

No. 9492

**AUSTRIA
and
LIECHTENSTEIN**

**Convention on Social Security (with final protocol). Signed
at Vienna on 26 September 1968**

**Agreement for the implementation of the above-mentioned
Convention. Signed at Vaduz on 30 October 1968**

Authentic texts: German.

Registered by Austria on 7 April 1969.

**AUTRICHE
et
LIECHTENSTEIN**

**Accord relatif à la sécurité sociale (avec protocole final).
Signé à Vienne le 26 septembre 1968**

**Arrangement pour l'exécution de l'Accord susmentionné.
Signé à Vaduz le 30 octobre 1968**

Textes authentiques: allemand.

Enregistrés par l'Autriche le 7 avril 1969.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE REPUBLIC OF AUSTRIA
AND THE PRINCIPALITY OF LIECHTENSTEIN ON
SOCIAL SECURITY

The Federal President of the Republic of Austria and

His Serene Highness the Reigning Prince von und zu Liechtenstein

Desiring to foster relations between the two States in the matter of social security,

Have agreed to conclude a Convention, and for this purpose have appointed as their plenipotentiaries:

The Federal President of the Republic of Austria:

Dr. Kurt Waldheim, Federal Minister for Foreign Affairs;

His Serene Highness the Reigning Prince von und zu Liechtenstein:

Dr. Gerard Batliner, Head of Government of the Principality of Liechtenstein.

The plenipotentiaries, having exchanged their full powers, found in good and due form, have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

For the purposes of this Convention:

1. "Austria" means the Republic of Austria, and "Liechtenstein" means the Principality of Liechtenstein;
2. "Nationals" means, in relation to Austria, the nationals of that State, and in relation to Liechtenstein, the nationals of that country;
3. "Legislation" means the laws, ordinances and regulations relating to the branches of social security specified in article 2, paragraph (1), which are in force in one of the Contracting States;
4. "Competent public authority" means, in relation to Austria, the Federal Ministry of Finance in respect of family allowances and the Federal Ministry

¹ Came into force on 1 March 1969, i.e., the first day of the second month following the exchange of the instruments of ratification which took place at Vaduz, in accordance with article 32.

of Social Affairs in respect of other matters and, in relation to Liechtenstein, the Government of the Principality of Liechtenstein;

5. "Frontier commuters" means nationals of one of the two Contracting States who are normally resident in the territory of one of the Contracting States and are in regular gainful employment in the territory of the other Contracting State;
6. "Insurance authority" means the institute or authority appropriate for the application of the legislation, or any part thereof, specified in article 2;
7. "Competent insurance authority" means the insurance authority which is competent under the relevant legislation;
8. "Insurance periods" means contribution periods and equivalent periods;
9. "Contribution periods" means periods in respect of which contributions have been paid or are treated as having been paid under the legislation of one of the Contracting States;
10. "Equivalent periods" means periods which are equivalent to contribution periods;
11. "Cash benefit", "annuity" or "pension" means a cash benefit, annuity or pension including any increase therein and any supplement or additional allowance payable therewith;
12. "Family allowances" means, in relation to Austria, the family allowance and the maternity allowance and, in relation to Liechtenstein, the family allowance.

Article 2

(1) This Convention shall apply:

1. In Austria, to the legislation concerning:
 - (a) Pensions insurance for manual workers, for salaried workers and for miners;
 - (b) Pensions insurance for self-employed persons in commerce;
 - (c) Supplementary annuity insurance for agricultural workers;
 - (d) Family allowances.
2. In Liechtenstein, to the legislation concerning:
 - (a) Old-age and survivors' insurance;
 - (b) Invalidity insurance;
 - (c) Family allowances.

(2) This Convention shall not apply to any legislation concerning a new system or new branch of social security.

(3) Legislation which arises out of international treaties concluded with third States or out of supranational law, or which serves for their implementation, shall not be taken into consideration in relations between the two Contracting States except in so far as it contains regulations concerning insurance liability.

Article 3

This Convention shall apply, except as it provides otherwise, to nationals of the Contracting States and to their dependants and survivors, in so far as the latter derive their rights from a national.

Article 4

(1) The persons referred to in article 3 shall, except as otherwise provided in this Convention, have equal rights and obligations under the legislation specified in article 2.

(2) Paragraph (1) above shall not affect the legislation of the Contracting States concerning the eligibility of insured persons and their employers for membership in the autonomous organs of the insurance authorities and associations or their convocation as assessors in arbitral jurisdiction.

Article 5

(1) Except as otherwise provided in this Convention, the legislation of a Contracting State under which the granting of benefits is conditional upon residence in the country concerned shall not apply to the persons referred to in article 3 who are resident in the other Contracting State.

(2) Paragraph (1) above shall not affect the legislation concerning the measures of the pensions (or annuities) insurance authorities for maintaining, improving or restoring earning capacity.

Article 6

(1) Except as otherwise provided in articles 7 to 10, the obligation to participate in an insurance scheme shall be governed by the legislation of the Contracting State in the territory of which the person concerned is gainfully employed.

(2) If the application of paragraph (1) would make participation in an insurance scheme compulsory under the legislation of both Contracting States simultaneously, the following shall apply:

- (a) Where a person is gainfully employed by another person and also gainfully self-employed, the obligation to participate in an insurance scheme shall be governed by the legislation of the Contracting State in the territory of which he is self-employed;
- (b) Where a person engages in more than one form of concurrent gainful self-employment, the obligation to participate in an insurance scheme shall be governed by the legislation of the Contracting State in which he is normally resident.

