

**No. 21057**

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**FINLAND  
and  
FEDERAL REPUBLIC OF GERMANY**

**Convention on social security (with final protocol). Signed at  
Helsinki on 23 April 1979**

*Authentic texts: Finnish and German.*

*Registered by Finland on 17 May 1982.*

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**FINLANDE  
et  
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Convention de sécurité sociale (avec protocole final). Signée  
à Helsinki le 23 avril 1979**

*Textes authentiques : finnois et allemand.*

*Enregistrée par la Finlande le 17 mai 1982.*

## [TRANSLATION — TRADUCTION]

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

The Republic of Finland and the Federal Republic of Germany,  
Desiring to regulate their relations in the field of social security, have agreed  
as follows:

## SECTION I

## GENERAL PROVISIONS

*Article 1.* (1) For the purposes of this Convention:

1. "Legislation" means the laws, ordinances, regulations and other law-making instruments in general relating to the branches of social security specified in article 2, paragraph 1;

2. "Competent public authority" means, in relation to the Federal Republic of Germany, the Federal Minister of Labour and Social Affairs, and, in relation to the Republic of Finland, the Ministry of Social Affairs and Health;

3. "Insurance authority" means the institute or authority responsible for the implementation of the legislation specified in article 2, paragraph 1;

4. "Competent insurance authority" means the insurance authority which is competent under the applicable legislation;

5. "Employment" means an employment or occupation within the meaning of the applicable legislation;

6. "Insurance periods" means contribution periods, periods of employment or periods of normal residence which are defined or recognized as insurance periods in the legislation under which they were completed, and any other periods which are recognized in such legislation as equivalent to insurance periods;

7. "Cash benefit" or "pension" means a cash benefit or pension including any increase therein and any supplement or additional allowance payable therewith.

(2) As regards the application of this Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the relevant laws of that State.

*Article 2.* (1) Except as otherwise provided in this Convention, it shall apply:

1. To the legislation of the Federal Republic of Germany concerning:

(a) Sickness insurance and protection of working mothers, in so far as such legislation relates to the provision of cash benefits and benefits in kind by the sickness insurance authorities;

<sup>1</sup> Came into force on 1 October 1981, i.e., the first day of the second month following the month of the exchange of the instruments of ratification, which took place at Bonn on 20 August 1981, in accordance with article 43 (1) and (2).

- (b) Accident insurance;
  - (c) Pensions insurance and the supplementary insurance scheme for iron and steel workers;
  - (d) Old-age assistance for farmers;
2. To the legislation of the Republic of Finland concerning:
- (a) Sickness insurance and maternity assistance, and benefits in kind provided by the national health system and by hospitals;
  - (b) Accident and occupational disease insurance;
  - (c) Pensions insurance, including employees' pension schemes, national pensions insurance and general family pensions insurance.

(2) As regards the application of this Convention, legislation which arises in the case of a Contracting State out of other international treaties or out of supranational law, or which serves for their implementation, shall not apply.

*Article 3.* (1) Except as otherwise provided in this Convention, it shall apply to nationals of the Contracting States, to other persons to whom the legislation of one of the Contracting States applies or has applied and to persons who derive their rights from one of the aforementioned persons.

(2) Except as otherwise provided in this Convention, the following persons shall, if they are normally resident in the territory of a Contracting State, be assimilated to nationals of that State for the purpose of applying the legislation of a Contracting State:

- (a) Nationals of the other Contracting State;
- (b) Refugees within the meaning of article 1 of the Convention relating to the Status of Refugees of 28 July 1951<sup>1</sup> and of the Protocol to that Convention of 31 January 1967;<sup>2</sup>
- (c) Stateless persons within the meaning of article 1 of the Convention relating to the Status of Stateless Persons of 28 September 1954;<sup>3</sup>
- (d) Other persons in respect of the rights which they derive from a national of a Contracting State, a refugee or a stateless person within the meaning of this article.

*Article 4.* Except as otherwise provided in this Convention, benefits under the legislation of one of the Contracting States shall be provided to nationals of the other Contracting State who are normally resident outside the Contracting States under the same conditions as they are provided to nationals of the first-mentioned Contracting State normally resident outside the Contracting States.

*Article 5.* Except as otherwise provided in articles 6 to 10, compulsory insurability shall be determined:

- 1. By the legislation of the Republic of Finland if the person concerned is normally resident in the Republic of Finland or, as regards employees' pensions insurance and accident and occupational disease insurance, if he is employed in the Republic of Finland;

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

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

<sup>3</sup> *Ibid.*, vol. 360, p. 117.

2. By the legislation of the Federal Republic of Germany if the person concerned is employed in the Federal Republic of Germany.

Where compulsory insurability is determined by the legislation of the place of employment, this shall apply even if the employer is in the other Contracting State.

*Article 6.* Where a person who is employed in a Contracting State is, in the course of such employment, sent by his employer to the other Contracting State to perform work in that State for that employer, the legislation of the first-mentioned Contracting State shall, as regards compulsory insurability, continue to apply to that person until the end of the twelfth calendar month after his dispatch as if he were still employed in that first-mentioned State.

*Article 7.* (1) The crew of a seagoing vessel, and other persons employed otherwise than temporarily on board such a vessel, shall, as regards compulsory insurability, be subject to the legislation of the Contracting State whose flag the vessel flies.

