

No. 12349

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**CANADA**  
**and**  
**FEDERAL REPUBLIC OF GERMANY**

**Convention on social security (with final protocol). Signed at  
Ottawa on 30 March 1971**

*Authentic texts: English, French and German.*

*Registered by Canada on 28 March 1973.*

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**CANADA**  
**et**  
**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Convention sur la sécurité sociale (avec protocole final). Signée à  
Ottawa le 30 mars 1971**

*Textes authentiques: anglais, français et allemand.*

*Enregistrée par le Canada le 28 mars 1973.*

## CONVENTION ON SOCIAL SECURITY<sup>1</sup> BETWEEN CANADA AND THE FEDERAL REPUBLIC OF GERMANY

Canada and the Federal Republic of Germany, hereinafter referred to as the Contracting Parties,

DESIRING to regulate their mutual relationship in the field of Social Security, have agreed as follows :

### PART I

#### GENERAL PROVISIONS

##### *Article 1*

For the purpose of the present Convention :

- (a) “ territory ” means, in relation to the Federal Republic of Germany, the area within which the Basic Law (*Grundgesetz*) of the Federal Republic of Germany is in force, and, in relation to Canada, the territory of Canada;
- (b) “ national ” means, in relation to the Federal Republic of Germany, a German citizen within the meaning of the Basic Law (*Grundgesetz*) of the Federal Republic of Germany, and, in relation to Canada, a citizen of Canada;
- (c) “ legislation ” means the laws, regulations and other general legislative acts relating to the branches of Social Security specified in paragraph (1) of article 2;
- (d) “ competent authority ” means, in relation to the Federal Republic of Germany, the Federal Minister of Labour and Social Affairs (Bundesminister für Arbeit und Sozialordnung), and, in relation to Canada and in respect of the application of the Canada Pension Plan and the Old Age Security Act, of Canada, the Minister of National Health and Welfare for Canada and, for the application of the Quebec Pension Plan, the Minister of Social Affairs of the Province of Quebec;
- (e) “ institution ” means the institution or authority responsible for implementing the legislation specified in paragraph (1) of article 2; and

<sup>1</sup> Came into force on 1 May 1972, i.e., the first day of the second month following the final day of the month in which the instruments of ratification were exchanged at Bonn (30 March 1972), in accordance with article 17 (2).

- (f) “ cash benefits ” means cash benefits or a pension, including all supplements, allowances and increases.

### Article 2

(1) Unless otherwise provided in the present Convention, the Convention relates to

- (a) the German legislation regarding
- (i) Wage Earners' Pension Insurance
  - (ii) Salaried Employees' Pension Insurance
  - (iii) Miners' Pension Insurance
  - (iv) Steelworkers Supplementary Pension Insurance
  - (v) Farmers' Old Age Benefits, and
- (b) the following Canadian legislation
- (i) the Old Age Security Act
  - (ii) the Canada Pension Plan
  - (iii) the Quebec Pension Plan.

(2) Legislation referred to in paragraph (1) of this article shall not include legislation resulting from international treaties or supranational legislation of the European Economic Community or legislation designed to implement such treaties or legislation except where such treaties or legislation contain provisions relating to the apportionment of insurance burdens.

### Article 3

(1) Unless otherwise provided in the present Convention, in the application of the legislation of one of the Contracting Parties,

- (a) nationals of the other Contracting Party,
- (b) refugees within the meaning of article 1 of the Convention Relating to the Status of Refugees signed at Geneva July 28, 1951<sup>1</sup> and of the Protocol of January 31, 1967<sup>2</sup> to that Convention, and
- (c) other persons to the extent that they derive rights from a national of a Contracting Party,

shall receive equal treatment with the nationals of the first mentioned Contracting Party provided the persons referred to in subparagraphs (a), (b) and (c) above are ordinarily resident in the territory of either of the Contracting Parties.

<sup>1</sup> United Nations, *Treaty Series*, vol. 189, p. 137.

<sup>2</sup> *Ibid.*, vol. 606, p. 267.

(2) Unless otherwise provided in the present Convention, cash benefits under the legislation of one Contracting Party shall be paid to nationals of the other Contracting Party, ordinarily resident outside the territory of both of the Contracting Parties, under the same conditions as apply to the nationals of the first mentioned Contracting Party ordinarily so residing.

#### *Article 4*

(1) Unless otherwise provided in the present Convention, the legislation of one of the Contracting Parties which requires that claims for cash benefits or the payment of cash benefits be dependent on residence in the territory of that Contracting Party, shall not be applicable to the persons described in paragraph (1) of article 3 who are resident in the territory of the other Contracting Party.