Article 7

(1) A person employed by an enterprise extending from the frontier of one of the Contracting States into the frontier region of the other Contracting State, who is not employed in the part of the enterprise in which the enterprise has its principal place of business, shall be subject to the legislation of the Contracting State in which the principal place of business is situated.

(2) An employed person who is sent from one of the Contracting States to the other Contracting State shall remain subject to the legislation of the first-mentioned Contracting State, as if he were still employed in its territory, for the first twenty-four calendar months of his employment in the other Contracting State.

(3) A person employed by a transport enterprise having its principal place of business in one of the Contracting States who is employed in the other Contracting State shall be subject to the legislation of the first-mentioned Contracting State as if he were employed in its territory; if the enterprise has a branch in the other Contracting State, the persons employed by the branch shall be subject to the legislation of the latter Contracting State.

(4) A person employed by an airline having its principal place of business in one of the Contracting States who is sent temporarily or for an extended period to the other Contracting State shall be subject to the legislation of the first-mentioned Contracting State as if he were employed in its territory.

(5) Paragraphs (1) to (4) above shall apply irrespective of the nationality of the employed person.

Article 8

Articles 6 and 7 shall apply *mutatis mutandis* to persons who are treated as employed persons under the legislation referred to in article 2.

Article 9

(1) A national of one of the Contracting States who is in the service of the said Contracting State or of another public employer of the said Contracting State and is employed in the other Contracting State shall be subject to the legislation of the first-mentioned Contracting State.

(2) An Austrian national normally resident in Liechtenstein and employed there in the Austrian diplomatic mission or in an Austrian consular mission shall be subject to Liechtenstein legislation. A national of Liechtenstein normally resident in Austria and employed in the diplomatic mission of Liechtenstein or in a consular mission of Liechtenstein shall be subject to Austrian legislation. The employed person may, within three months from the start of his employment, opt to be subject to the legislation of the Contracting State of which he is a national. He is then deemed to be employed in the place in which the Government of that Contracting State has its seat. The choice shall be declared to the employer. The chosen legislation shall be applicable from the date of the declaration.

(3) A national of one of the Contracting States who is employed in the other Contracting State in the personal service of a member of the diplomatic mission or of a consular mission of the first-mentioned Contracting State shall be subject to the provisions of paragraph (2) *mutatis mutandis*.

(4) Paragraphs (1) to (3) shall not apply to persons in the service of an honorary consul.

Article 10

At the joint request of the employed persons and employers concerned, or at the request of persons treated as employed persons within the meaning of article 8, the competent public authority of the Contracting State whose legislation should apply under articles 6 to 9 may grant exemption from the effects of that legislation when the persons in question become subject to the legislation of the other Contracting State. The nature and circumstances of the employment shall be taken into account in that decision. The competent public authority of the other Contracting State shall be given an opportunity to express its views before the decision is taken. If the employed person is not employed in the Contracting State to whose legislation he is to become subject, he shall be deemed to be employed there.

Article 11

The legislation of one of the Contracting States concerning the limitation of an entitlement to benefits or the reduction of a benefit when it is combined with other entitlements to benefits or other benefits or other forms of income and concerning the non-existence of any entitlement to benefits as long as the person concerned is gainfully employed or covered by compulsory insurance, shall also be applicable in respect of similar circumstances arising from the application of the legislation of the other Contracting State or in the territory of that State.

PART II

SPECIAL PROVISIONS

Chapter 1

PENSIONS (OR ANNUITIES) INSURANCE

Article 12

(1) Insurance periods completed in accordance with the legislation of both Contracting States shall be aggregated, provided that they do not overlap, in order to establish the right to continued insurance and for the purpose of the acquisition of entitlement to benefits under Austrian legislation.

(2) The aggregation of insurance periods referred to in paragraph (1) shall not confer entitlement to an early old-age pension (or miner's old-age pension) in the event of unemployment or after prolonged participation in an insurance scheme under Austrian legislation.

(3) If the insurance periods to be taken into account under Austrian legislation amount in all to less than twelve months for the calculation of the pension (or annuity), no benefit shall be payable from the Austrian pensions (or annuities) insurance scheme unless entitlement to a pension (or annuity) is established under Austrian legislation without the application of paragraph (1).

Article 13

(1) Where an insured person who satisfies the conditions laid down in article 12, paragraph (1), or his survivors, claim a pension (or annuity), the Austrian insurance authority shall ascertain in accordance with the legislation to which it is subject whether the person concerned is entitled to the pension (or annuity), taking into account the aggregation of insurance periods referred to in article 12, paragraph (1). The extent to which Liechtenstein insurance periods must be taken into account shall be determined in accordance with Liechtenstein legislation.

(2) Where entitlement to a pension (or annuity) exists under Austrian legislation, with or without taking into account article 12, paragraph (1), the following paragraphs shall apply in the calculation of the said pension (or annuity).

(3) The competent Austrian insurance authority shall first calculate the amount of the pension (or annuity) which would have been due to the person concerned under Austrian legislation if all the insurance periods which are to be taken into account in calculating the Austrian pension under Liechtenstein legislation had also been insurance periods which were to be taken into account in calculating the Austrian pension (or annuity) under the national legislation to

be applied by the Austrian insurance authority. Contributions under the supplementary insurance scheme (*Höherversicherung*) or the supplementary benefits scheme (*Leistungszuschlag*) shall not be taken into account.

