

No. 17125

**FEDERAL REPUBLIC OF GERMANY
and
SWEDEN**

**Convention concerning unemployment benefits. Signed at
Bonn on 28 June 1976**

Authentic texts: German and Swedish.

Registered by the Federal Republic of Germany on 13 October 1978.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
SUÈDE**

**Convention relative aux indemnités de chômage. Signée à
Bonn le 28 juin 1976**

Textes authentiques : allemand et suédois.

Enregistrée par la République fédérale d'Allemagne le 13 octobre 1978.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE KINGDOM OF SWEDEN CONCERNING UNEMPLOYMENT BENEFITS

The Federal Republic of Germany and the Kingdom of Sweden,
Wishing to regulate their relations in the area of social security covering unemployment,
Have agreed as follows:

SECTION I. GENERAL PROVISIONS

Article 1. DEFINITIONS

For the purposes of this Convention

1. "Territory" means:
 - In the case of the Federal Republic of Germany, the area in which the Basic Law for the Federal Republic of Germany is in force;
 - In the case of the Kingdom of Sweden, the territory of Sweden;
2. "National" means:
 - In the case of the Federal Republic of Germany, a German within the meaning of the Basic Law for the Federal Republic of Germany;
 - In the case of the Kingdom of Sweden, a person of Swedish nationality;
3. "Legislation" means: the laws, ordinances, regulations and other acts of a general legislative nature relating to the branches of social security specified in article 2, paragraph 1.
4. "Competent authority" means:
 - In the case of the Federal Republic of Germany, the Federal Minister for Labour and Social Affairs;
 - In the case of the Kingdom of Sweden, the Government or the authority designated by the Government;
5. "Insurance authority" means:
 - In the case of the Federal Republic of Germany, the Federal Labour Office;
 - In the case of the Kingdom of Sweden: for unemployment insurance, the National Labour Market Board and the recognized unemployment benefit societies; for unemployment relief, the National Labour Market Board and its regional authorities (county employment boards);
6. "Employment" means: an employment or occupation within the meaning of the applicable legislation;
7. "Unemployment benefit" means: the unemployment insurance benefit payable to unemployed persons under the legislation of the Contracting State in which the claim to the benefit is filed;

¹ Came into force on 1 January 1978, i.e., the first day of the second month following the month of the exchange of the instruments of ratification, which took place at Stockholm on 8 November 1977, in accordance with article 27 (2).

8. "Unemployment relief" means:

- In the case of the Federal Republic of Germany, unemployment benefits not based on contributions (unemployment assistance);
- In the case of the Kingdom of Sweden, unemployment benefits not based on contributions (cash unemployment allowance).

Article 2. SUBJECT-MATTER COVERED

(1) Except as otherwise provided in this Convention, it shall apply to:

1. The German legislation concerning unemployment insurance and unemployment relief;
2. The Swedish legislation concerning unemployment insurance and unemployment relief (cash unemployment allowance).

(2) In the application of this Convention, legislation which arises for a Contracting State out of another international treaty or out of supranational law or which serves for the application of such a treaty or law shall not be taken into account.

Article 3. PERSONS COVERED

Equal treatment

(1) Except as otherwise provided below, this Convention shall apply:

- In the case of unemployment insurance, to all persons subject to the legislation referred to in article 2, regardless of nationality;
- In the case of unemployment relief, to nationals of the Contracting States.

(2) In so far as the Convention, under paragraph (1) or the provisions of section II, applies only to nationals of the two Contracting States, the following shall have the same status as such nationals:

- (a) Refugees within the meaning of article 1 of the Convention of 28 July 1951 relating to the Status of Refugees¹ and the Protocol of 31 January 1967² to that Convention;
- (b) Stateless persons within the meaning of article 1 of the Convention of 28 September 1954, relating to the Status of Stateless Persons,³

provided that they are normally resident in the territory of one of the Contracting States.

(3) The persons covered by this Convention, in accordance with paragraphs (1) and (2), shall have equal status with respect to rights and obligations under the legislation of the Contracting States referred to in article 2, except as otherwise provided in article 24.

Article 4. EFFECT OF INCOME OR EMPLOYMENT STATUS ON LIABILITY TO CONTRIBUTE AND ON BENEFITS IN THE TERRITORY OF THE OTHER CONTRACTING STATE

Where, under the legislation of one Contracting State, a social security benefit, other income or employment has legal effects on liability to contribute, entitlement to insurance or benefits under this Convention, the same effects shall apply to similar benefits and similar income from the territory of the other Contracting State and similar employment in the other Contracting State.

¹ United Nations, *Treaty Series*, vol. 189, p. 137.

² *Ibid.*, vol. 606, p. 267.

³ *Ibid.*, vol. 360, p. 117.