(2) Paragraph (1) shall not affect the legislation relating to cash benefits granted within the framework of the measures to maintain, improve and restore ability to exercise gainful activity as laid down in the legislation specified in paragraph (1) of article 2.

### PART II

#### SPECIAL PROVISIONS

#### *Article 5*

(1) For pensions to be granted under the German Pension Insurance Scheme to Canadian nationals ordinarily resident of their own free will outside the territory of the Federal Republic of Germany, the following shall apply :

(a) Pension assessment bases shall be determined with respect to all periods that must be taken into account for the calculation of pensions under the German legislation.

(b) Pensions shall be paid only to the extent that

(i) they are permitted under German legislation regarding benefits based on insurance periods accumulated other than under Federal Law, and

(ii) they are based on periods for which contributions have been made validly or are regarded as having been made validly in accordance with Federal Law or in accordance with former provisions of the Reich Pension Insurance schemes,

(c) German legislation according to which the payment of orphans' pensions is not suspended shall remain unaffected,

(d) Children's supplements shall be paid only in addition to orphans' pensions referred to in subparagraph (c).

(2) Paragraph (1) shall apply also to the persons designated in subparagraphs (b) and (c) of paragraph (1) of article 3 provided such persons ordinarily reside of their own free will in the territory of Canada.

#### *Article 6*

In respect of the amount payable by a pension insurance institution in the Federal Republic of Germany towards a contribution to sickness insurance, voluntary membership in a statutory sickness insurance scheme in Canada shall be treated as voluntary membership in a German statutory sickness insurance scheme and insurance against sickness with a private insurance company in Canada shall be treated as insurance against sickness with a private insurance company in the Federal Republic of Germany.

### PART III

#### MISCELLANEOUS PROVISIONS

#### *Article 7*

(1) The institutions, associations of institutions, authorities and courts of the Contracting Parties shall offer each other mutual assistance in the implementation of the legislation specified in paragraph (1) of article 2 and in the implementation of the present Convention, in the same way as though they were implementing the legislation applicable to them. With the exception of any cash expenditure relating thereto, the assistance shall be provided free of charge.

(2) The first sentence of paragraph (1) shall also apply to medical examinations. The costs of the examinations, travelling expenses connected therewith, loss of earnings, the costs of accommodation where a person needs to be kept under observation and other cash expenditures with the exception of postage, must be reimbursed by the requesting agency. The costs shall not be reimbursed if the medical examination is made in the interests of the institutions of both Contracting Parties.

#### *Article 8*

Documents which, in the implementation of the legislation specified in paragraph (1) of article 2, require to be submitted to one of the agencies mentioned in paragraph (1) of article 7, in the territory of one of the Contracting

Parties, may be submitted to agencies in the territory of the other Contracting Party, without authentication or any other similar formality.

#### *Article 9*

In the implementation of the legislation referred to in paragraph (1) of article 2, and in the implementation of the present Convention, agencies mentioned in Paragraph (1) of article 7 may communicate in their respective official languages directly with each other and with persons concerned as well as with their representatives. Official notifications from an institution in the territory of one of the Contracting Parties may be communicated directly to a person resident in the territory of the other Contracting Party by registered letter with return receipt.

#### *Article 10*

(1) The competent authorities shall inform each other of the measures taken to implement the present Convention and also of any amendments and additions to the legislation specified in article 2 as it applies to them in their respective countries.

(2) For the purpose of implementing the present Convention, liaison agencies are hereby established. These agencies are :

In the Federal Republic of Germany :

- for the Wage Earners' Pension Insurance, the Landesversicherungsanstalt Freie und Hansestadt Hamburg, Hamburg;
- for the Salaried Employees' Pension Insurance, the Bundesversicherungsanstalt für Angestellte, Berlin;
- for the Miners' Pension Insurance, the Bundesknappschaft, Bochum;
  
- for the Steelworkers' Supplementary Pension Insurance, the Landesversicherungsanstalt für das Saarland, Saarbrücken.

In Canada :

- for the Canada Pension Plan and the Old Age Security Act, the Director General, Income Security, Department of National Health and Welfare of Canada;
- for the Quebec Pension Plan, the Quebec Pension Board, Régie des rentes du Québec.

#### *Article 11*

(1) Within the scope of their competence, the liaison agencies established by paragraph (2) of article 10 are responsible for generally informing the insured population of their rights and obligations under the present Convention.