(4) The competent Austrian insurance authority shall next calculate the amount of that part of the said pension (or annuity) which bears the same relation to the whole as the insurance periods which have been taken into account under Austrian legislation bear to the total of all the insurance periods which have been taken into account under the legislation of both Contracting States. The partial benefit thus arrived at shall be increased by any amounts payable in respect of contributions to the supplementary insurance scheme and the supplementary benefits scheme.

(5) For the purpose of applying the provisions of paragraphs (3) and (4), contribution periods and equivalent periods shall be taken into account as follows:

- (a) If a compulsory insurance period completed under the legislation of one of the Contracting States coincides with a period of voluntary insurance under the legislation of the other Contracting State, only the compulsory insurance period shall be taken into account.
- (b) If a contribution period under the legislation of one of the Contracting States coincides with an equivalent period under the legislation of the other Contracting State, only the contribution period shall be taken into account.
- (c) If, in accordance with sub-paragraph (a), any period of voluntary insurance in the Austrian pensions (or annuity) insurance scheme are not to be taken into account, the contributions paid in respect of such periods shall be deemed to be contributions under the supplementary insurance scheme.

Article 14

(1) For the purpose of determining the insurance authority competent to provide a benefit under the Austrian pensions (or annuities) insurance scheme (*Leistungszugehörigkeit und Leistungszuständigkeit*), Liechtenstein insurance periods shall be taken into account according to the kind of gainful employment followed during such periods. Liechtenstein insurance periods, during which no gainful employment was followed, shall be taken into account according to the kind of gainful employment last followed before the said periods; where the kind of gainful employment followed during a Liechtenstein insurance period cannot be established, or where no gainful employment was followed during the whole insurance period, the said insurance periods shall be taken into account as if they had been completed under an insurance scheme for which the Austrian Manual Workers' Pensions Insurance Institute (*Pensionsversicherungsanstalt der*

Arbeiter) would have been competent. Periods during which an entitlement to benefits under the Liechtenstein old-age and invalidity annuities scheme exists or existed shall be taken into account according to the kind of gainful employment last followed before the occurrence of the insurance contingency. For the purpose of determining the insurance authority competent to provide a benefit under the Austrian pensions insurance scheme for miners, only such of the Liechtenstein insurance periods shall be taken into account as relate to gainful employment in specified classes of Liechtenstein industries or as a member of specified classes of employed persons. A schedule of such classes shall be drawn up by the competent public authorities of the two Contracting States, account being taken of article 15 of the Austrian Federal Act of 9 September 1955 concerning general social insurance. The foregoing rules shall apply only in so far as a pension (or annuity) is to be granted by the pensions (or annuities) insurance scheme which comes into consideration under those provisions.

(2) Periods which have not been completed under Austrian legislation, but which are to be taken into account as insurance periods, shall be taken into account as if they had been completed under Austrian legislation.

(3) Where, under Austrian legislation, substitute periods are taken into account subject to the completion of a previous or subsequent insurance period, any such insurance period completed under the Liechtenstein annuities insurance scheme shall also be taken into account.

(4) Periods of a similar nature completed in Liechtenstein shall be deemed to be neutral periods within the meaning of the Austrian Federal Act referred to in paragraph (1) and periods which, in the pensions (or annuities) insurance scheme for self-employed persons, extend the period of observation which determines the completion of the waiting period.

(5) Liechtenstein insurance periods shall not be taken into account when the Austrian legislation relating to the accumulation of insurance periods is applied in the case of a widow who carries on her husband's business.

(6) For the purpose of calculating the total benefits under article 13, paragraph (3), the Liechtenstein insurance periods which are to be taken into account in calculating the Liechtenstein annuity shall be taken into account without the application of the Austrian legislation concerning the taking into account of insurance periods.

(7) Calculation bases shall be determined only with reference to insurance periods which are to be taken into account under the legislation applicable to the Austrian insurance authorities. Where the statutory date (*Stichtag*) was prior to 1 January 1962 and contribution bases cannot be established under Austrian legislation for the purpose of determining a calculation base, the contribution

base shall be deemed to be the currently applicable multiple, under Austrian legislation, of the daily rate of pay, as at 31 December 1946, of employed persons following the same kind of occupation, provided that such contribution base shall not exceed the highest contribution base currently applicable.

(8) For the purpose of the application of article 13, paragraph (3), contributions paid for the acquisition of equivalent periods under the Austrian pensions insurance scheme shall not be deemed to be contributions to the supplementary insurance scheme.

(9) For the purpose of the application of article 13, paragraphs (3) and (4), and without prejudice to article 13, paragraph (5), overlapping insurance periods shall be taken into account to the extent of their actual duration.

(10) Where the number of insurance months taken into account for the purpose of calculating Austrian pension increments is subject to a maximum, the ratio referred to in article 13, paragraph (4), shall be determined on the basis of all the insurance periods to be taken into account by both Contracting States, irrespective of such maximum.

(11) The Austrian legislation concerning the suspension of the pension (or annuity) shall be applied after the partial payment has been determined, in the case of residence abroad, and before the partial payment has been determined, in the case of other factors.

(12) Where, under Austrian legislation, the granting of benefits from the pensions insurance scheme for miners depends upon the completion of miners' insurance periods, only such of the Liechtenstein insurance periods shall be taken into account as relate to employment of the kinds referred to in the fourth and fifth sentences of paragraph (1). Where entitlement to the miners' seniority bonus (*Knappschaftssold*) and entitlement to the pension for salaried workers in mining enterprises (*Knappschaftspension für Angestellte*) depends upon the completion of specific insurance periods, only such of the Liechtenstein insurance periods shall be taken into account as relate to types of work corresponding to the types of work listed in annex 9 to the Austrian Federal Act specified in paragraph (1) above, subject to the conditions prescribed therein. For the purpose of calculating what proportion of the miners' seniority bonus is to be paid under the Austrian pensions insurance scheme for miners, the provisions of article 13, paragraph (4), shall apply, with the proviso that only periods reckonable in accordance with the second sentence shall be taken into account.