Article 5. APPLICABLE LEGISLATION

(1) Except as otherwise provided in paragraph (2), entitlement to insurance and liability to contribute shall be governed by the legislation of the Contracting State in whose territory the employed person is employed, even if the employer is situated in the territory of the other Contracting State.

(2) With regard to compulsory insurance under articles 6 to 8 and article 10 of the Convention on social security between the Federal Republic of Germany and the Kingdom of Sweden,¹ if the legislation of the other Contracting State is applied instead of that in force at the place of employment, the legislation of that other Contracting State shall also be applied in so far as relates to the subject matter covered by this Convention.

(3) This Convention shall not affect the provisions of the Vienna Convention on Diplomatic Relations² or the Vienna Convention on Consular Relations³ pertaining to the legislation specified in article 2, paragraph (1).

SECTION II. ENTITLEMENT TO BENEFITS

1. GENERAL

Article 6

In so far as claims to benefits and procedures are concerned, the legislation of the Contracting State in whose territory the claim is filed shall apply, except as otherwise provided in this section.

2. UNEMPLOYMENT INSURANCE

Article 7. AGGREGATION OF PERIODS COMPLETED IN THE CONTRACTING STATES

(1) In the determination of entitlement to benefits:

- (a) In the Federal Republic of Germany, periods in which the unemployed person was a member of a Swedish unemployment benefit society and employed in the Kingdom of Sweden shall be treated as periods of contributory employment completed in the Federal Republic of Germany;
- (b) In the Kingdom of Sweden, periods of contributory employment completed in the Federal Republic of Germany shall be treated as periods in which the unemployed person was a member of a Swedish unemployment benefit society and employed in the Kingdom of Sweden;
- (c) In the case of a national of one Contracting State, account shall also be taken of such membership and employment periods and such periods of contributory employment as are to be taken into account in the other Contracting State in respect of such a national by virtue of international treaties or the law of the European Communities.

(2) Where the unemployed person files a claim for benefits in the Federal Republic of Germany, paragraph (1) shall apply only if that unemployed person:

- (a) Has, after taking up residence in the Federal Republic of Germany, engaged in employment subject to contributions under German legislation for at least four weeks, or

¹ See p. 3 of this volume.

² United Nations, *Treaty Series*, vol. 500, p. 95.

³ *Ibid.*, vol. 596, p. 261.

- (b) Possesses German nationality, or
 - (c) Returns to the Federal Republic of Germany after being a member of a Swedish unemployment benefit society and employed in the Kingdom of Sweden, and no more than 12 months, calculated from the date on which the claim was submitted, have elapsed since his most recently completed period of employment subject to contributions under German legislation.
- (3) Where the unemployed person files a claim for benefits in the Kingdom of Sweden, paragraph (1) shall apply only if such unemployed person:
- (a) Has, after taking up residence in the Kingdom of Sweden, been a member of a Swedish unemployment benefit society and employed in the Kingdom of Sweden for at least four weeks, or
 - (b) Possesses Swedish nationality, or
 - (c) Returns to the Kingdom of Sweden after engaging in employment subject to contributions under German legislation, and no more than 12 months, calculated from the date on which the claim was submitted, have elapsed since his membership in a Swedish unemployment benefit society and employment in the Kingdom of Sweden.
- (4) Periods which, under the legislation of one Contracting State, are assimilated to periods of membership and employment or periods of employment subject to contributions shall also be taken into account in the other Contracting State, but only for a period of time as the legislation of that State allows assimilated periods to be taken into account.

Article 8. REDUCTION OF THE ENTITLEMENT PERIOD

- (1) The period for which an insurance authority of the other State has paid the unemployed person unemployment benefits during the 12 months immediately preceding the date on which the claim was submitted, shall be deducted from the entitlement period, unless the unemployed person has completed a further qualifying period after receiving that benefit.
- (2) Where a benefit has been either temporarily or permanently refused, such a measure shall have the same effect, for the same period, on any claim made by the unemployed person against the insurance authority of the other Contracting State.

Article 9. REMOVAL DURING PAYMENT OF BENEFITS

Where a national of one Contracting State moves to the other Contracting State while receiving unemployment insurance benefits, the insurance authority of the latter State shall continue to pay the benefits in accordance with the legislation applicable to that authority without regard to whether the qualifying period is completed under that legislation as well. Article 7, paragraph 2 (b) and (c) and paragraph 3 (b) and (c) and article 8 shall apply *mutatis mutandis*.

Article 10. CALCULATION OF BENEFITS

Where, under the legislation of one Contracting State, the amount of the benefit depends on the level of the remuneration previously received or on insurance in a particular benefit category, benefits for the period in which the employed person was not employed in the territory of that Contracting State shall be calculated on the basis of the average contractual remuneration or, where no collective wage or salary agreement exists, the prevailing rate of remuneration for similar employment in the place of residence or the benefit category normally corresponding thereto.