(2) Where an employed person who is normally resident in a Contracting State is temporarily employed on board a seagoing vessel flying the flag of the other Contracting State by an employer having his principal place of business in the first-mentioned Contracting State who is not the owner of the vessel, the legislation of the first-mentioned Contracting State shall, as regards compulsory insurability, apply to that person as if he were employed in that first-mentioned State.

*Article 8.* Articles 5 to 7 and article 10 shall apply *mutatis mutandis* to persons who are not employed persons but to whom the legislation specified in article 2 applies.

*Article 9.* (1) Where a national of a Contracting State is employed in the other Contracting State by the first-mentioned Contracting State or by a member or employee of an official mission of that Contracting State, he shall, as regards compulsory insurability, be subject for the duration of the employment to the legislation of the first-mentioned Contracting State as if he were employed in that first-mentioned State.

(2) Where an employed person referred to in paragraph 1 was normally resident in the country of employment before the commencement of the employment, he may, as regards compulsory insurability, opt within three months from the commencement of the employment for the application of the legislation of the country of employment. The employer shall be notified of the exercise of this option. The legislation opted for shall apply from the date of notification.

(3) Paragraphs 1 and 2 shall apply *mutatis mutandis* to persons referred to in paragraph 1 who are employed by another public employer.

*Article 10.* At the joint request of the employed person and the employer, or at the request of a person assimilated to an employed person referred to in article 8, the competent public authority of the Contracting State whose legislation would apply in accordance with articles 5 to 9 may grant exemption from that legislation if the person concerned becomes 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 person concerned is not employed in the last-mentioned Contracting State, he shall be deemed to be employed at the place where he was last previously employed. If he was not previously employed in the last-mentioned Contracting State, he shall be deemed to be employed at the place where the competent public authority of that Contracting State has its seat.

*Article 11.* (1) The legislation of a Contracting State concerning the non-existence or curtailment of an entitlement to benefits or of a benefit where it coincides with other entitlements to benefits or with other benefits shall also be applicable in respect of similar circumstances arising from the application of the legislation of the other Contracting State. Should the foregoing result in the curtailment of both benefits, each benefit shall be reduced by half the amount by which it would be reducible in accordance with the legislation of the Contracting State under which the entitlement exists.

(2) The legislation of a Contracting State concerning non-existence of the entitlement to benefits or curtailment of the benefit so long as any employment, or a specific employment, is being exercised or the person concerned is compulsorily insurable under the pensions insurance scheme shall also be applicable in respect of similar circumstances arising in the other Contracting State or from the application of its legislation.

## SECTION II

### SPECIAL PROVISIONS

#### CHAPTER I. SICKNESS INSURANCE UNDER THE LEGISLATION OF THE FEDERAL REPUBLIC OF GERMANY AND THE REPUBLIC OF FINLAND; MATERNITY ASSISTANCE AND BENEFITS IN KIND PROVIDED BY THE NATIONAL HEALTH SYSTEM AND BY HOSPITALS UNDER THE LEGISLATION OF THE REPUBLIC OF FINLAND

*Article 12.* For the purposes of entitlement to benefits and duration of benefits, insurance periods and periods of receipt of benefits completed under the legislation of both Contracting States shall be aggregated, provided that they do not overlap.

*Article 13.* (1) Where a person who is normally resident in a Contracting State is entitled to benefits in kind under the legislation of that State, he shall, while temporarily resident in the other Contracting State, receive benefits in kind under the legislation of the last-mentioned State if his condition necessitates the immediate provision of such benefits.

(2) Paragraph 1 shall not apply to cases where the person concerned goes to the other Contracting State for treatment, and in particular to take a cure or to stay at a sanatorium, convalescent home or health resort.

(3) The manner in which and the extent to which benefits are to be provided under paragraph 1 shall be governed by the legislation applicable to the insurance authority of the place of temporary residence.

*Article 14.* Dependants of a person who is normally resident in a Contracting State and is insured under the legislation of that Contracting State shall, if they are normally resident in the other Contracting State, receive benefits in kind under the legislation applicable to the insurance authority of their place of

normal residence, in so far as they are not in any event entitled on other grounds to benefits in kind under the legislation applicable to the place of normal residence.

*Article 15.* (1) Persons in receipt of pensions under the pensions insurance schemes of the Contracting States shall be subject to the legislation concerning sickness insurance for pensioners of the Contracting State in which they are normally resident. Where, in such a case, a pension is granted only under the legislation of the other Contracting State, such pension shall, for the purpose of benefits in kind, be deemed to be a pension of the first-mentioned Contracting State.

(2) Paragraph 1 shall apply *mutatis mutandis* to applicants for pensions.

*Article 16.* (1) Benefits under articles 13 and 14 shall be provided:

—In the Federal Republic of Germany: by the General Local Sickness Fund competent for the place of residence or, in cases of in-patient treatment for tuberculosis, by the manual workers' pensions insurance authority competent for the place of residence;

—In the Republic of Finland:

—In the case of sickness insurance benefits, by the district office of the Social Insurance Institute competent for the place of residence;

—In the case of maternity assistance, by the communal social welfare board competent for the place of residence;

—In the case of national health system benefits in kind, by the local health centre competent for the place of residence;

—In the case of hospital benefits in kind, by the hospital competent for the place of residence.

