

No. 27324

**FRANCE
and
SWITZERLAND**

**Convention concerning the military service of persons with
dual nationality. Signed at Paris on 1 August 1958**

**Exchange of notes constituting an agreement concerning
the interpretation of the above-mentioned Convention.
Paris, 14 February 1989**

Authentic texts: French.

Registered by France on 3 July 1990.

**FRANCE
et
SUISSE**

**Convention relative au service militaire des doubles-natio-
naux. Signée à Paris le 1^{er} août 1958**

**Échange de notes constituant un accord concernant l'inter-
prétation de la Convention susmentionnée. Paris, 14 fé-
vrier 1989**

Textes authentiques : français.

Enregistrés par la France le 3 juillet 1990.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN FRANCE AND SWITZERLAND CONCERNING THE MILITARY SERVICE OF PERSONS WITH DUAL NATIONALITY

The President of the French Republic and the Swiss Federal Council, desiring to put an end to the difficulties relating to military obligations encountered by their nationals who possess both French and Swiss nationality, have agreed to conclude a convention for that purpose. They have appointed as their respective Plenipotentiaries:

The President of the French Republic: Mr. Jean Daridan, Minister Plenipotentiary, Director-General of Political Affairs of the Ministry of Foreign Affairs;

The Swiss Federal Council: Mr. Pierre Micheli, Ambassador Extraordinary and Plenipotentiary of Switzerland in France;

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

Article 1

The provisions of this Convention shall apply to:

(a) The nationals of either of the two States who possess or who are eligible to possess French and Swiss nationality simultaneously, pursuant to the laws in force regarding nationality in each of the two States;

(b) Those who, possessing the nationality of one of the two States, have acquired the nationality of the other by naturalization, subject to fulfilment of one of the following conditions:

1. They were born and have resided from the age of 16 years in the country whose nationality they have thereby acquired;
2. Their mother possesses such nationality;
3. They were born in the State whose nationality they have acquired, of a father or mother born in that State;
4. They acquired the nationality of the other State by their parents' naturalization or by their own naturalization before the age of 16 years.

Article 2

1. Dual nationals residing in either of the two States shall be required to fulfil their legal military obligations in the State in which they have their permanent residence at the age of 19 years. They shall, for the purpose of establishing residence, furnish a certificate from the competent authorities. The certificate shall be addressed to the consular representative of the State in which they are not required to serve and within whose jurisdiction they reside.

¹Came into force on 23 March 1959 by the exchange of the instruments of ratification, in accordance with article 10 (1).

2. Persons who at the age of 19 years are resident in a third State shall choose the State in whose armed forces they would prefer to fulfil their military obligations. They shall, to that end, address a declaration in duplicate to the consular representative of that State.

Article 3

1. Dual nationals whose situation is covered by the provisions of the preceding articles, subject to the restrictions outlined in paragraphs 2 and 3 below, shall be deemed to have fulfilled all military obligations imposed upon them in time of peace by the military laws of the State in which they have not been called up for service.

2. Persons who establish their permanent residence in the State in which they have not performed military service shall be subject to the military obligations of their mobilization class in that State from the age of 30 years, after they have resided there uninterruptedly for five years.

3. Persons exempted or excused from military service as physically unfit or for any other reason in the State where, under the terms of this Convention, they would have served and who have established their permanent residence in the other State shall, after two years, be subject in the latter State to all the military obligations of their age group.

4. Persons referred to in this article shall inform the competent French and Swiss authorities should they transfer their residence from one State to the other. If this obligation is not met they shall be excluded from the benefits of this Convention.

Article 4

Dual nationals who have evaded their legal military obligations shall, at the request of the State in whose armed forces they should have served, be excluded from the benefits of this Convention.

Article 5

1. In the event of mobilization, each State shall call up only dual nationals having their permanent residence in its territory, irrespective of the State in which the persons concerned have fulfilled their legal military obligations, and those residing in a third State who have chosen to serve in its armed forces.

2. In the event of simultaneous mobilization in both States, dual nationals shall be allowed to rejoin the armed forces in which they received their military training.

Article 6

Dual nationals recalled to service after the completion of their military training, in one State or the other, shall on their discharge enjoy all the benefits provided by the laws in force regarding work and employment.

Article 7

1. The provisions of this Convention shall in no way affect the juridical status of the persons concerned in the matter of nationality.

2. Sentences imposed before this Convention enters into force on dual nationals for infringement of the law regarding military obligations shall not be affected by

this Convention. If, however, within two years after the Convention enters into force, they have legalized their situation in regard to that law, they shall not be subjected to the penalties incurred.

3. Cases in which no judgement has yet been rendered when this Convention enters into force shall be settled on an individual basis through the diplomatic channel in the spirit of this Convention.