(13) Liechtenstein insurance periods shall not be taken into account with respect to the conditions for entitlement to, and the granting of, the long-service bonus for miners (*Bergmannstreuegeld*), under the Austrian pensions insurance scheme for miners.

(14) Liechtenstein insurance periods shall not be taken into account for the calculation of the dowry and lump-sum payment.

(15) The supplementary allowance to disabled persons (*Hilflosenzuschuss*) shall be calculated, in accordance with Austrian legislation, on the basis of the Austrian partial benefit, the limits being proportionately reduced in accordance with the provisions of article 13, paragraph (4); where the supplementary allowance to disabled persons is a fixed amount, the latter shall be subject to proportional reduction in accordance with article 13, paragraph (4). Where entitlement to a pension (or annuity) based on the insurance contingency of old age or death exists under Austrian legislation irrespective of the provisions of article 12, paragraph (1), the limits or the fixed amount shall not be reduced, unless disablement compensation is granted in addition to the old-age annuity under Liechtenstein legislation.

(16) Special payments under the Austrian pensions (or annuities) insurance scheme shall be payable on the same scale as the Austrian partial pension; article 16 shall be applied *mutatis mutandis*.

Article 15

(1) Where entitlement to a benefit exists under Austrian legislation, even irrespective of the provisions of article 12, paragraph (1), the Austrian insurance authority shall not apply article 13, paragraphs (3) and (4), so long as no entitlement to benefits exists under Liechtenstein legislation.

(2) In the cases specified in paragraph (1) above, the benefits already determined shall be revised in accordance with the provisions of article 13, paragraphs (3) and (4), when an entitlement to benefits arises under Liechtenstein legislation. The revision shall take effect on the date on which benefits become payable under the Liechtenstein insurance scheme.

(3) An insured woman's entitlement to benefits shall also be revised in accordance with paragraph (2) if she is entitled to a Liechtenstein old-age annuity for married couples (or invalidity annuity for married couples).

(4) The benefit payable under the Austrian pensions (or annuities) insurance scheme shall not be revised when the entitlement to the corresponding Liechtenstein annuity lapses because the person concerned has become entitled to another Liechtenstein annuity.

(5) The benefit payable under the Austrian pensions (or annuities) insurance scheme shall also be revised, without prejudice to paragraph (4) above, when under Liechtenstein legislation a situation arises which affects any ratio determined in accordance with article 13, paragraph (4). The revision shall take effect from

the date on which the new benefits become payable under the Liechtenstein annuities insurance scheme. If the revision entails a reduction in the total amount of benefits paid hitherto, the Austrian insurance authority shall grant, as a partial benefit, the benefit which it is required to grant plus the difference between the amounts which are subject to comparison.

Article 16

(1) Where a person is entitled to a pension (or annuity) under Austrian legislation, irrespective of the provisions of article 12, paragraph (1) above, and where that pension (or annuity) would be greater than the aggregate of the Austrian pension and the Liechtenstein annuity calculated in accordance with article 13, paragraph (4), the Austrian insurance authority shall pay, as a partial pension, its own benefit, thus calculated, plus the difference between the said aggregate and the pension (or annuity) which would be the only benefit payable under Austrian legislation.

(2) The partial benefit referred to in paragraph (1) shall be revised *ex officio* when the amount of the Liechtenstein annuity or of the benefit on which the calculation of the Austrian partial benefit is based changes, except as a result of minor adjustments, or in the event of changes of more than 10 per cent in the rate of exchange.

Article 17

In so far as, under the legislation relating to the Liechtenstein annuities insurance scheme, entitlement to ordinary annuities and the payment thereof depend on the existence of an insurance scheme, Austrian nationals shall also count as insured persons if:

- (a) They acquired entitlement to the annuity before leaving Liechtenstein, or
- (b) At the time the contingency insured against arises, they are insured under the Austrian pensions (or annuities) insurance scheme, or
- (c) They were frontier commuters employed in Liechtenstein and if at least twelve months of their contribution period as defined in article 1 falls within the two years immediately preceding the onset of invalidity.

Article 18

Austrian nationals shall be entitled to provisional annuities under Liechtenstein legislation if they have their domicile in Liechtenstein and if, immediately before the month from which the annuity is claimed, they have lived there continuously for ten years, in the case of an old-age annuity, and for five years in the case of an invalidity annuity, a survivors' annuity or an old-age annuity replacing either of the two last-mentioned.

Chapter 2

FAMILY ALLOWANCES

Article 19

(1) A person who is gainfully employed in one of the Contracting States and has his domicile or usual place of residence in the other Contracting State shall have the same entitlement to family allowances, under the legislation of the first-mentioned Contracting State, as a person who has his domicile or usual place of residence in that State; the entitlement shall also extend to children who are permanently resident in the other Contracting State.

(2) Entitlement to family allowances under paragraph (1) shall exist only if the occupation in question is practised in conformity with the provisions in force governing the employment of foreign workers.

(3) If an employed person is sent from one of the Contracting States to the other, the legislation of the Contracting State in which the employer has his principal place of business or domicile shall continue to apply to him.

