

No. 915

—

**SWITZERLAND
and
LIECHTENSTEIN**

Convention concerning old-age, survivors' and invalidity insurance (with final protocol). Signed at Vaduz on 3 September 1965

Authentic text: German.

Filed and recorded at the request of Switzerland on 18 February 1983.

—————

**SUISSE
et
LIECHTENSTEIN**

Convention en matière d'assurance vieillesse, survivants et invalidité (avec protocole final). Signée à Vaduz le 3 septembre 1965

Texte authentique : allemand.

Classée et inscrite au répertoire à la demande de la Suisse le 18 février 1983.

[TRANSLATION—TRADUCTION]

CONVENTION¹ BETWEEN THE SWISS CONFEDERATION AND THE PRINCIPALITY OF LIECHTENSTEIN CONCERNING OLD-AGE, SURVIVORS' AND INVALIDITY INSURANCE

The Swiss Federal Council and His Serene Highness the Reigning Prince of Liechtenstein,

Guided by the wish to adapt the relations existing between the two States in the field of social security to developments which have taken place in their respective legislation, have agreed to conclude a Convention to replace that of 10 December 1954,² and for this purpose have appointed as their plenipotentiaries:

The Swiss Federal Council: Dr. Arnold Saxer, Director responsible for agreements on Social Security,

His Serene Highness the Reigning Prince of Liechtenstein: Dr. Gerard Batliner, Head of Government of the Principality of Liechtenstein.

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

PART I. GENERAL PROVISIONS

Article 1. 1. This Convention shall apply:³

(a) In Switzerland:

- (i) To the Federal legislation concerning old-age and survivors' insurance;
- (ii) To the Federal legislation concerning invalidity insurance;

(b) In the Principality of Liechtenstein:

- (i) To the legislation concerning old-age and survivors' insurance;
- (ii) To the legislation concerning invalidity insurance.

2. The Convention shall also apply to any laws or regulations codifying, amending or supplementing the legislation referred to in paragraph 1 above.

Article 2. In so far as this Convention and its final protocol do not provide otherwise, Swiss and Liechtenstein nationals shall enjoy the same rights and have the same duties under the legislation referred to in article 1.

¹ Came into force on 1 July 1966, i.e., the first day of the second month following the exchange of the instruments of ratification, which took place at Berne on 27 May 1966, in accordance with article 21.

² See p. 299 of this volume.

³ The scope of this Convention was extended by the provisions stipulated in article 5 and in annex 4 of the quadripartite Agreement of 9 December 1977 on social security. See United Nations, *Treaty Series*, vol. 1268, p. 293.

PART 2. PROVISIONS CONCERNING THE OBLIGATION TO CONTRIBUTE

Article 3. 1. Subject to the provisions of articles 4 and 5 below, gainfully employed persons who are nationals of either Contracting State shall be subject to the legislation referred to in article 1, paragraph 1, of the Contracting State in whose territory they are employed, even if their place of residence is in the territory of the other Contracting State.

2. Where nationals of either Contracting State are subject to the legislation of both States under paragraph 1 of this article because they are employed in the territories of both States, they shall contribute to each of the two insurance schemes only on the basis of their income from employment in the State concerned. Contributions in respect of gains from employment in the territory of third States shall be paid to the insurance scheme of the State of residence.

3. Persons who are not gainfully employed shall be subject to the legislation of the Contracting State in which they have their place of residence.

Article 4. The principle laid down in article 3, paragraph 1, admits of the following exceptions:

- (a) Nationals of one State who work in the territory of the other State for an employer whose principal place of business is in the first-mentioned State, and who are remunerated by that employer, shall be subject to the legislation applicable to the employer;
- (b) Where persons employed by an enterprise having its principal place of business in the territory of one of the Contracting States are sent for a limited period to the territory of the other State, they shall remain subject, for the first 24 months of their stay in the other State, to the regulations of the Contracting State in which the enterprise has its principal place of business. Where the period of assignment in the territory of the other State exceeds that time limit, the legislation of the first-mentioned State shall exceptionally remain applicable, in so far and for as long as the competent authorities of the two States may agree;
- (c) Members of the staff of official administrative departments (customs, passport control, post office, etc.) employed by one Contracting State in the territory of the other State shall be subject to the regulations of the first-mentioned State, irrespective of whether they are nationals of one or of the other Contracting State;
- (d) Where an employee of an enterprise which extends from the frontier area of one of the Contracting States into the frontier area of the other Contracting State is employed in that part of the enterprise which is situated across the frontier, the legislation of the first-mentioned Contracting State shall apply as if he were employed at the place where the enterprise has its principal place of business;
- (e) Nationals of either Contracting State who form part of the travelling personnel of road transport enterprises and are employed now in the territory of one of the States, now in that of the other, shall be subject to

the legislation of the State in whose territory the enterprise has its principal place of business;

- (f) Heads and members of the diplomatic or consular missions of either Contracting State, including chancellery staff, shall, provided they are nationals of one of the two Contracting States, be subject to the regulations of the State of which they are nationals.