Article 11. REIMBURSEMENT OF CONTRIBUTIONS AND BENEFITS

No reimbursement of contributions or benefits shall take place between either the Contracting States or the insurance authorities.

3. UNEMPLOYMENT RELIEF

Article 12

(1) Where, under the legislation of one Contracting State, entitlement to unemployment relief depends on the completion of a period of employment in the territory of that State, a period of employment completed in the territory of the other Contracting State shall be treated as a period of employment in the territory of the first-mentioned State. Article 7, paragraphs (2) and (3), and articles 8 to 11 shall apply *mutatis mutandis*.

(2) Where, under the legislation of one Contracting State, entitlement to unemployment relief depends on the fact that an entitlement to unemployment benefits previously existed and has been exhausted, an entitlement to unemployment benefits that existed and has been exhausted under the legislation of the other Contracting State shall be treated as an entitlement that existed and has been exhausted in the territory of the first mentioned Contracting State. Article 7, paragraphs (2) and (3), and articles 8, 10 and 11 shall apply *mutatis mutandis*.

SECTION III. MISCELLANEOUS PROVISIONS

ADMINISTRATIVE AND LEGAL ASSISTANCE

Article 13. GENERAL ADMINISTRATIVE ASSISTANCE

The insurance authorities, associations of insurance authorities, public authorities and courts of the Contracting States shall assist one another in the implementation of the legislation specified in article 2, paragraph (1), and of this Convention as if they were applying the legislation applicable to themselves. Such assistance shall be free of charge.

Article 14. RECIPROCAL RECOGNITION AND ENFORCEMENT OF ORDER AND INSTRUMENTS

(1) Enforceable court orders and enforceable instruments issued by the insurance authorities or public authorities of a Contracting State in matters concerning contributions and other requirements coming within the scope of this Convention shall be recognized in the other Contracting State.

(2) Recognition may be refused only where it would be contrary to the public policy of the Contracting State in which recognition of the order or instrument is sought.

(3) Enforceable orders and instruments which are recognized in accordance with paragraph (1) shall be enforced in the other Contracting State. The enforcement procedure shall be governed by the legislation which would apply in the Contracting State in whose territory enforcement is sought to the enforcement of the corresponding orders and instruments issued in that State. The copy of the order or instrument must contain a statement to the effect that it is enforceable (enforceability clause).

(4) Demands for payment made by insurance authorities in the territory of one Contracting State on the ground of arrears in contributions shall, in the event of

distrain and in bankruptcy or composition proceedings in the territory of the other Contracting State, be given priority equal to that given to corresponding demands for payment in the territory of the last-mentioned Contracting State.

(5) The compensation claims specified in article 20 shall also be regarded as other requirements within the meaning of paragraph (1).

Article 15. EXEMPTION FROM TAXES, CHARGES AND LEGALIZATION

(1) Exemptions from or reduction of taxes or charges, including consular and administrative charges, provided for by the legislation of one Contracting State in respect of documents or instruments required to be submitted in implementation of that legislation shall be extended to the corresponding documents and instruments required to be submitted in implementation of this Convention or the legislation of the other Contracting State, specified in article 2, paragraph (1).

(2) Instruments required to be submitted in implementation of this Convention or the legislation of a Contracting State specified in article 2, paragraph (1), shall not require legalization or any other similar formality for use in dealing with agencies of the other Contracting State.

Article 16. PROCEDURES FOR COMMUNICATION BETWEEN PUBLIC AUTHORITIES, COURTS AND INSURANCE AUTHORITIES

The agencies referred to in article 13 may, in implementation of the legislation specified in article 2, paragraph (1), and of this Convention, communicate directly in their own languages with one another and with the persons concerned and their representatives. Legislation concerning the use of interpreters shall not be affected. Judgements, decisions or other papers may be served on a person resident in the territory of the other Contracting State directly by registered letter with return receipt.

Article 17. OBSERVANCE OF TRADE-LIMITS

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

(2) Claims, declarations and appeals shall be forwarded, by the agency of the Contracting State to which they were submitted, without delay to the competent agency of the other Contracting State.

Article 18. RIGHT OF REPRESENTATION OF CAREER CONSULAR AUTHORITIES

Career consular authorities of one Contracting State in the territory of the other Contracting State shall be entitled, upon request by the claimants, to take, without producing evidence of a power of attorney, such steps as may be necessary to ensure and uphold the rights of nationals of the first-mentioned State. They may, in particular, submit claims or deliver notices to, or lodge appeals with, the agencies referred to in article 13, in the interests of such nationals.