(4) A person who, in the course of one calendar month, is subject to the legislation first of one and then of the other Contracting State shall be entitled to family allowances for the calendar month in question only under the legislation of the first Contracting State.

(5) Articles 5, 7, 8, 10 and 11 shall not apply in respect of entitlement to family allowances.

PART III

MISCELLANEOUS PROVISIONS

Chapter 1

OFFICIAL AND LEGAL AID

Article 20

(1) The insurance authorities, associations of insurance authorities, public authorities and courts of the Contracting States shall assist one another in the implementation of the legal provisions referred to in article 2, paragraph (1), and of this Convention, as if they were applying the legal provisions applicable to themselves. Such assistance shall be free of charge apart from out-of-pocket expenses incurred.

(2) The first sentence of paragraph (1) shall also apply to medical examinations. The cost of such examinations, travel expenses, the cost of hospitalization for observation and other out-of-pocket expenses (loss of earnings, daily allowance

and the like), excluding postages, shall be repaid by the requesting agency. The cost shall not be repaid if the medical examination is in the interest of the competent insurance authorities of both Contracting States.

Article 21

(1) Where certificates or other papers required to be submitted to one of the agencies mentioned in article 20, paragraph (1), of one of the Contracting States are wholly or partly exempt from legal dues or charges, including consular and administrative fees, such exemption shall also extend to certificates and other papers required to be submitted to a corresponding agency of the other Contracting State in implementation of the legislation referred to in article 2, paragraph (1).

(2) Certificates which, in implementation of the legislation referred to in article 2, paragraph (1), are required to be submitted to one of the agencies mentioned in article 20, paragraph (1), of one of the Contracting States need not be authenticated for use in dealing with agencies of the other Contracting State.

Article 22

The agencies mentioned in article 20, paragraph (1), may, during the implementation of the legislation referred to in article 2, paragraph (1), and of this Convention, communicate with one another and with the persons concerned and their representatives either through the liaison offices mentioned in article 24 or direct.

Article 23

(1) Where a claim to a benefit under the legislation of one of the Contracting States has been submitted in the other Contracting State to an agency which is competent to receive a claim to a corresponding benefit under the legislation to which that agency itself is subject, the claim shall be deemed to have been submitted to the competent insurance authority. The same shall apply *mutatis mutandis* to other claims and also to notices and appeals.

(2) A claim to a benefit under the legislation of one of the Contracting States which is lodged with a competent agency of that Contracting State shall also be deemed to be a claim to any corresponding benefit covered by this Convention under the legislation of the other Contracting State.

(3) Claims, notices and appeals shall be transmitted without delay by the agency to which they have been submitted to the appropriate agency of the other Contracting State.

Chapter 2

IMPLEMENTATION AND INTERPRETATION OF THE CONVENTION

Article 24

(1) The competent authorities may prescribe in an agreement the administrative measures necessary for implementing this Convention.

(2) The competent authorities shall inform each other of measures taken to implement this Convention and of any changes in, and additions to, their legislation which affect its implementation.

(3) In order to facilitate the implementation of this Convention, liaison offices shall be set up. The following shall be liaison offices:

In Austria:

For pensions (or annuities) insurance,
the Federation of Austrian Social Insurance Authorities—Liaison Office for International Social Security (*Hauptverband der österreichischen Sozialversicherungsträger — Verbindungsstelle für zwischenstaatliche Sozialversicherung*);

For family allowances,
The Federal Ministry of Finance;

In Liechtenstein:

For old-age and survivors' insurance,
The Liechtenstein Old-Age and Survivors' Insurance Institute (*Liechtensteinische Alters- und Hinterlassenenversicherung*);

For invalidity insurance,
The Liechtenstein Invalidity Insurance institute (*Liechtensteinische Invalidenversicherung*);

For family allowances,
The Liechtenstein Family Compensation Fund (*Liechtensteinische Familienausgleichskasse*).

Article 25

(1) Where a person who is to receive benefits under the legislation of one of the Contracting States in respect of an injury sustained in the territory of the other Contracting State is entitled, in accordance with the regulations of that State, to claim damages for such injury from a third party, the insurance authority of the first Contracting State shall be subrogated in respect of the claim for damages in accordance with the legislation applicable to that insurance authority.

(2) Where both an insurance authority of one of the Contracting States and an insurance authority of the other Contracting State are entitled to claim damages

in respect of similar benefits as a result of the same contingency, the third party may discharge the claims transferred to the two insurance authorities in accordance with paragraph (1) above by making payment either to the one or to the other. The insurance authorities shall make the necessary internal arrangements to divide the payment between them in proportion to the benefits payable by each of them.

Article 26

Liability for cash benefits may be discharged by an insurance authority of one of the Contracting States in favour of a person resident in the territory of the other Contracting State by payment in the currency of the latter State. In transactions between the insurance authority and the beneficiary, conversion shall be effected at the rate of exchange prevailing on the date of remittance of the cash benefits. Payments to be made by an insurance authority to an insurance authority of the other Contracting State shall be effected in the currency of the latter Contracting State.

Article 27

Where an insurance authority of one of the Contracting States has made an advance payment, the payment of arrears, due in the same period, of a corresponding benefit to which entitlement exists under the legislation of the other Contracting State may be withheld. Where the insurance authority of one Contracting State has paid an amount in excess of the correct benefit for a period for which the insurance authority of the other Contracting State has to pay arrears in respect of a corresponding benefit, the overpayment, up to the amount of the arrears due, shall be regarded as an advance payment within the meaning of the first sentence.

Article 28

(1) Disputes between the Contracting States concerning the interpretation or application of this Convention shall be settled as far as possible by the competent public authorities of the Contracting States.