(2) Persons and institutes that have concluded agreements with the insurance authorities referred to in paragraph 1 concerning the provision of benefits in kind to persons insured with the said insurance authorities and their dependants shall also be required to provide benefits in kind under articles 13 and 14, under the same conditions as if the persons concerned were insured with the insurance authorities referred to in paragraph 1 or were dependants of persons so insured and as if the agreements also applied to such persons.

(3) The costs of the benefits in kind to be provided under this article shall be borne by the insurance authorities of the place of residence.

*Article 17.* For the purpose of the provision of cash benefits under the legislation of one of the Contracting States, residence of the beneficiary in the other Contracting State shall be assimilated to residence in the first-mentioned Contracting State.

## CHAPTER 2. ACCIDENT INSURANCE

*Article 18.* Except as otherwise provided in this Convention, for the purpose of the provision of pensions and grants under the legislation of one of the Contracting States, residence of a person specified in article 3, paragraph 2, in the other Contracting State shall be assimilated to residence in the first-mentioned Contracting State.

*Article 19.* (1) Where, for the purpose of assessing the degree of disability and determining the entitlement to benefits resulting from an industrial accident (or occupational disease) within the meaning of the legislation of a Contracting State, that legislation provides that other industrial accidents (or occupational diseases) shall be taken into account, this shall also apply to industrial accidents sustained (or occupational diseases contracted) which are covered by the legislation of the other Contracting State, as if they were covered by the legislation of the first-mentioned Contracting State. Contingencies which are treated as accidents or giving entitlement to compensation under other laws shall be assimilated to accidents to be taken into account.

(2) The competent insurance authority liable for payment of compensation in respect of the insurance contingency shall determine its benefit on the basis of the degree of disability resulting from the industrial accident (or occupational disease) which it is required to take into account under the legislation applicable to that insurance authority.

*Article 20.* (1) For the purpose of entitlement to benefits by reason of an occupational disease, the insurance authority of a Contracting State shall also take into account employments exercised in the other Contracting State to which the disease may be attributed. Benefits shall be provided by the insurance authority of the Contracting State in which the last employment to which the disease may be attributed was exercised. Article 21 shall not be affected.

(2) Paragraph 1 shall also apply to the provision of survivors' benefits.

*Article 21.* (1) A person who is entitled to benefits in kind under the legislation of a Contracting State by reason of an industrial accident or occupational disease shall, during any period of residence in the other Contracting State, receive benefits in kind from the insurance authority of his place of residence under the legislation applicable to that insurance authority.

(2) The benefits in kind referred to in paragraph 1 shall be provided:

—In the Federal Republic of Germany: by the General Local Sickness Fund competent for the place of residence;

—In the Republic of Finland: by the insurance institutes appointed by the Association of Accident Insurance Institutes.

(3) Where, under paragraph 1, occupational rehabilitation (or occupational assistance) is to be provided, it shall be provided by the agency competent for that purpose in the State of residence, in accordance with the legislation applicable to that agency. The competent agency shall be the agency which would be competent if the decision concerning entitlement to benefits were governed by the legislation of that Contracting State.

(4) Article 16, paragraph 2, shall apply *mutatis mutandis*.

(5) The costs of the benefits in kind to be provided under this article shall be borne by the insurance authorities of the place of residence.

*Article 22.* Subject to the provisions of article 18, for the purpose of the provision of cash benefits under the legislation of one of the Contracting States, residence of the beneficiary in the other Contracting State shall be assimilated to residence in the first-mentioned Contracting State.

## CHAPTER 3. PENSIONS INSURANCE

Part 1. *Pensions insurance under the legislation of the Federal Republic of Germany and pensions insurance for employees under the legislation of the Republic of Finland*

*Article 23.* Except as otherwise provided in this Convention, for the purpose of the provision of invalidity, old-age or survivors' cash benefits under the legislation of one of the Contracting States, residence of a person specified in article 3, paragraph 2, in the other Contracting State shall be assimilated to residence in the first-mentioned Contracting State.

*Article 24.* Where reckonable insurance periods have been completed under the legislation of both Contracting States, for the purpose of the acquisition of entitlement to benefits under the applicable legislation, insurance periods which are reckonable under the legislation of the other Contracting State shall also be taken into account, provided that they do not coincide. The extent to which insurance periods are reckonable shall be governed by the legislation which determines reckonability.

*Article 25.* For the purpose of calculating the pension under the legislation of a Contracting State, the assessment bases shall consist only of those insurance periods which are to be taken into account for the calculation of pensions under the applicable legislation of that Contracting State.

*Article 26.* The following provisions shall apply to the insurance authority of the Federal Republic of Germany:

(1) The insurance periods to be taken into account in accordance with article 24 shall be attributed to that branch of insurance whose insurance authority is competent to determine the benefit when only the legislation of the Federal Republic of Germany is applied. Where, in accordance with the foregoing, the miners' pensions insurance authority is competent, insurance periods which are to be taken into account under the legislation of the Republic of Finland shall be taken into account under the miners' pensions insurance scheme if they were completed in an underground occupation in mining enterprises.

(2) As regards cessation of the miners' compensation benefit, mining enterprises in the Republic of Finland shall be assimilated to mining enterprises in the Federal Republic of Germany.

