

**No. 7056**

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**NETHERLANDS  
and  
FEDERAL REPUBLIC OF GERMANY**

**Agreement (with Protocol) concerning the application of the  
Netherlands legislation on general old age insurance.  
Signed at The Hague, on 9 March 1961**

*Official texts : Dutch and German.*

*Registered by the Netherlands on 9 January 1964.*

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**PAYS-BAS  
et  
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Accord (avec Protocole) concernant l'application de la  
législation néerlandaise relative à l'assurance-vieillesse  
générale. Signé à La Haye, le 9 mars 1961**

*Textes officiels néerlandais et allemand.*

*Enregistré par les Pays-Bas le 9 janvier 1964.*

[TRANSLATION — TRADUCTION]

No. 7056. AGREEMENT<sup>1</sup> BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE APPLICATION OF THE NETHERLANDS LEGISLATION ON GENERAL OLD AGE INSURANCE. SIGNED AT THE HAGUE, ON 9 MARCH 1961

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The Kingdom of the Netherlands and the Federal Republic of Germany,

Seeking to regulate the application of the Netherlands legislation on general old age insurance to Netherlands and German nationals,

Desiring to determine the conditions under which benefits not dependent upon periods of contribution shall be payable,

Have agreed as follows :

*Article 1*

German nationals resident in the Federal Republic of Germany or in the Netherlands and Netherlands nationals resident in the Federal Republic of Germany shall be eligible under the Netherlands legislation on general old age insurance for benefits not dependent upon periods of contribution provided that, for the six years immediately preceding the attainment of the age of sixty-five years, they

- (a) Were resident in the Netherlands and
- (b) Were in the service of an employer permanently established in the Netherlands.

*Article 2*

(1) German and Netherlands nationals resident in the Federal Republic of Germany or in the Netherlands who do not satisfy the conditions laid down in article 1 shall also be eligible under the Netherlands legislation on general old age insurance for benefits not dependent upon periods of contribution provided that, for the six years immediately preceding the attainment of the age of sixty-five years, they were resident in the Federal Republic of Germany or by turns in the Federal Republic of Germany and in the Netherlands.

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<sup>1</sup> Came into force on 4 July 1962, the date of the exchange of the instruments of ratification at Bonn, with retroactive effect as from 1 January 1957, in accordance with article 14. The Protocol (see p. 214 of this volume) came into force on the same date, with the same retroactive effect, in accordance with its paragraph 8.

(2) The benefits referred to in paragraph (1) shall be calculated in accordance with articles 3 and 4.

### Article 3

(1) Persons who had reached the age of fifteen but not of sixty-five years by 1 January 1957 and who are eligible under article 2, paragraph (1), for benefits under article 43 of the Netherlands General Old Age Act shall receive such benefits in accordance with the provisions of the following paragraphs.

(2) Of the amounts specified in article 8, paragraphs (1) and (3), of the Netherlands General Old Age Act, reduced by 2 per cent for every calendar year between 31 December 1956 and the attainment of the age of sixty-five years, a part expressed as a fraction shall accrue to beneficiaries annually. The numerator shall be equal to the number of calendar years between 31 December 1926 and 1 January 1957 or, if the beneficiary had not reached the age of fifteen years by 1 January 1927, between the attainment of the age of fifteen years and 1 January 1957. These years shall be taken into consideration only in so far as it is proved that, during the said years, the beneficiaries were in the service of an employer permanently established in the Netherlands. The denominator shall be equal to the number of calendar years between the attainment of the age of fifteen years and 1 January 1957. The denominator shall not exceed thirty.

(3) Of the amount specified in article 8, paragraph (2), of the Netherlands General Old Age Act, reduced by 2 per cent for each calendar year between 31 December 1956 and the attainment of the age of sixty-five years,

1. A married man entitled to a pension shall receive annually 50 per cent of :
  - (a) A part expressed as a fraction of which the numerator and denominator shall be calculated in accordance with paragraph (2), and
  - (b) A part expressed as a fraction of which the numerator shall be equal to the number of calendar years between 31 December 1926 and 1 January 1957 or, if the beneficiary's wife had not reached the age of fifteen years by 1 January 1927, between the attainment of the age of fifteen years and 1 January 1957. In this case the third, fourth and fifth sentences of paragraph (2) shall apply *mutatis mutandis* to the beneficiary's wife ;
2. A married woman entitled to a pension shall receive annually 50 per cent of :
  - (a) A part expressed as a fraction of which the numerator and denominator shall be calculated in accordance with paragraph (2), and
  - (b) A part expressed as a fraction of which the numerator shall be equal to the number of calendar years between 31 December 1926 and 1 January 1957 or, if the beneficiary's husband had not reached the age of fifteen years by 1 January 1927, between the attainment of the age of fifteen years and 1 January 1957. In this case the third, fourth and fifth sentences of paragraph (2) shall apply *mutatis mutandis* to the beneficiary's husband.