Article 5. The competent authorities of the two Contracting States may, by mutual agreement, allow exceptions to the provisions of articles 3 and 4 above in individual cases.

PART III. PROVISIONS CONCERNING BENEFITS

I. *Old-age and survivors' insurance*

Article 6. 1. Nationals of either Contracting State who have paid contributions to the compulsory or voluntary insurance schemes of both States for at least one full year shall be entitled to claim a part of the regular pension, from the insurance scheme of each State to be calculated in the manner set out in articles 7 and 8, below.

2. In the event of the death of an insured person who fulfils the conditions laid down in paragraph 1 above, the survivors shall be entitled to claim from the insurance scheme of each State a part of the regular pension calculated in accordance with article 7 and 8 below.

Article 7. In the cases covered by article 6 above, each of the two insurance schemes shall calculate the pension to be awarded by it in the following manner:

- (a) For the purposes of determining the insured person's total contribution period to be used as a basis for calculating the pension, each State shall also take into account the contribution periods completed in the compulsory and voluntary insurance scheme under the legislation of the other State as well as equivalent periods, as if they had been completed in the insurance scheme of the first-mentioned State;
- (b) For the purposes of determining the average annual contribution, each State shall take into account the contribution years completed and contributions paid under the compulsory and voluntary insurance in both States;
- (c) Bearing in mind the provisions of subparagraphs (a) and (b) above, each insurance scheme shall then determine the pension in accordance with the legislation applicable to it, periods of time in respect of which contributions were paid both to the Swiss and the Liechtenstein compulsory or voluntary insurance schemes being counted only once. Each insurance scheme shall award to the insured person that part of the pension thus determined which corresponds to the ratio between the contributions paid to it and the sum total of contributions paid to the two insurance schemes since 1 January 1948.

Article 8. Where the sum of the partial pensions determined by the two insurance schemes in accordance with article 7 above is less than the pension to which the eligible person would be entitled to claim, without the application of article 6 and 7 above from the insurance scheme of his home State in accordance with the internal legislation on the basis of the contributions paid and contribution years completed there, the pension to be granted by the home State shall be supplemented by the differential.

Article 9. 1. Nationals of either Contracting State shall be entitled to claim under the legislation of the State in which they have their residence:

— In Switzerland: the special pension,

— In Liechtenstein: the transitional pension,

if no regular pension is due to them in either of the two contracting States or if the regular pension of one or the other State or the sum of the partial pensions determined in accordance with articles 6 to 8 above and the differential supplement is smaller than the special pension or, as the case may be, the transitional pension of the State of residence.

2. The special pension or, as the case may be, the transitional pension of the State of residence shall replace the regular pension or the partial pensions plus the differential supplement. The insurance scheme of the other State shall transfer the regular pension payable by it, or the partial pension payable by it, plus the supplement payable to the paying office of the State of residence.

3. If the place of residence is transferred to one of the contracting States, the entitlement shall become effective as from the following month.

II. *Invalidity insurance*

Article 10. 1. Swiss and Liechtenstein nationals insured in one of the Contracting States shall be considered also to be insured in the other Contracting State for the purposes of entitlement to invalidity insurance benefits.

2. Where a Swiss or Liechtenstein national resident in Switzerland or in Liechtenstein claims a benefit under the invalidity insurance scheme of one or both of the Contracting States, the insurance scheme of the Contracting State in which the insured person is resident shall be responsible for investigating the case, and in particular for determining the possibility of rehabilitation and identifying appropriate rehabilitation measures, and also for determining the degree of invalidity. The costs of such investigation shall be charged to the State of residence.

3. Where an invalidity case gives grounds for claims under the invalidity insurance schemes of both Contracting States, the findings of the insurance scheme of the State of residence shall be binding upon that of the other State and shall not be subject to judicial verification in that State.

Article 11. 1. Swiss or Liechtenstein nationals resident in Switzerland or in Liechtenstein shall form the subject of rehabilitation measures exclusively on the part of the invalidity insurance scheme of the State of residence.

2. If an insured person transfers his place of residence from one of the Contracting States to the other before or during the conduct of rehabilitation measures, the insurance scheme of the first-mentioned State shall remain responsible for the payment of benefits, in full, in the case of single or short-term measures and for three months at most in the case of long-term measures; the competent authorities may, in individual cases, make other arrangements regarding the transfer of the payment obligation.

3. For the purposes of conducting rehabilitation measures authorized under the invalidity insurance scheme of one of the Contracting States, the territory of the other Contracting State shall not be considered foreign territory.