(3) Where the conditions for entitlement to a pension are fulfilled without regard to article 24, only half the amount of that part of the benefit which pertains to the reckonable period shall be credited if a pension is being paid in respect of the same person from the pensions insurance scheme for employees under the legislation of the Republic of Finland and if, for the purpose of calculating that pension, regard being had to article 27, the period up to pensionable age or the corresponding remuneration is credited. Similarly, where the conditions for entitlement to a pension are fulfilled only if regard is had to the provisions of article 24, only half the amount of the part of the benefit which pertains to the reckonable period shall be credited.

(4) The children's supplement or the amount additional to orphan's pension shall be paid in accordance with national law if entitlement to a pension exists without regard to article 24 and if no children's allowance is payable under the legislation of the Republic of Finland. Otherwise, half the amount of the children's



supplement or half the amount additional to orphan's pension provided for under national law shall be paid.

(5) Where compulsory insurability depends on the fact that fewer than a specified number of contributions have been paid, the insurance periods to be taken into account under the legislation of the Republic of Finland shall be taken into account for the purpose of deciding whether a person is compulsorily insurable.

*Article 27.* The following provision shall apply to the insurance authority of the Republic of Finland:

Where, under the legislation of the Federal Republic of Germany, regard being had to article 26, paragraph 3, a part of a benefit pertaining to the reckonable period is credited against a pension from the pensions insurance scheme, only half the period up to pensionable age or half the corresponding remuneration shall be credited for the purpose of calculating the pension to which the same person is entitled under the legislation of the Republic of Finland.

*Part 2. Pensions under the National Pensions Act  
and the Family Pensions Act of the Republic of Finland*

*Article 28.* For the purpose of the provision of a pension under the National Pensions Act and the Family Pensions Act of the Republic of Finland, the following provisions shall apply:

(1) Persons specified in article 3, paragraph 2 (*a*) to (*d*), shall, if they transfer their residence to the Federal Republic of Germany, acquire under the same conditions as Finnish nationals entitlement to a pension of at least the basic amount payable under the National Pensions Act and the Family Pensions Act.

(2) A person specified in subparagraph 1 above who, even if regard is had to article 3, paragraph 2, is not entitled to an old-age pension under the National Pensions Act of the Republic of Finland because he does not fulfil the conditions under that Act with respect to minimum duration and time-frame of residence in the Republic of Finland shall, when normally resident in the Republic of Finland or in the Federal Republic of Germany, be entitled to the basic amount of the old-age pension if, since attaining the age of 16 years, he has been continuously resident in the Republic of Finland for not less than five years.

(3) A person specified in subparagraph 1 above who, even if regard is had to article 3, paragraph 2, is not entitled to a widow's pension under the Family Pensions Act in the Republic of Finland because she was not normally resident in the Republic of Finland on the date of death of the person from whom she derives entitlement shall, when normally resident in the Republic of Finland or in the Federal Republic of Germany, be entitled to the basic amount of the widow's pension if the deceased was a person specified in article 3, paragraph 2 (*a*) to (*c*), and had, since attaining the age of 16 years and at the date of death, been normally resident in the Republic of Finland or in the Federal Republic of Germany for a continuous period of not less than five years, and the widow has also, since attaining the age of 16 years, been continuously resident in the Republic of Finland for not less than five years.

(4) A person specified in subparagraph 1 above who, even if regard is had to article 3, paragraph 2, is not entitled to a children's allowance under the Family Pensions Act in the Republic of Finland because he was not normally resident in

the Republic of Finland on the date of death of the person from whom he derives entitlement or was not born in the Republic of Finland after the death of that person shall, when normally resident in the Republic of Finland or in the Federal Republic of Germany, be entitled to a children's allowance if the deceased was a person specified in article 3, paragraph 2 (a) to (c), and had, since attaining the age of 16 years and at the date of death, been normally resident in the Republic of Finland or in the Federal Republic of Germany for a continuous period of not less than five years.

## SECTION III

### MISCELLANEOUS PROVISIONS

#### CHAPTER I. OFFICIAL AND LEGAL ASSISTANCE

*Article 29.* (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 legislation specified in article 2, paragraph 1, and of the Convention as if they were applying the legislation to which they themselves are subject. Such assistance shall be free of charge. However, out-of-pocket expenses, excluding postage, shall be reimbursed.

(2) The first sentence of paragraph 1 shall also apply to medical examinations. The cost of such examinations, travel expenses, loss of earnings, the cost of hospitalization for observation and other out-of-pocket expenses, excluding postage, shall be reimbursed by the requesting agency. Costs shall not be reimbursed if the medical examination is in the interests of the competent insurance authorities of both Contracting States.

*Article 30.* (1) Enforceable court orders and enforceable documents issued by the insurance authorities or public authorities of a Contracting State in matters concerning contributions and other debt-claims relating to social insurance 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 document is sought.

(3) Enforceable orders and documents 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 applicable in the Contracting State in which enforcement is sought to the enforcement of the corresponding orders and documents issued in that Contracting State. The copy of the order or document must contain a statement to the effect that it is enforceable (enforceability clause).