(4) For the purposes of paragraph (2), paragraph (3), sub-paragraph 1 (b), and paragraph (3), sub-paragraph 2 (a), a married woman shall be deemed to have been in the service of an employer permanently established in the Netherlands for the period of her marriage during which her husband was in the service of an employer permanently established in the Netherlands. This provision shall not apply to periods during which, under the laws in force in the Federal Republic of Germany,

(a) She is or was engaged in an insurable occupation, or

(b) Is in receipt of an old age pension.

(5) For the purposes of paragraph (3), sub-paragraph 2 (b), the provisions of paragraph (4) shall apply *mutatis mutandis* to the husband of a married woman entitled to a pension.

(6) The benefit calculated in accordance with the foregoing paragraphs shall be rounded off to the next higher multiple of 6 guilders.

(7) The conversion of parts of calendar years to full calendar years shall be governed by the Netherlands provisions.

#### Article 4

(1) Persons who reached the age of sixty-five years before 2 January 1957 and who are eligible under article 2, paragraph (1), for benefits under article 46 of the Netherlands General Old Age Act shall receive such benefits in accordance with the provisions of the following paragraphs.

(2) Of the amounts specified in article 8, paragraphs (1) and (3), of the Netherlands General Old Age Act, beneficiaries shall receive one-thirtieth for each calendar year between the attainment of the age of thirty-five and of sixty-five years. The third sentence of article 3, paragraph (2), of this Agreement shall apply.

(3) Of the amount specified in article 8, paragraph (2), of the Netherlands General Old Age Act,

1. A married man entitled to a pension shall receive annually :

(a) One-sixtieth for each calendar year between the attainment of the age of thirty-five and of sixty-five years, in so far as it is proved that, during those years, he satisfied the conditions laid down in the third sentence of article 3, paragraph (2), of this Agreement, and

(b) One-sixtieth for each calendar year between the attainment by him of the age of thirty-five and of sixty-five years, in so far as it is proved that his wife satisfied the conditions laid down in the third sentence of article 3, paragraph (2), of this Agreement ;

2. A married woman entitled to a pension shall receive annually :
- (a) One-sixtieth for each calendar year between the attainment of the age of thirty-five and of sixty-five years, in so far as it is proved that, during those years, she satisfied the conditions laid down in the third sentence of article 3, paragraph (2), of this Agreement, and
  - (b) One-sixtieth for each calendar year between the attainment by her of the age of thirty-five and of sixty-five years, in so far as it is proved that her husband satisfied the conditions laid down in the third sentence of article 3, paragraph (2), of this Agreement.
- (4) Article 3, paragraphs (4) to (7) inclusive, shall apply *mutatis mutandis*.
- (5) If the benefit resulting from the application of paragraphs (2) and (3) and the application, *mutatis mutandis*, of article 3, paragraph (6), of this Agreement is less than the old age benefit most recently payable to the beneficiary under the Netherlands Provision for Old Age (Emergency) Act, the benefit shall be fixed at the level of such old age benefit.

#### Article 5

Claims for benefits under articles 1 and 2 should be presented,

- a) *If the claimant is resident in the Federal Republic of Germany*, to :
- The Landesversicherungsanstalt Westfalen (*Land Insurance Fund of Westphalia*) at Münster ;
  - The Bundesversicherungsanstalt für Angestellte (*Federal Insurance Fund for Employees*) at Berlin-Wilmersdorf ; or
  - The Aachener Knappschaft (*Aachen Mine-Workers' Guild*) at Aachen ;
- If the claim is presented to another German agency authorized to receive pension claims, the said agency shall immediately forward the claim to one of the above-named carriers ;
- (b) *If the claimant is resident in the Netherlands*, to the competent Raad van Arbeid (*Labour Council*) or to the Bureau voor Duitse Zaken van de Vereeniging van Raden van Arbeid (*Office for German Affairs of the Union of Labour Councils*) at Nijmegen.

#### Article 6

Benefits, not dependent upon periods of contribution, that are accorded to German and Netherlands nationals under the Netherlands legislation on general old age insurance shall be payable even if the beneficiaries take up residence in the Federal Republic of Germany.

*Article 7*

(1) Persons who are resident in the Federal Republic of Germany and insured under the Netherlands legislation on general old age insurance shall remain insured during any period of temporary or permanent disability provided that

- (a) They are in receipt of a statutory Netherlands benefit in respect of a disability of at least 50 per cent and
- (b) They are not employed or self-employed in the Federal Republic of Germany.

(2) A married woman resident in the Federal Republic of Germany and under sixty-five years of age, whose husband is insured under the Netherlands General Old Age Act, shall also be insured under that Act. The second sentence of article 3, paragraph (4), shall apply *mutatis mutandis*.

*Article 8*

Claims, declarations and appeals which, pursuant to this Agreement, are to be presented within a prescribed period to an authority, insurance carrier or other institution in the Netherlands may be presented within the same period to an authority, an insurance carrier or a social court in the Federal Republic of Germany. In such cases, the German agencies in question shall immediately forward the said claims, declarations or appeals, either direct or through the Bureau voor Duitse Zaken, to the authority, insurance carrier or other competent institution in the Netherlands. The date of receipt by the German agency shall be deemed to be the date of receipt by the competent Netherlands agency.