Article 12. 1. Articles 6 to 9 shall apply, *mutatis mutandis* to the regular and special pensions, or as the case may be the transitional pensions, of the invalidity insurance schemes of the two Contracting States.

2. The helpless invalids' allowance shall be granted exclusively by the invalidity insurance scheme of the Contracting State in which the eligible person is resident.

3. The regular invalidity pension for insured persons with less than 50 per cent invalidity shall be awarded to Liechtenstein nationals by the Swiss invalidity insurance scheme only for as long as they are resident in Switzerland.

PART 4. IMPLEMENTATION PROVISIONS

Article 13. For the purposes of implementation of this Convention the authorities and offices of both Contracting States shall assist each other free of charge as if in the application of their own legislation. Such assistance shall also extend to the implementation of voluntary insurance.

Article 14. 1. The competent authorities shall:

- (a) Agree upon the necessary implementation provisions for the application of this Convention. They may, in particular, agree that in order to facilitate contacts between the insurance authorities of the two countries, liaison offices shall be designated and that, in cases covered by article 6 above, benefits to be awarded by the insurance schemes of both Contracting States shall be paid through one office;
- (b) Communicate to each other information regarding any measure taken in implementation of this Convention;
- (c) Keep each other constantly informed of any changes in their legislation.

2. The competent authorities for the implementation of this Convention shall be:

— In Switzerland: the Federal Office of Social Insurance;

— In the Principality of Liechtenstein:

— In cases covered by article 4(b), article 5, article 11 and article 19, paragraph 3 of the Convention and paragraphs 4 and 7 of the Final

Protocol: the Administrative Board of the Old-Age and Survivors' Insurance and Invalidity Insurance;

— In all other cases: the Government.

Article 15. 1. Any exemption from or reduction in stamp duties and registration fees provided for under the legislation of one Contracting State in respect of certificates or other documents required to be produced under such legislation shall also apply to certificates or other documents required to be produced under the legislation of the other Contracting State.

2. The two Contracting States shall waive the diplomatic or consular legalization of certificates and other documents required to be produced for the purposes of implementation of this Convention.

Article 16. Claims, declarations or appeals which are to be submitted to an authority or to another office under the legislation of one of the Contracting States shall be considered to have been submitted at the proper place if they are submitted to a corresponding authority or office of the other Contracting State; the date on which the claims, declarations or appeals reach that place shall be considered the date of receipt. Such claims, declarations or appeals shall be forwarded without delay to the competent authority or office of the other Contracting State.

Article 17. For Swiss and Liechtenstein nationals living in Switzerland or in a third State, the time limit for the submission of appeals to the Liechtenstein Court of Appeals and of review appeals to the Liechtenstein Supreme Court shall be thirty days.

Article 18. 1. Any difficulties arising from the interpretation or application of this Convention shall be settled by the competent authorities of the Contracting States.

2. If a dispute cannot be settled by these means, it shall, at the request of one of the Contracting States, be submitted to an arbitration tribunal.

3. The arbitration tribunal shall be set up on a case-by-case basis, each Contracting State appointing one member. If the two arbitrators are unable to settle the dispute, they shall appoint a third person as Chairman. If they are unable to agree on a Chairman, he shall be appointed by the President of the International Court of Justice.

4. The decisions of the arbitration tribunal shall be binding. Each Contracting State shall defray the costs of its own member; those of the Chairman and miscellaneous costs shall be charged equally to both Contracting States. In other respects, the arbitration tribunal shall regulate its own procedure.

PART V. TRANSITIONAL AND FINAL PROVISIONS

Article 19. 1. This Convention shall also apply to insurance contingencies which occurred before its entry into force.

2. The pensions under the Swiss or Liechtenstein invalidity insurance schemes shall be awarded in accordance with the provisions of this Convention also for the period prior to its entry into force, but not earlier than 1 January 1960. If, however, the invalidity insurance scheme of one of the Contracting States has already awarded a pension in respect of a contingency covered by this Convention, the provisions of this Convention shall be applied only from the date of its entry into force.

3. If the invalidity insurance scheme of one of the Contracting States authorizes rehabilitation measures for which under this Convention responsibility should be assumed by the invalidity insurance of the other State, the competent authorities shall arrange by mutual agreement the transfer of responsibility for payment.

4. For the purposes of calculating parts of a pension in accordance with articles 6 to 8, account shall be taken of contribution periods completed and contributions paid since 1 January 1948. In applying article 7, subparagraph (a), contribution periods completed in Switzerland from 1 January 1948 to 31 December 1953 shall not be taken into account by the Liechtenstein insurance scheme for purposes of calculating the total contribution period of the insured person and of his age group.

5. The time limits for asserting claims and for barring under the statute of limitations in respect of benefits under the invalidity insurance schemes of both Contracting States shall be reckoned starting from the date of entry into force of this Convention at the earliest.