IMPLEMENTATION AND INTERPRETATION OF THE CONVENTION

Article 19. RECIPROCAL NOTIFICATION—LIAISON OFFICES

(1) The competent authorities shall inform each other of any changes in, and additions to, the legislation applicable to them specified in article 2.

(2) The Convention shall be implemented by liaison offices. These offices shall be:

- In the Federal Republic of Germany, the headquarters of the Federal Labour Office at Nürnberg;
- In the Kingdom of Sweden, the National Labour Market Board (*arbetsmarknadsstyrelsen*).

Article 20. COMPENSATION CLAIMS AGAINST THIRD PARTIES

Where a person who has received unemployment benefits in the territory of one Contracting State in accordance with the legislation referred to in article 2 is entitled, under the legislation of the other Contracting State, to claim compensation from a third party for loss resulting from unemployment, the compensation claim shall be transferred to the liable insurance authority, in accordance with the legislation applicable to such insurance authority.

Article 21. PAYMENTS AND CURRENCY CONVERSION

Cash benefits may be paid by the insurance authority of one Contracting State to a person staying in the territory of the other Contracting State in the currency of that State, thereby discharging that authority's obligations. In the relationship between the insurance authority and the person entitled to the benefit, the currency conversion shall be determined by the exchange rate in force on the date on which the cash benefit was remitted. If an insurance authority has to make payments to an insurance authority in the other Contracting State, such payments shall be made in the currency of the last-mentioned State. In the cases referred to in articles 14 and 20, 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 first-mentioned State.

Article 22. REIMBURSEMENT OF BENEFITS PAID ERRONEOUSLY

(1) Where the insurance authority of one Contracting State has erroneously paid cash benefits, the amount paid in error may be withheld, for account of the insurance authority, from subsequent or current benefit payments under the legislation of the other Contracting State.

(2) Where a person is entitled under the legislation of one Contracting State to a cash benefit in respect of a period for which he, or his dependants have been granted benefits by a public assistance authority of the other Contracting State, the cash benefit shall, upon request by the public assistance authority entitled to compensation, be withheld for its account as if it were a public assistance authority having its seat in the territory of the first-mentioned Contracting State.

Article 23. ARBITRATION CLAUSE

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

(2) Where a dispute cannot be settled in this manner, it shall, upon request by a Contracting State, be submitted to an arbitral tribunal.

(3) The arbitral tribunal shall be constituted *ad hoc*; each Contracting State shall appoint a member, and the two members shall agree on a national of a third State as Chairman, 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 dispute to an arbitral tribunal.

(4) If the time-limits referred to in paragraph (3) are not adhered to, either Contracting State may, in the absence of any other agreement, 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 is unable to act for any other reason, the Vice-President shall make the appointments. If the Vice-President is also a national of a Contracting State or is 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 arbitral tribunal shall take its decisions by majority vote, on the basis of the treaties existing between the parties and of general international law. Its decisions shall be binding. Each Contracting State shall defray the expenses of its member and the cost of its representation in the arbitral proceedings; the expenses of the Chairman and other costs shall be shared equally by the Contracting States. The arbitral tribunal may make some other ruling concerning costs. In all other respects, the arbitral tribunal shall establish its own rules of procedure.

Article 24. APPOINTMENT OF MEMBERS OF THE BOARDS OF INSURANCE AUTHORITIES AND MEMBERS OF JUDICIAL ORGANS

Legislation of a Contracting State guaranteeing participation of insured persons and employers in the self-management bodies of insurance authorities and associations and in judicial activities in the field of social security shall not be affected.

SECTION IV. TRANSITIONAL AND FINAL PROVISIONS

Article 25. TRANSITIONAL PROVISIONS

(1) This Convention shall not create any entitlement to benefits in respect of periods prior to the date of its entry into force.

(2) In the application of this Convention, relevant facts arising under the legislation of the Contracting States prior to the date of its entry into force shall also be taken into account.

(3) Earlier decisions shall not preclude the application of the Convention.

Article 26. BERLIN CLAUSE

This 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 the Kingdom of Sweden within three months from the date of entry into force of this Convention.

Article 27. ENTRY INTO FORCE

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

(2) This 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 28. TERM OF VALIDITY

(1) This Convention is concluded for an indefinite period. Either Contracting State may denounce it, on three months' notice, as at the end of any calendar year.

(2) If, as a result of denunciation, the Convention ceases to have effect, its provisions shall continue to apply to entitlements to benefits acquired up to that time.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their Governments, have signed this Convention and have thereto affixed their seals.

DONE at Bonn on 28 June 1976 in two original copies, each in the German and Swedish languages, both texts being equally authentic.

For the Federal Republic of Germany:

WALTER ARENDT

Dr. DREHER

For the Kingdom of Sweden:

INGEMUND BENGTTSSON

SVEN BACKLUND