*Article 9*

The German carriers referred to in article 5 shall give administrative assistance to the Netherlands agencies referred to in that article and shall furnish any missing data and documents.

*Article 10*

The provisions of Netherlands law concerning the lapse of entitlement shall not apply to claims for benefit under this Agreement which are presented within one year after the exchange of the instruments of ratification.

*Article 11*

The forms required for the implementation of this Agreement shall be drawn up by experts of the two Contracting States in joint consultation. The experts shall be appointed by the competent authorities of the two Contracting States.

*Article 12*

So far as the Kingdom of the Netherlands is concerned, this Agreement shall apply only to the European part of the Kingdom.

*Article 13*

This Agreement shall also apply to the *Land* of Berlin unless the Government of the Federal Republic addresses to the Government of the Kingdom of the Netherlands a declaration to the contrary within three months after the exchange of the instruments of ratification.

*Article 14*

(1) This Agreement shall be ratified; the instruments of ratification shall be exchanged at Bonn as soon as possible.

(2) This Agreement shall enter into force on the date of the exchange of the instruments of ratification, retroactively from 1 January 1957. At the same time the Agreement of 30 August 1955 concerning the grant of benefits under the Provisions for Old Age (Emergency) Act (old age benefits) shall cease to have effect.

*Article 15*

This Agreement is concluded for a term of one year from the date of its entry into force. It shall be deemed to be tacitly extended from year to year unless it is denounced in writing by one of the Contracting States not later than three months before expiry of the current term.

IN WITNESS WHEREOF the plenipotentiaries of the two Parties have signed this Agreement.

DONE at The Hague on 9 March 1961, in duplicate in the Dutch and German languages, both texts being equally authentic.

For the Kingdom of the Netherlands :

(Signed) J. LUNS

For the Federal Republic of Germany :

(Signed) J. LÖNS

## PROTOCOL

On signing the Agreement concluded this day<sup>1</sup> between the Kingdom of the Netherlands and the Federal Republic of Germany, the plenipotentiaries of the two Parties declare that an understanding has been reached on the following with reference to the Agreement :

1. The expressions "German national" and "Netherlands national" shall have the meaning assigned to them in annex A to the Regulations (No. 3) of the Council of the European Community concerning social security for migrant workers, dated 25 September 1958. The expression "competent authority" shall have the meaning assigned to it in annex 1 to the Regulations (No. 4) dated 3 December 1958 of the Council of the European Economic Community to determine the manner of administering the provisions of the Regulations (No. 3) concerning social security for migrant workers and to supplement the said provisions.

2. For the purposes of article 1, sub-paragraph (b), and article 3, paragraphs (2) and (4), of the Agreement, the following shall be deemed equivalent to periods of employment under an employer permanently established in the Netherlands :

- (a) Periods during which the beneficiary was in receipt of a statutory Netherlands benefit in respect of a disability of at least 50 per cent, or in respect of involuntary unemployment, and was not employed or self-employed in the Federal Republic of Germany ;
- (b) Periods during which the beneficiary was performing his Netherlands military service.

3. For the purposes of article 1, sub-paragraph (b), and article 3, paragraphs (2) and (4), of the Agreement, an interruption in employment under an employer permanently established in the Netherlands shall be disregarded if the interruption was of less than thirty days' duration.

4. The expressions "husband", "wife", "married man", "married woman" and "to be resident" shall have the meaning assigned to them in the General Old Age Act.

5. Any reference in the Agreement to the amounts specified in article 8 of the General Old Age Act shall be understood to mean the amounts revised in accordance with articles 9 and 66 of that Act.

6. The following shall be deemed equivalent to the insurance periods to be taken into account under article 3, sub-paragraph (4) (a), of the Agreement :

- (a) Contribution periods completed outside the Federal Republic of Germany in virtue of insurable employment and equivalent periods which are to be taken into

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<sup>1</sup> See p. 202 of this volume.



account by German insurance carriers in the case of beneficiaries resident in the territory of the Federal Republic of Germany ;

- (b) Periods completed under the Netherlands social insurance scheme or equivalent insurance schemes ;
- (c) Periods of interruption which are to be taken into account under the provisions in force in the Federal Republic of Germany.

7. Benefits under the Netherlands Provisions for Old Age (Emergency) Act (old age benefits) which have been paid to German and Netherlands nationals in the Federal Republic of Germany and to German nationals in the Netherlands for periods after 31 December 1956 shall be treated as advances on the benefits payable under the Agreement.

8. This Protocol, which forms part of the Agreement concluded this day between the Federal Republic of Germany and the Kingdom of the Netherlands concerning the application of the Netherlands legislation on general old age insurance, shall have effect on the same conditions and for the same period as the said Agreement.

DONE at The Hague on 9 March 1961, in duplicate in the Dutch and German languages, both texts being equally authentic.

For the Kingdom of the Netherlands :

*(Signed)* J. LUNS

For the Federal Republic of Germany :

*(Signed)* J. LÖNS

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