(4) Debt-claims of insurance authorities in a Contracting State relating to arrears in contribution shall, in the event of forced execution or of bankruptcy or composition proceedings in the other Contracting State, have the same priority as corresponding debt-claims in that Contracting State.

*Article 31.* (1) Any exemption from or reduction in legal dues or charges, including consular and administrative fees, provided for under the legislation of a Contracting State in the case of documents or papers which are required to be submitted pursuant to that legislation shall also extend to the corresponding

documents and papers required to be submitted pursuant to this Convention or to the legislation of the other Contracting State specified in article 2, paragraph 1.

(2) Documents required to be submitted pursuant to this Convention or to 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 32.* In implementing the legislation specified in article 2, paragraph 1, and this Convention, the agencies referred to in article 29, paragraph 1, may communicate in their official languages directly 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 documents may be served directly on a person resident in the other Contracting State by registered letter with return receipt.

*Article 33.* (1) Where a claim to a benefit under the legislation of a 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 applicable to that agency, 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, notices and appeals shall be transmitted without delay by the agency of one of the Contracting States to which they have been submitted to the competent agency of the other Contracting State.

(3) A claim to benefits under the legislation of one of the Contracting States shall also be deemed to be a claim to a corresponding benefit under the legislation of the other Contracting State. The foregoing shall not apply if the claimant expressly requests that determination of the entitlements acquired under the legislation of the other Contracting State should be deferred in cases where, under the legislation of that Contracting State, may specify the date on which the conditions for entitlement to benefits shall be deemed to be fulfilled.

*Article 34.* Career consular missions of one of the Contracting States in the other Contracting State shall be entitled, at the request of the interested parties, to perform such acts as may be necessary to protect and uphold the rights of nationals of the first-mentioned State without producing a power of attorney. In particular, they may lodge claims, notices and appeals with the agencies referred to in article 29, paragraph 1, in the interests of such nationals.

## CHAPTER 2. IMPLEMENTATION AND INTERPRETATION OF THE CONVENTION

*Article 35.* (1) The Governments or the competent public authorities may agree upon the administrative measures necessary for implementing the Convention. They shall inform one another of any changes in, and additions to, the legislation in force for them specified in article 2.

(2) For the purpose of implementing the Convention, the following liaison offices shall be established:

—In the Federal Republic of Germany:

—For sickness insurance, the Bundesverband der Ortskrankenkassen (Federal Association of Local Sickness Funds), Bonn;

- For accident insurance, the Hauptverband der gewerblichen Berufsgenossenschaften e.V. (Federation of Trade Associations), Bonn;
  - For manual workers' pensions insurance, the Landesversicherungsanstalt Schleswig-Holstein (Schleswig-Holstein *Land* Insurance Institute), Lübeck;
  - For salaried workers' pensions insurance, the Bundesversicherungsanstalt für Angestellte (Federal Insurance Institute for Salaried Workers), Berlin;
  - For miners' pensions insurance, the Bundesknappschaft (Federal Miners' Insurance Association), Bochum;
  - For iron and steel workers' supplementary insurance, the Landesversicherungsanstalt für das Saarland (*Land* Insurance Institute for the Saar), Saarbrücken;
- In the Republic of Finland:
- For sickness insurance, national pensions insurance and general family pensions insurance, Kansaneläkelaitos (KELA) (Social Insurance Institute);
  - For employees' pensions insurance, Eläketurvakeskus (ETK) (Central Pension Protection Institute);
  - For accident and occupational disease insurance, Tapaturmavakuutuslaitosten Liitto (TVL) (Association of Accident Insurance Institutes);
  - For national health and hospital benefits and kind, Lääkintöhallitus (Central Office for Health Care);
  - For maternity assistance, Sosiaalihuolto (Central Office for Social Welfare).

*Article 36.* Liability for cash benefits may be discharged by an insurance authority of a Contracting State in favour of a person resident in the other Contracting State by payment in the currency of the last-mentioned 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 benefit. 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 last-mentioned Contracting State. Payments to be made by an insurance authority to an insurance authority of the other Contracting State in cases covered by article 30 or article 37 shall be effected in the currency of the first-mentioned Contracting State.

*Article 37.* (1) Where a person who is to receive benefits under the legislation of a Contracting State in respect of an injury sustained in the other Contracting State is entitled, in accordance with the legislation of the last-mentioned State, to claim damages for such injury from a third party, the claim for damages shall be transferred to the insurance authority of the first-mentioned Contracting State in accordance with the legislation applicable to that insurance authority, or that insurance authority may reduce its benefit in accordance with the legislation applicable to it.

(2) Where the insurance authority of a Contracting State has, in accordance with the legislation of that State, an original claim for damages against a third party, that claim shall be recognized by the other Contracting State.

(3) 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

or to make a reduced payment in respect of similar benefits as a result of the same case of injury, the insurance authority of one of the Contracting States shall, at the request of the insurance authority of the other Contracting State, also assert the claim of the last-mentioned authority to damages. The third party may discharge the claims of both insurance authorities by making payment to either of them. 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 38.* (1) Where the insurance authority of a Contracting State has paid cash benefits in error, the amount paid in error may be deducted, for account of the insurance authority, from a corresponding benefit under the legislation of the other Contracting State.

(2) Paragraph 1 shall apply *mutatis mutandis* where the payment of sickness benefits under the legislation of one of the Contracting States coincides with the payment of a pension under the legislation of the other Contracting State.