Article 20. 1. This Convention shall be concluded for a period of one year reckoned from the date of its entry into force. It shall continue in force from year to year unless it is denounced by either Contracting Party at least three months before the expiry of the current period of validity.

2. In the event of denunciation of the Convention, benefit rights acquired under its provisions shall be maintained. Rights in course of acquisition on the basis of its provisions shall be settled between the Contracting States.

Article 21. 1. This Convention shall be ratified. The instruments of ratification shall be exchanged at Berne as soon as possible.

2. This Convention shall enter into force on the first day of the second month after the exchange of the instruments of ratification.

Article 22. The Convention between the Swiss Confederation and the Principality of Liechtenstein concerning Old-Age and Survivors' Insurance of 1954 shall be abrogated as from the date of entry into force of this Convention.

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

DONE at Vaduz, on 3 September 1965.

For the Swiss Confederation:

SAXER

For the Principality of Liechtenstein:

BATLINER

FINAL PROTOCOL TO THE CONVENTION BETWEEN THE SWISS CONFEDERATION AND THE PRINCIPALITY OF LIECHTENSTEIN CONCERNING OLD-AGE, SURVIVORS' AND INVALIDITY INSURANCE

At the time of signing the Convention concerning Old-Age, Survivors' and Invalidity Insurance concluded on this day between the Swiss Confederation and the Principality of Liechtenstein (hereinafter referred to as the Convention), the undersigned plenipotentiaries made the following identical declarations, which form an integral part of the Convention:

1. The principle of equal treatment in accordance with article 2 of the Convention shall not apply to the legal provisions of the two Contracting States concerning:

- Voluntary old-age and survivors' insurance and invalidity insurance for Swiss or, as the case may be, Liechtenstein citizens who have settled abroad;
- Old-age and survivors' insurance and invalidity insurance of Swiss or Liechtenstein citizens who are working abroad for an employer in Switzerland or as the case may be, in Liechtenstein and are paid by him.

2. The rules in article 4, (b) and (e) of the Convention shall apply to all employees irrespective of their citizenship.

3. The place of residence within the meaning of article 3 and 9 to 10 of the Convention shall be determined in accordance with article 23 of the Swiss Civil Code or with article 32 of the Liechtenstein Code of Laws applicable to individuals and companies.

4. Where the partial pensions awarded under article 7 (c) of the Convention fall below certain amounts to be agreed by the competent authorities of both Contracting States, they may be paid in advance or retroactively at quarterly, half-yearly or yearly intervals.

5. Appeals against the calculation of partial pensions under article 7, (c) of the Convention shall be lodged with the competent appeal body of that Contracting State whose insurance scheme has calculated the partial pension.

6. Article 10, paragraph 2 of the Convention shall apply, as appropriate, to the investigation of circumstances in cases of review of invalidity pensions.

7. In principle, the full costs of rehabilitation measures shall be borne by the Contracting State responsible for authorizing the measures in accordance with article 11. If, however, the rehabilitation of citizens of one State gives rise to exceptionally heavy charges upon the invalidity insurance scheme of the other Contracting State, the competent authorities may agree upon a contribution to the costs of the invalidity insurance scheme of the latter State being made by that of the former State.

8. If a Swiss or Liechtenstein national resident in a third State claims a benefit from the invalidity insurance scheme of one or both of the Contracting States, the insurance scheme of the home State shall be responsible for investigating the case and, if appropriate, for authorizing rehabilitation measures.

9. When concluding agreements within the meaning of article 27 of the Swiss Federal Invalidity Insurance Act, the Swiss authorities shall ensure that the Liechtenstein insurance scheme is invited to participate in agreements affecting it.

10. Liechtenstein nationals who belong to the voluntary old-age and survivors' insurance scheme may, so long as they are resident in Switzerland, discontinue their contribution payments to the voluntary insurance scheme without incurring loss of entitlement arising from contributions paid earlier.

11. Article 2, paragraph 2 of the Swiss Federal Old-Age and Survivors' Insurance Act and article 35, paragraph 3 of the Liechtenstein Old-Age and Survivors' Insurance Act shall also apply to Swiss nationals compulsorily insured in the Principality of Liechtenstein or, as the case may be to Liechtenstein nationals compulsorily insured in Switzerland.

12. Where a person belongs to the voluntary insurance scheme of the home State, article 1, paragraph 2, (b) of the Swiss Federal Old-Age and Survivors' Insurance Act or as the case may be, article 34, paragraph 2, (b) of the Liechtenstein Old-Age and Survivors' Insurance Act shall not apply.

DONE at Vaduz on 3 September 1965 in two original copies.

For the Swiss Confederation:

SAXER

For the Principality of Liechtenstein:

BATLINER
