable in relation to any contribution paid prior to the coming into force of this Convention.

IN WITNESS WHEREOF the plenipotentiaries have signed this Convention and have thereto affixed their seals.

DONE at Berne, in quadruplicate, on 17 December 1954.

For the Kingdom of Sweden :

T. L. HAMMARSTRÖM

[L.S.]

For the Swiss Confederation :

SAXER

[L.S.]

FINAL PROTOCOL TO THE CONVENTION BETWEEN THE KINGDOM OF SWEDEN AND THE SWISS CONFEDERATION ON SOCIAL INSURANCE¹

At the signature of the Convention on Social Insurance made this day¹ between the Kingdom of Sweden and the Swiss Confederation, the plenipotentiaries of each of the contracting States have agreed to make the following declarations :

1. In accordance with article 2 of the said Convention—
 - (a) article 40 of the Swiss Federal Act of 20 December 1946 respecting old-age and survivors' pensions prescribing reduced pensions in the case of aliens shall not apply to Swedish nationals;
 - (b) article 90 of the Swiss Federal Act of 13 June 1911 respecting insurance against sickness and accidents prescribing reduced benefits in the case of aliens shall not apply to Swedish nationals.
2. The principle of equality of treatment between nationals of the two contracting States laid down in article 2 shall not apply to the rules respecting membership of the Swiss optional old-age and survivors' insurance scheme, nor to those respecting membership of the Swedish optional pension insurance scheme.
3. For the purposes of the Convention the words " any short period of absence " mean interruption of residence of not more than four months in any calendar year; during such interruption the insured person must not give up his place of residence in the country.
4. The two contracting States are agreed that in the cases referred to in article 3, paragraph 2 (a), the periods laid down in articles 6, 7 and 8, paragraph 1, shall commence to run only on the date on which the worker becomes subject to the legislation of the contracting State to whose territory he has been transferred.
5. No Swedish accident insurance pension shall be redeemed by a lump-sum payment without the express consent of the insured person.
6. The two delegations are agreed that, notwithstanding article 3 of the Convention, Swedish nationals employed in Switzerland by the Scandinavian Air Lines System shall remain subject to the Swedish legislation referred to in article 1, paragraph 1, subparagraph (2), (a) and (b), and that Swiss nationals employed in Sweden by the Swiss air transport company " Swissair " shall be subject to the Swiss legislation referred to in article 1, paragraph 1, subparagraph (1), (a) of the Convention.
7. The Swedish Government undertakes to endeavour to make the Swedish communes' housing allowances likewise payable to Swiss nationals.

¹ See p. 254 of this volume.

The present Protocol, drawn up in the original in the German and Swedish languages, forms an integral part of the Convention signed today and shall take effect in the same manner and for the same duration as the said Convention.

DONE at Berne, in quadruplicate, on 17 December 1954.

For the Kingdom of Sweden :

T. L. HAMMARSTRÖM

[L.S.]

For the Swiss Confederation :

SAXER

[L.S.]