(2) Where a dispute cannot be settled in this manner, it shall, at the request of one of the Contracting States, be submitted to an arbitral tribunal.

(3) The arbitral tribunal shall be constituted *ad hoc*; each Contracting State shall appoint one member, and the two members shall agree on the national of a third State who is to be Chairman and who shall be appointed by the Governments of both Contracting States. The members shall be appointed within two months and the Chairman within three months after one of the Contracting States has informed the other that it wishes to submit the disputes to an arbitral tribunal.

(4) If the time-limits mentioned in paragraph (3) are not adhered to, either of the Contracting States may request the President of the European Court of

Human Rights to make the necessary appointments. If the President is a national of a Contracting State or if he is unable to act, the Vice-President shall make the appointments. If the Vice-President is also a national of a Contracting State or also unable to act, the next most senior member of the Court who is not a national of a Contracting State shall make the appointments.

(5) The decisions of the arbitral tribunal shall be by majority vote. Its decisions shall be binding. Each Contracting State shall defray the expenses of its member and the costs of its representation in the arbitral proceedings; the expenses of the Chairman and other expenses shall be shared equally by the Contracting States. The arbitral tribunal shall establish its own rules of procedure.

PART IV

TRANSITIONAL AND FINAL PROVISIONS

Article 29

(1) This Convention shall also apply to insurance contingencies which occurred before its entry into force. It shall also apply to insurance periods completed before its entry into force in so far as they are to be taken into account in establishing the existence and extent of an entitlement to benefits and the right to continued insurance.

(2) Paragraph (1) shall not confer any entitlement to benefits for periods prior to the date of the entry into force of this Convention.

(3) In the cases referred to in the first sentence of paragraph (1) the following shall apply:

- (a) Pensions (or annuities) which were determined before the date of the entry into force of this Convention shall, upon application in accordance with the provisions of this Convention, be determined anew as from the date of its entry into force; they may also be determined anew *ex officio*.
- (b) Pensions (or annuities) to which entitlement would already have existed under the previous legislation if a claim had been entered at the appropriate time shall, upon application, be determined in accordance with the provisions of this Convention; the date from which the benefit is payable shall be subject to municipal legislation.
- (c) Pensions (or annuities) to which entitlement exists solely by virtue of this Convention shall, upon the application of the beneficiary, be determined as from the date of the entry into force of this Convention if the application is made within one year following the date of the entry into force of this Convention, otherwise as from a date determined in accordance with municipal legislation.

(4) If the result of the revision referred to in paragraph (3), sub-paragraph (a), is to make the total of the benefits calculated in accordance with this Convention for the same insurance contingency lower than the amount of the Austrian benefit payable on the day before the date of the entry into force of this Convention, the Austrian insurance authority shall grant, as a partial benefit, its own benefit plus the difference between the amounts which are subject to comparison.

(5) In the cases referred to in paragraph (3), sub-paragraph (a) above, article 27 shall apply *mutatis mutandis*.

(6) The initiation by the Austrian insurance authority of the procedure for revision referred to in paragraph (3), sub-paragraph (a) above, shall be deemed, as concerns the Liechtenstein insurance authority, to be an application for initial determination of the benefit.

Article 30

The assimilation of Austrian nationals to Liechtenstein nationals with respect to the Liechtenstein invalidity insurance scheme shall be limited to the extent that entitlement to ordinary annuities is contingent upon payment of contributions to that insurance scheme for a total of at least five years prior to the onset of invalidity.

Article 31

The Final Protocol annexed to this Convention shall form an integral part thereof.

Article 32

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

(2) The Convention shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged.

Article 33

(1) This Convention is concluded for an indefinite period. Either Contracting State may denounce it upon three months' notice.

(2) If, as the result of denunciation, the Convention is terminated, its provisions shall continue to apply to entitlements to benefits acquired up to that time; restrictive legislation relating to the preclusion of an entitlement or the suspension or withdrawal of benefits owing to residence abroad shall not be taken into account in respect of such entitlements.

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

DONE at Vienna, on 26 September 1968, in two original copies.

For the Republic of Austria:

WALDHEIM

For the Principality of Liechtenstein:

BATLINER

FINAL PROTOCOL TO THE CONVENTION BETWEEN THE REPUBLIC OF AUSTRIA AND THE PRINCIPALITY OF LIECHTENSTEIN ON SOCIAL SECURITY.

At the time of signing the Convention on Social Security, concluded this day between the Republic of Austria and the Principality of Liechtenstein, the plenipotentiaries of the two Contracting States declare that agreement has been reached on the following:

1. *Ad* article 1 of the Convention:

The term "pension" in item 11 shall not cover the equalization allowance under Austrian legislation.

2. *Ad* article 3 of the Convention:

Austrian nationals within the meaning of the Convention shall be deemed to include persons who were resident in the territory of the Republic of Austria, otherwise than purely temporarily, on 11 July 1953, on 1 January 1961 or on 27 November 1961 and who were on the date in question of German mother tongue and either stateless or of indeterminate nationality.

3. *Ad* article 4 of the Convention:

(a) Regulations concerning insurance liability laid down in international treaties concluded by the Contracting States with other States shall not be affected.

(b) The provisions of the Austrian Federal Act of 22 November 1961 concerning claims to benefits and rights in course of acquisition under the pensions (or annuities) insurance or accident insurance scheme by reason of employment abroad, and also the provisions relating to the taking into account of periods completed in self-employment in the territory of the former Austro-Hungarian monarchy situated outside the Republic of Austria, shall not apply to Liechtenstein nationals.