Article 8

Regulations for putting this Convention into effect shall be embodied in an agreement concluded between the administrations of the two States. The agreement may be amended at a later date by agreement between the two Parties through the diplomatic channel.

Article 9

Any difficulties which may arise out of the application of this Convention shall be settled by the two States through the diplomatic channel.

Article 10

1. This Convention shall be ratified and shall enter into force on the day on which the instruments of ratification are exchanged.

2. It is concluded for an indefinite period and may be denounced by either Party, subject to one year's notice.

DONE in duplicate in Paris on 1 August 1958.

JEAN DARIDAN

PIERRE MICHELI

[TRANSLATION — TRADUCTION]

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN FRANCE AND SWITZERLAND CONCERNING THE INTERPRETATION OF THE CONVENTION OF 1 AUGUST 1958 CONCERNING THE MILITARY SERVICE OF PERSONS WITH DUAL NATIONALITY²

I

EMBASSY OF SWITZERLAND

143.20

The Embassy of Switzerland presents its compliments to the Ministry of Foreign Affairs and, with reference to article 9 of the Convention of 1 August 1958 between Switzerland and France Concerning the Military Service of Persons with Dual Nationality,² has the honour to communicate the following:

Following the coming into force, on 1 July 1985, of new legal provisions on the acquisition or loss of Swiss nationality, children of a Swiss mother and foreign father acquire Swiss nationality at birth. In compliance with an interim provision, persons born when the previous law was in effect but after 31 December 1952 may, from 1 July 1985 to 30 June 1988, request recognition of their Swiss citizenship. It follows from this that many beneficiaries of this legal provision were or will be over the age of 19 years at the time of acquisition of Swiss nationality.

On the other hand, the French authorities face the problem posed by French nationals who acquire Swiss nationality after the age of 19 years.

In accordance with article 2 of the Convention of 1 August 1958 between Switzerland and France concerning the Military Service of Persons with Dual Nationality, only persons who are dual nationals at the age of 19 years may in principle take advantage of the provisions of this Convention.

The Swiss and French authorities share the opinion that it is necessary to find a solution to the problem of fulfilment of military obligations for persons who become dual nationals after the age of 19 years. In concrete terms, the proposal is to apply the same procedure for such persons as for those who already have dual nationality when they reach the age of 19 years, in accordance with the principles of the said Convention.

Different situations shall be settled henceforth as follows:

(a) Dual nationals who, having acquired dual nationality after the age of 19 years and having their permanent residence in Switzerland at the age of 19 years, have not yet fulfilled their military obligations in France shall fulfil them in Switzerland and shall be exempt from such obligations in France upon production of a model A certificate of residence from the Swiss authorities;

¹ Came into force on 14 February 1989, the date of the note in reply, in accordance with the provisions of the said notes.

² See p. 41 of this volume.

(b) Dual nationals who, having acquired dual nationality after the age of 19 years and having their permanent residence in France at the age of 19 years, have not yet fulfilled their military obligations in Switzerland shall fulfil them in France and shall be exempt from such obligations in Switzerland upon production of a model A certificate of residence from the French authorities;

(c) Dual nationals who, having acquired dual nationality after the age of 19 years and having their permanent residence in a third State at the age of 19 years, have not yet fulfilled their military obligations in France or in Switzerland shall fulfil them in either State according to their choice and shall be exempt therefrom in the other State;

(d) The concept of permanent residence is that laid down in the Franco-Swiss Convention and the Administrative Agreement of 1 August 1958;

(e) In France, the terms “military obligations” (*obligations militaires*) and “national service” (*service national*) are identical.

The Embassy proposes to the Ministry that this note and the Ministry’s reply constitute an agreement between the two States to solve pending problems posed by the application of the Convention of 1 August 1958 between Switzerland and France concerning the Military Service of Persons with Dual Nationality. This agreement shall enter into force on the date of the Ministry’s reply.

The Embassy of Switzerland takes this opportunity, etc.

Paris, 14 February 1989

Ministry of Foreign Affairs
Department of French Nationals Abroad
and Foreign Nationals in France
Paris

II

MINISTRY OF FOREIGN AFFAIRS
DIRECTOR OF FRENCH NATIONALS ABROAD
AND FOREIGN NATIONALS IN FRANCE

Paris, 14 February 1989

The Ministry of Foreign Affairs presents its compliments to the Embassy of Switzerland and has the honour to refer to its note of 14 February 1989, which reads as follows:

[*See note I*]

The Ministry of Foreign Affairs has the honour to inform the Embassy of Switzerland of its Government's agreement with the foregoing provisions. Consequently, the agreement hereby concluded between the two Governments shall enter into force on this date.

The Ministry of Foreign Affairs, etc.

Embassy of Switzerland
Paris