In consultation with and with the approval of the appropriate competent authority each liaison agency of one Contracting Party will agree with those of the other Contracting Party upon the administrative measures—including the procedure for paying cash benefits to recipients in the territory of the other Contracting Party—which are necessary and appropriate for the implementation of the present Convention.

(2) Where not already so stipulated in the applicable legislation, the agencies mentioned in paragraph (1) of article 7 and paragraph (2) of article 10 must, within the scope of their competence, inform each other and the persons in question of such facts and supply to them such proof as may be necessary to secure the rights and obligations of the persons involved.

#### Article 12

Cash benefits may be paid by an institution in the territory of one of the Contracting Parties to a person who is resident in the territory of the other Contracting Party in the currency of the latter Contracting Party, thereby discharging that institution's obligations. In the relationship between the institution and that person the currency conversion shall be determined by the exchange rate in force on the day when the cash benefit was remitted. If an institution in the territory of one Contracting Party has to make payments to an institution in the territory of the other Contracting Party, such payments shall be made in the currency of the last-mentioned Contracting Party.

#### Article 13

(1) Disputes between the two Contracting Parties regarding the interpretation or implementation of the present Convention shall, as far as possible, be settled by the Contracting Parties.

(2) If a dispute cannot be resolved in this way, it shall, at the request of either Contracting Party, be submitted to an arbitral tribunal.

(3) Such arbitral tribunal shall be constituted *ad hoc* as follows: each Contracting Party shall appoint one member, and these two members shall agree upon a national of a third State as their chairman to be appointed by the Governments of the two Contracting Parties. Such members shall be appointed within two months, and such chairman within three months, from the date on which either Contracting Party has informed the other Contracting Party that it intends to submit the dispute to an arbitral tribunal.

(4) If the periods specified in paragraph 3 above have not been observed, either Contracting Party may, in the absence of any other relevant arrangement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting Party or if he

is otherwise prevented from discharging the said function, the Vice-President should make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he, too, is prevented from discharging the said function, the Member of the Court next in seniority who is not a national of either Contracting Party should make the necessary appointments.

(5) The arbitral tribunal shall, on the basis of the treaties existing between the parties and of general international law, reach its decisions by a majority of votes. Such decisions shall be binding. Each Contracting Party shall bear the cost of its own member and of its representatives in the arbitral proceedings; the cost of the chairman and the remaining costs shall be borne in equal parts by both Contracting Parties. The arbitral tribunal may make a different regulation concerning costs. In all other respects, the arbitral tribunal shall determine its own procedure.

#### PART IV

#### TRANSITIONAL AND FINAL PROVISIONS

##### *Article 14*

(1) The present Convention shall not establish any claim to payment of benefits for any period before its coming into force.

(2) In the implementation of the present Convention, consideration shall be given to the relevant facts obtaining under the terms of the legislation of the Contracting Parties before the coming into force of the present Convention.

(3) The provisions of the present Convention shall apply notwithstanding the legal validity of decisions made prior to the coming into force of the present Convention.

(4) Pensions assessed before the coming into force of the present Convention can be reassessed *ex officio* or upon application with due regard being paid to the provisions of the present Convention. If such reassessment on application or reassessment *ex officio* were to result in no pension or a smaller pension than that last paid for any period prior to the coming into force of the present Convention, the same amount of pension as paid hitherto shall continue to be paid.

##### *Article 15*

The attached Final Protocol is part of the present Convention.

*Article 16*

The present Convention shall also apply to *Land Berlin*, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of Canada within three months of the coming into force of the present Convention.

*Article 17*

(1) The present Convention shall be subject to ratification. The instruments of ratification shall be exchanged in Bonn as soon as possible.

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

*Article 18*

(1) The present Convention shall be concluded for an indefinite period. Either of the Contracting Parties may terminate the present Convention on the 31st day of December in any year by giving notice in writing to the other Contracting Party not later than the 30th day of September in the same year.

(2) In the event of termination by denunciation the provisions of the present Convention shall continue to apply in respect of claims to benefits acquired not later than the effective date of that termination. No such claim shall be affected by any restrictive legislation that may provide for non-allowance of claims or the suspension or withdrawal of benefits on the grounds of foreign residence.

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

DONE at Ottawa on the 30th day of March, 1971 in two copies in the English, French and German languages, each text being equally authentic.

EN FOI DE QUOI, les plénipotentiaires ont signé la présente Convention et y ont apposé leurs sceaux.

FAIT à Ottawa le 30 mars 1971 en double exemplaire en langues anglaise, française et allemande, chacun des textes faisant également foi.