(3) Where the insurance authority of a Contracting State has made an advance payment in respect of an entitlement to benefits under the legislation of the other Contracting State, the amount advanced shall be deducted from the benefit for account of that insurance authority.

(4) A deduction in accordance with paragraphs 1 to 3 shall be permissible only where the funds cannot be recovered in some other manner.

(5) Where a person is entitled under the legislation of a Contracting State to a cash benefit for a period for which benefits have been provided to him or his dependants by a public assistance authority of the other Contracting State, such cash benefit shall, at the request and for account of the public assistance authority which is entitled to compensation, be withheld as if that authority were a public assistance authority having its seat in the first-mentioned Contracting State.

*Article 39.* (1) Any disputes between the two Contracting States concerning the interpretation or application of the Convention shall be settled, as far as possible, by the competent public authorities.

(2) Where a dispute cannot be settled in this manner, it shall, at the request of a Contracting State, 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 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 some other agreement, request the President of the International Court of Justice 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 bear the expenses of its member and the costs of its representation before the arbitral tribunal. The expenses of the chairman and other costs shall be borne 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.

#### SECTION IV

##### TRANSITIONAL AND FINAL PROVISIONS

*Article 40.* (1) This Convention shall not confer any right to the payment of benefits for the period prior to its entry into force.

(2) For the purpose of the application of this Convention, material events which occurred under the legislation of the Contracting States even before its entry into force shall be taken into account.

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

(4) Pensions which are determined prior to the entry into force of this Convention may be revised *ex officio*, taking into account the provisions of the Convention. In such cases, the date on which the insurance authority initiates the procedure shall be deemed to be the date on which application is made under the legislation of the other Contracting State. Article 33, paragraphs 2 and 3, shall apply *mutatis mutandis*.

(5) If the revision referred to in paragraph 4 would result in the payment of no pension or of a pension smaller than that last paid for the period prior to the entry into force of this Convention, the pension shall continue to be granted in the amount previously paid.

*Article 41.* The final protocol annexed hereto shall form an integral part of this Convention.

*Article 42.* In conformity with the Quadripartite Agreement of 3 September 1971,<sup>1</sup> this Convention shall be extended to Berlin (West) in accordance with established procedures, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the Republic of Finland within three months from the date of entry into force of this Convention.

*Article 43.* (1) This Convention shall be ratified; the instruments of ratification shall be exchanged at Bonn as soon as possible.

(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.

(3) Upon the entry into force of this Convention, the Convention between the German Reich and the Republic of Finland regarding Accident Insurance, signed on 18 June 1927,<sup>2</sup> shall cease to have effect.

<sup>1</sup> United Nations, *Treaty Series*, vol. 880, p. 115.

<sup>2</sup> League of Nations, *Treaty Series*, vol. LXXI, p. 361.

*Article 44.* (1) The Convention is concluded for an indefinite period. Either Contracting State may denounce it, upon three months' notice, with effect from 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. 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 undersigned, being duly authorized by their Governments, have signed this Convention and have thereto affixed their seals.

DONE at Helsinki on 23 April 1979, in two original copies, each in the Finnish and German languages, both texts being equally authentic.

For the Republic of Finland:

MATTI TUOVINEN

For the Federal Republic of Germany:

SIMON

#### FINAL PROTOCOL TO THE CONVENTION BETWEEN THE REPUBLIC OF FINLAND AND THE FEDERAL REPUBLIC OF GERMANY ON SOCIAL SECURITY

At the time of signing the Convention on social security concluded this day between the Republic of Finland and the Federal Republic of Germany, the plenipotentiaries of the two Contracting States declare that agreement has been reached on the following:

1. *Ad article 2 of the Convention:*

(a) Section II, chapter 3, of the Convention, with the exception of article 23, shall not apply to the supplementary insurance scheme for iron and steel workers in the Federal Republic of Germany or to old-age assistance for farmers.

(b) Where, in addition to the conditions for the application of the Convention, the conditions for the application of another convention or of a provision of supranational law are also fulfilled under the legislation of a Contracting State, the insurance authority of that Contracting State shall not take the other convention or the provision of supranational law into account for the purpose of applying the Convention.

(c) Article 2, paragraph 2, of the Convention and the provisions of subparagraph (b) above shall not apply in so far as the social security legislation which arises in the case of the Federal Republic of Germany out of international treaties or out of supranational law, or which serves for their implementation, contains regulations concerning insurance liability.

(d) The term "legislation of the Republic of Finland" includes the provisions of that legislation concerning compulsory payment of contributions to the social security schemes specified in article 2, paragraph 1, subparagraph 2, of the Convention.

2. *Ad article 3 of the Convention:*

(a) Regulations concerning insurance liability contained in State treaties concluded by the Federal Republic of Germany shall not be affected.

(b) Legislation of a Contracting State guaranteeing the participation of insured persons and employers in the self-governing organs of insurance authorities and associations and in establishing the *usus fori* in social security matters shall not be affected.