(c) The assimilation of Liechtenstein nationals to Austrian nationals under the terms of paragraph (1) shall not apply with respect to the fulfilment of personal requirements as concerns the taking into account of contribution periods, under the Austrian pensions (or annuities) insurance scheme, completed after 12 March 1938 and prior to 10 April 1945 under a compulsory or voluntary pensions insurance scheme of the former German Reich in respect of employment or domicile outside the territory of Austria.

(d) The assimilation of nationals as specified in paragraph (1) shall not apply with respect to the fulfilment of personal requirements under Austrian legislation as concerns the taking into account of periods of war service and periods treated as such.

(e) The assimilation of Austrian nationals to Liechtenstein nationals shall not apply with respect to the Liechtenstein legislation concerning the voluntary insurance of Liechtenstein nationals who have settled abroad.

(f) The assimilation of Austrian nationals to Liechtenstein nationals shall not apply with respect to the Liechtenstein legislation concerning old-age, survivors' and invalidity insurance for Liechtenstein nationals who work outside the territory of the Contracting States for an employer in Liechtenstein and are remunerated by him, or to the legislation concerning welfare benefits for Liechtenstein nationals resident abroad.

4. *Ad* article 5 of the Convention:

Where a person in receipt of a pension is resident in Liechtenstein, the equalization allowance under Austrian legislation shall not be payable.

5. *Ad* article 6 of the Convention:

(a) Voluntary participation in the Austrian pensions (or annuities) insurance scheme shall not be allowed so long as the person concerned is compulsorily insured under the Liechtenstein annuities insurance scheme.

(b) Compulsory participation in the Austrian pensions (or annuities) insurance scheme shall not preclude supplementary insurance under the Liechtenstein voluntary annuities insurance scheme.

(c) Contributions may not be made for the same period both to the Liechtenstein voluntary annuities insurance scheme and to the Austrian pensions (or annuities) continued insurance scheme.

6. *Ad* article 9 of the Convention:

Persons who are nationals of both Contracting States shall be subject to the legislation of the Contracting State in which they are employed.

7. *Ad* article 11 of the Convention:

(a) Participation in a Liechtenstein insurance scheme while no gainful employment is being followed shall not preclude the acquisition of entitlement to an Austrian old-age pension (miners' old-age pension).

(b) For the purpose of exemption from compulsory participation in the Austrian pensions (or annuities) insurance scheme for self-employed persons, any Liechtenstein annuity other than the supplementary annuity and the disablement allowance shall be taken into account.

(c) For the purpose of acquiring entitlement to a pension under the Austrian pensions insurance scheme for self-employed persons in commerce, the termination of the corresponding self-employment in Liechtenstein shall be deemed equivalent to the expiration of a business licence of the winding-up of a company in Austria.

8. *Ad* article 12 to 16 of the Convention:

Where an old-age pension is payable in lieu of a Liechtenstein widows' annuity or an old-age or invalidity annuity for married couples is payable in place of a Liechtenstein ordinary old-age (or invalidity) annuity, article 12 to 16 shall apply as if entitlement to the Liechtenstein annuity corresponding to the Austrian pension (or annuity) had been acquired.

9. *Ad* article 17 of the Convention:

(a) For the purpose of applying sub-paragraph (b), the following shall also be assimilated to insured persons:

(aa) Persons who receive a pension (or annuity) by reason of diminished ability to work (or permanent disablement), in so far as their entitlement is based on Austrian insurance periods alone or on an aggregation of insurance periods within the meaning of article 12, paragraph (1), of the Convention;

(bb) Persons who receive sickness benefits or maternity benefits under a statutory insurance scheme;

(cc) Persons who are receiving institutional care at the expense of an insurance authority;

(dd) Persons who, by reason of unemployment, receive a cash benefit under the unemployment insurance scheme.

(b) The assimilation referred to in this article shall not confer entitlement to orphans' annuities for foster-children.

10. *Ad* article 18 of the Convention:

(a) The period of residence shall be deemed to be continuous if absence from Liechtenstein has not exceeded three months in one calendar year.

(b) Periods of exemption from insurance under the Liechtenstein old-age, survivors' and invalidity insurance scheme shall not be taken into account in calculating the duration of the period of residence.

11. *Ad* article 19 of the Convention:

(a) Entitlement to Austrian family allowances shall be acquired only if employment lasts for at least one month.

(b) Paragraph (4) shall not preclude the granting of family allowances under Liechtenstein legislation for periods of less than one month.

(c) Entitlement to Austrian maternity allowances shall be acquired only if the mother is working for an employer in Austria at the time of the child's birth.

12. *Ad* article 20 of the Convention:

(a) Paragraph (1) shall not cover assistance in respect of enforcement.

(b) The postages referred to in paragraph (2) shall also include the charges for long-distance telephone calls and telegrams.

13. *Ad* article 29 of the Convention:

(a) When applying article 13, paragraph (3), of the Convention in insurance contingencies not covered by Part Four of the Austrian Federal Act referred to in article 14, paragraph (1), of the Convention, the Austrian insurance authority shall determine the pension increments for Liechtenstein insurance periods, applying the following annual increment rates in accordance with the legislation in force on 31 December 1946:

(aa) In the case of invalidity annuities, for men 40 groschen, and for women 25 groschen, for each week of insurance;

(bb) In the case of retirement pensions, for men 2.70 schillings, and for women 1.90 schillings, for each month of insurance;

(cc) In the case of full miners' annuities, for men 4.60 schillings, and for women 3 schillings, for each month of insurance;

(dd) In the case of miners' annuities, for men 2.90 schillings, and for women 1.90 schillings, for each month of insurance.