ZU URKUND DESSEN haben die Bevollmächtigten dieses Abkommen unterschrieben und mit ihren Siegeln versehen.

GESCHEHEN zu Ottawa am 30. März 1971, in zwei Urschriften, jede in englischer, französischer und deutscher Sprache, wobei jeder Wortlaut gleichermaßen verbindlich ist.

For Canada :

Pour le Canada :

Für Kanada :

[Signed — Signé]

JOHN L. MUNRO

For the Federal Republic of Germany :

Pour la République fédérale d'Allemagne :

Für die Bundesrepublik Deutschland :

[Signed — Signé]

Prof. Dr. KURT JANTZ

FINAL PROTOCOL TO THE CONVENTION ON SOCIAL SECURITY  
BETWEEN CANADA AND THE FEDERAL REPUBLIC OF GER-  
MANY

At the time of signing the Convention on Social Security concluded this day between Canada and the Federal Republic of Germany, the plenipotentiaries of both Contracting Parties stated that agreement existed on the following points :

1. *Re* article 2 of the Convention :

Subject to the agreement of the Contracting Parties, the Convention relates to legislation that may be enacted by a province of Canada, other than the Province of Quebec, regarding a comprehensive pension plan within the meaning thereof contained in the Canada Pension Plan.

2. *Re* article 3 of the Convention :

The German legislation which guarantees participation of the insured and of the employers in the organs of self-government of the institutions and of the associations of institutions, as well as in the adjudication of social security matters, shall remain unaffected.

3. *Re* articles 3 and 4 of the Convention :

(a) The legislation referred to in sub-subparagraph (i) of subparagraph (b) of paragraph (1) of article 2 shall remain unaffected to the extent that it requires that a person be resident in the territory of Canada for a certain period of time before he or she may acquire the right to claim a pension and before the pension may be paid abroad.

(b) The legislation regarding the payment of a Guaranteed Income Supplement under the Canadian Old Age Security Act shall not be affected.

4. *Re* articles 3 and 5 of the Convention :

Provisions relating to the apportionment of insurance burdens that may be contained in international treaties shall not be affected.

5. *Re* article 4 of the Convention :

(a) Paragraph (1) shall apply in the case of cash benefits paid out of the German Accident Insurance Scheme to beneficiaries who ordinarily reside as Canadian nationals in the territory of a Canadian province, provided that the laws or regulations in force in that province regarding statutory accident insurance provide for payment of corresponding cash benefits to German nationals ordinarily resident within the territory of the Federal Republic of Germany. This shall also apply *mutatis mutandis* with regard to the persons referred to in subparagraphs (b) and (c) of paragraph (1) of article 3 who are ordinarily resident in Canada within the territory of one of that country's provinces, provided that the legislation of that province regarding statutory

accident insurance provides for the payment of corresponding cash benefits to the persons referred to in subparagraphs (b) and (c) of Paragraph (1) of article 3, who are ordinarily resident in the territory of the Federal Republic of Germany.

(b) In the case of a person who is ordinarily resident in the territory of Canada, lump-sum settlement of a pension claim under the German Accident Insurance Scheme can be made only upon application by the beneficiary.

6. *Re* article 4 of the Convention :

(a) The German legislation regarding benefits based on insurance periods accumulated other than under Federal Law will not be affected.

(b) The German legislation regarding benefits in respect of occupational accidents (including occupational diseases) for which, at the time when the accident occurred, the injured party was not insured under Federal Law, will not be affected.

7. *Re* article 7 and article 11 :

The obligation of Canada pursuant to paragraph (1) of article 7 and pursuant to paragraph (2) of article 11 exists only to the extent that Canadian Law so enables from time to time.

8. *Re* article 11 of the Convention :

It shall be within the competence of the liaison agency for the Wage Earners' Pension Insurance established by virtue of paragraph (2) of article 10 to determine cash benefits, with the exception of those benefits which are granted within the framework of the measures referred to in paragraph (2) of article 4; and the said agency shall also be competent—with the exception of refund of contributions—in cases where the beneficiary is ordinarily resident in the territory of Canada or if, as a Canadian national, the beneficiary is ordinarily resident outside the territory of either of the Contracting Parties. The said liaison agency is also competent to make refund of contributions where

(a) the beneficiary is a Canadian national on the day of application, or

(b) the beneficiary is ordinarily resident in the territory of Canada.

The competence of the special agencies in the territory of the Federal Republic of Germany will not be affected.

9. In the implementation of the Convention, German legislation, to the extent that it contains more favourable provisions for persons who have suffered because of their political attitude or for reasons of their race, religion or ideology, will not be affected.