(c) Finnish nationals who are normally resident outside the Federal Republic of Germany shall be eligible for voluntary insurance under the pensions insurance scheme of the Federal Republic of Germany if they have actually paid contributions to that scheme for not less than 60 months or if they were eligible for voluntary insurance by virtue of transitional legislation which was in force prior to 19 October 1972. The foregoing shall also apply to refugees and stateless persons specified in article 3, paragraph 2(b) and (c), who are normally resident in the Republic of Finland.

(d) Nationals of a Contracting State who, together with their children, are resident or normally resident in the other Contracting State shall have the same rights and obligations with respect to the payment of children's allowance as nationals of the last-mentioned Contracting State. Where the foregoing results in an entitlement to children's allowance in both Contracting States, such allowance shall be payable only under the legislation of the Contracting State in which the children are resident or normally resident.

3. *Ad articles 4, 18, 22 and 23 of the Convention:*

The legislation of the Federal Republic of Germany concerning benefits in respect of accidents sustained (or occupational diseases contracted) at a time when the person concerned was not insured under federal law, and in respect of insurance periods which are not completed under federal law, shall not be affected.

4. *Ad articles 5 to 10 of the Convention:*

Where, pursuant to the Convention, a person is, by reason of the exercise of an employment, compulsorily insured under the legislation of the Federal Republic of Germany, the legislation of the Republic of Finland concerning compulsory insurance and compulsory payment of contributions by virtue of the remuneration paid for such employment shall not apply even if the person concerned is normally resident in the territory of the Republic of Finland.

5. *Ad articles 6 to 10 and article 28 of the Convention:*

(a) Where a person is employed in a Contracting State and is, in accordance with articles 6 to 10, subject to the legislation of the other Contracting State as if he were employed in that State, he shall be treated as if he were also normally resident in the last-mentioned State.

(b) The fact that a person is entered in the official population register in the Republic of Finland shall not preclude the application of articles 6 to 10 and article 28.

6. *Ad article 9 of the Convention:*

In the case of persons who are employed on the date of entry into force of the Convention, the period specified in paragraph 2 shall begin to run on that date.

7. *Ad article 11 of the Convention:*

(a) For the purpose of applying the legislation of the Republic of Finland, a pension under the pensions insurance legislation of the Federal Republic of Germany shall be assimilated to a pension under the legislation of the Republic of Finland concerning pensions insurance for employees.

(b) Where a pension under the pensions insurance legislation of the Federal Republic of Germany coincides with a pension under the accident insurance legislation of the Republic of Finland, only the assessment basis provided for under the legislation of the Federal Republic of Germany for the purpose of calculating the pension shall be taken into account for the purpose of applying the last-mentioned legislation.

(c) Article 11 shall not affect the legislation of the Federal Republic of Germany concerning refund of contributions under the statutory pensions insurance scheme in the



case of persons other than those specified in article 3, paragraph 2, and in the case of persons specified in article 3, paragraph 2, who are not members of the pensions insurance scheme for employees under the pensions legislation of the Republic of Finland.

8. *Ad section II, chapter 1, of the Convention:*

(a) The term "benefits in kind under the legislation of the Republic of Finland" includes amounts reimbursed to the beneficiary by the sickness insurance authority in respect of sickness benefits.

(b) (1) The confinement grant under the legislation of the Federal Republic of Germany and maternity assistance benefits under the legislation of the Republic of Finland shall be deemed to be benefits in kind.

(2) Medical examinations required under the legislation of a Contracting State for provision of the benefits referred to in subparagraph (b) (1) above shall be assimilated to corresponding examinations under the legislation of the other Contracting State.

9. *Ad article 12 of the Convention:*

(a) Where a person who has been insured under the legislation of the Republic of Finland transfers his normal residence to the Federal Republic of Germany, he may voluntarily continue the insurance under the legislation of the Federal Republic of Germany. In such a case, separation from sickness insurance under the legislation of the Republic of Finland shall be assimilated to separation from compulsorily insured employment under the legislation of the Federal Republic of Germany. The insurance shall be continued with the General Local Sickness Fund competent for the place of normal residence. The preceding three sentences shall apply *mutatis mutandis* to persons whose rights to continued insurance derive from the insurance of another person.

(b) For the purposes of compulsory insurance and of the right to voluntary continued insurance under the legislation of the Federal Republic of Germany concerning statutory sickness insurance, insurance periods completed under the legislation of the Republic of Finland shall be taken into account, provided that they do not overlap with insurance periods completed under the legislation of the Federal Republic of Germany.

(c) Article 12 shall apply *mutatis mutandis* to benefits which, under the legislation of the Federal Republic of Germany, may be provided at the discretion of an insurance authority.

10. *Ad article 14 of the Convention:*

Any person who, in accordance with the legislation of the Federal Republic of Germany, is deemed to be a dependant shall be entitled in the Federal Republic of Germany to benefits in kind under articles 14 and 16. The foregoing shall apply provided that such dependants would be entitled to family sickness assistance under the legislation of the Federal Republic of Germany if the person specified in article 14 of the Convention had sickness insurance coverage under that legislation.

11. *Ad article 15 of the Convention:*

The legislation of the Federal Republic of Germany concerning the sickness insurance contribution subsidy for pensioners shall apply only in respect of a pension under the pensions insurance scheme of the Federal Republic of Germany.