(b) Ordinary annuities under the Liechtenstein old-age and survivors' insurance scheme shall be granted in accordance with the Convention only if the insurance contingency arose after 31 December 1959 and the contributions have not been refunded.

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

DONE at Vienna, on 26 September 1968, in two original copies.

For the Republic of Austria:

WALDHEIM

For the Principality of Liechtenstein:

BATLINER

AGREEMENT¹ FOR THE IMPLEMENTATION OF THE CONVENTION BETWEEN THE REPUBLIC OF AUSTRIA AND THE PRINCIPALITY OF LIECHTENSTEIN ON SOCIAL SECURITY

Pursuant to article 24, paragraph (1), of the Convention of 26 September 1968² between the Republic of Austria and the Principality of Liechtenstein on Social Security (hereinafter referred to as "the Convention"), the competent public authorities of the two Contracting States, namely:

For the Republic of Austria:

The Federal Ministry of Social Affairs, represented by Dr. Franz Hausner, (*Ministerialrat*);

For the Principality of Liechtenstein:

The Government of the Principality of Liechtenstein, represented by Dr. Gregor Steger, *Regierungsrat*,

have agreed on the following provisions for the implementation of the Convention:

PART I

GENERAL PROVISIONS

Article 1

For the purposes of this Agreement, the expressions defined in the Convention have the meanings ascribed to them therein.

Article 2

In order to facilitate the implementation of the Convention, the liaison offices established pursuant to article 24, paragraph (3), of the Convention shall, in addition to the functions prescribed in this Agreement, be responsible for all other administrative measures, especially the provision of official aid and the organization of administrative assistance (official and legal aid).

Article 3

The competent public authorities shall devise the standard forms necessary for the implementation of the Convention and of this Agreement.

¹ Came into force on 1 March 1969, the date of entry into force of the convention of 26 September 1968, in accordance with article 10.

² See p. 93 of this volume.

Article 4

In the cases referred to in article 7, paragraph (2), of the Convention, the continued validity of the legislation shall be certified:

In Austria,

By the competent sickness insurance authority; where the employment is not subject to sickness insurance, by the Austrian liaison office for the pension (or annuities) insurance scheme;

In the Principality of Liechtenstein,

By the liaison office for the old-age and survivors' insurance scheme and the invalidity insurance scheme.

PART II

SPECIAL PROVISIONS FOR PENSIONS (OR ANNUITIES) INSURANCE

Article 5

(1) The Liechtenstein insurance authorities shall notify the appropriate Austrian insurance authority or the Austrian liaison office without delay of any applications for benefits under the Austrian pensions (or annuities) insurance scheme which are submitted to them, giving the date of submission and the complete employment history of the insured person. They shall specify as soon as possible the insurance periods, in calendar years and months, which are to be taken into account in calculating the Liechtenstein pension, and shall state the dates on which the insured person paid contributions as a salaried or self-employed person during the said periods, or the dates on which he completed insurance periods in a mining enterprise (article 14, paragraph (1), of the Convention).

(2) The Austrian insurance authorities shall notify the Liechtenstein insurance authorities without delay of applications submitted to them for a benefit under the Liechtenstein old-age and survivors' insurance scheme or invalidity insurance scheme, giving the date of submission. In these cases also the Liechtenstein insurance authorities shall, upon request, specify the insurance periods as described in the second sentence of paragraph (1).

(3) In the cases referred to in paragraphs (1) and (2), the insurance authority receiving the application shall certify that the personal particulars of the applicant or of the insured person and his dependants are correct.

(4) The competent insurance authorities of the two Contracting States shall subsequently notify each other also of any other facts which may be important for determining the benefits, appending medical reports where applicable.

Article 6

The competent insurance authorities of the two Contracting States shall inform each other of the results of the determination and subsequently of any changes in the amount of the benefits.

Article 7

In implementation of article 5 of the Convention, pensions (or annuities) shall be paid through the liaison office of one of the Contracting States by the liaison office of the other Contracting State in accordance with the legislation in force in the latter Contracting State concerning the method of payment.

Article 8

(1) The liaison offices shall agree upon the necessary measures for the payment of pensions (or annuities), arrears of pensions (or annuities) and non-recurring benefits.

(2) Cover for payment of the benefits shall be remitted to the liaison office of the State of domicile not later than the fifteenth day of the calendar month preceding the month of payment.

Article 9

(1) The liaison office paying the benefit shall discontinue payment if it learns that:

- (a) The beneficiary has given up his domicile in the Contracting State in which this liaison office is situated,
- (b) The beneficiary, his wife or other dependants qualifying for entitlement to benefits have died, or
- (c) The widow (or widower) has remarried.

It shall report these circumstances to the liaison office in the other State without delay. The relevant documents shall be either appended to the request or transmitted subsequently.

(2) The liaison office paying the benefit shall discontinue payment if it has reason to doubt whether the conditions for payment are fulfilled.

(3) If the Liechtenstein liaison offices learn that the recipient has taken up a gainful occupation or is serving a prison sentence, they shall notify the Austrian liaison office.

PART III

FINAL PROVISIONS

Article 10

This Agreement shall enter into force simultaneously with the Convention.

DONE at Vaduz, on 30 October 1968, in two original copies.

For the Federal Ministry of Social Affairs:

Dr. HAUSNER

For the Government of the Principality of Liechtenstein:

Dr. STEGER