12. *Ad article 16, paragraph 3, and article 21, paragraph 5, of the Convention:*

(a) Where, regard being had to the Convention, a person is to receive benefits under the legislation of the Federal Republic of Germany in respect of an injury for which he is entitled under other legislation of the Federal Republic of Germany to claim damages from a third party, such claim shall be transferred, in accordance with the legislation of the Federal Republic of Germany, to the insurance authority providing the benefits.

(b) In the light of experience over a length of time with respect to the application of article 16, paragraph 3, and article 21, paragraph 5, the Contracting States shall jointly

consider whether a different arrangement should be adopted for the costs of the benefits referred to in those provisions.

13. *Ad article 17 of the Convention:*

It shall be a condition for the application of article 17 by the insurance authorities of the Republic of Finland that the person concerned is a member of the sickness insurance scheme of the Republic of Finland.

14. *Ad article 19 of the Convention:*

Where, in accordance with the legislation of the Federal Republic of Germany, receipt of a pension under the pensions insurance scheme affects the amount of the benefit under the accident insurance scheme, receipt of a corresponding pension under the legislation of the Republic of Finland concerning pensions insurance for employees shall have the same effect.

15. *Ad article 21 of the Convention:*

(a) In lieu of the insurance authority of the Federal Republic of Germany referred to in paragraph 2, the accident insurance authority of the Federal Republic of Germany which would be competent if the decision concerning entitlement to benefits were governed by the legislation of the Federal Republic of Germany may provide the benefit.

(b) The competent agency for the purpose of the benefits referred to in paragraph 3 shall be, in the Federal Republic of Germany, the accident insurance authority, and, in the Republic of Finland, the insurance institute appointed by the Association of Accident Insurance Institutes.

16. *Ad article 24 of the Convention:*

(a) Where the legislation of the Federal Republic of Germany is applied for the purpose of determining the insurance periods to be taken into account, calendar years of normal residence in the Republic of Finland shall be assimilated to insurance periods reckonable under the legislation of the Republic of Finland only if they were completed after attainment of the age of 16 years and prior to 8 July 1961 and if, during those years, the person concerned was liable for national income tax in the Republic of Finland.

(b) For the purpose of the provision of the supplementary benefit under the legislation of the Federal Republic of Germany concerning the pensions insurance scheme for miners, insurance periods reckonable under the legislation of the Republic of Finland shall not be taken into account.

(c) As regards the pensions insurance scheme of the Federal Republic of Germany, article 24 shall apply *mutatis mutandis* to benefits which may be provided at the discretion of the insurance authority.

17. *Ad article 25 of the Convention:*

Insurance periods completed under the legislation of the Republic of Finland shall not be taken into account even for the purpose of establishing the minimum number of insurance years required for the calculation of the pension according to minimum income under the legislation of the Federal Republic of Germany.

18. *Ad article 28 of the Convention:*

(a) For the purpose of applying article 28, temporary residence outside the Republic of Finland shall not be regarded as a break in continuity if the duration of such residence did not exceed four months. The foregoing shall also apply in case of longer periods of residence outside the Republic of Finland where special grounds exist; the total duration of residence in the Republic of Finland and the reasons for residence outside the Republic of Finland may be regarded as special grounds.

(b) In the case referred to in paragraph 4, payment of the children's allowance in the Federal Republic of Germany shall be effected on the basis of increment class III.

(c) Where a person specified in article 28, paragraph 1, or a deceased person specified in article 28, paragraph 3 or 4, was resident in the Republic of Finland for a continuous period of less than five years prior to 8 July 1961, a period of twice the duration of such residence shall be taken into account for the purpose of applying article 28, paragraphs 2 to 4, if during that period the person concerned was employed and taxed in the Republic of Finland. The provisions of subparagraph (a) above shall apply.

(d) A person specified in article 3, paragraph 2 (a), (b), or (c), who is not entitled to an invalidity pension under the National Pensions Act of the Republic of Finland even if regard is had to article 3, paragraph 2, may when normally resident in the Republic of Finland or in the Federal Republic of Germany, receive payment of the basic amount of the invalidity pension if he was resident in the Republic of Finland for a continuous period of more than two years and six months prior to 8 July 1961 and was, during that period, employed and taxed in the Republic of Finland. An additional condition shall be that the basic amount of the invalidity pension is necessary for subsistence. Where special circumstances exist, residence for a period of two years and six months may be regarded as a sufficient ground for the purposes of the first sentence of this subparagraph. The provisions of subparagraph (a) above shall apply.

(e) The Government of the Republic of Finland shall, on the proposal of the Federal Republic of Germany, enter into negotiations with the latter if the National Pensions Act or the Family Pensions Act of the Republic of Finland is amended or if, in connexion with either of those Acts, the Republic of Finland concludes with another State an agreement the provisions of which are more favourable than those of the Convention.

19. *Ad article 30 of the Convention:*

For the purposes of article 30, paragraph 1, the term "other debt-claims" includes the claims for damages specified in article 37.

20. In the course of application of the Convention, legislation of the Federal Republic of Germany shall not be affected in so far as it contains more favourable provisions for persons who have suffered injury by reason of their political views or on racial, religious or ideological grounds.

DONE at Helsinki on 23 April 1979, in two original copies, each in the Finnish and German languages, both texts being equally authentic.

For the Republic of Finland:

MATTI TUOVINEN

For the Federal Republic of Germany:

SIMON

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