

No. 41085

**Luxembourg
and
Iceland**

Convention between the Grand Duchy of Luxembourg and the Republic of Iceland on social security. Luxembourg, 30 November 2001

Entry into force: *1 December 2004 by notification, in accordance with article 19*

Authentic texts: *French and Icelandic*

Registration with the Secretariat of the United Nations: *Luxembourg, 12 March 2005*

**Luxembourg
et
Islande**

Convention entre le Grand-Duché de Luxembourg et la République d'Islande sur la sécurité sociale. Luxembourg, 30 novembre 2001

Entrée en vigueur : *1er décembre 2004 par notification, conformément à l'article 19*

Textes authentiques : *français et islandais*

Enregistrement auprès du Secrétariat des Nations Unies : *Luxembourg, 12 mars 2005*

[FRENCH TEXT — TEXTE FRANÇAIS]

CONVENTION ENTRE LE GRAND-DUCHÉ DE LUXEMBOURG ET LA RÉPUBLIQUE D'ISLANDE SUR LA SÉCURITÉ SOCIALE

Le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement de la République d'Islande

Tenant compte de l'article 29, annexe VI, nos 1 et 2 de l'Accord sur l'espace économique européen du 2 mai 1992 (dénommé ci-après "Accord EEE");

Se référant à l'article 8 du Règlement (CEE) no 1408/71;

Considérant qu'il importe de reconsidérer leurs relations dans le domaine de la sécurité sociale, notamment en ce qui concerne les personnes non couvertes par le règlement;

sont convenus de conclure la présente convention qui remplace la convention sur la sécurité sociale entre les deux États du 11 décembre 1989.

PARTIE I. DISPOSITIONS GÉNÉRALES

Article 1er. Définitions

1. Aux fins de l'application de la présente convention :

a) le terme "règlement" désigne le règlement (CEE) no 1408/71 du Conseil relatif à l'application des régimes de sécurité sociale aux travailleurs salariés, aux travailleurs non salariés et aux membres de leur famille qui se déplacent à l'intérieur de la Communauté en sa teneur en vigueur au moment de son application entre les Parties contractantes;

b) le terme "règlement d'application" désigne le règlement (CEE) no 574/72 du Conseil fixant les modalités d'application du règlement (CEE) no 1408/71 relatif à l'application des régimes de sécurité sociale aux travailleurs salariés, aux travailleurs non salariés et aux membres de leur famille qui se déplacent à l'intérieur de la Communauté en sa teneur en vigueur au moment de son application entre les Parties contractantes.

2. Les autres termes et expressions utilisés dans la présente convention ont la signification qui leur est attribuée respectivement dans le règlement, le règlement d'application ou dans la législation nationale, suivant le cas.

Article 2. Champ d'application matériel

La présente convention s'applique à toutes les législations relevant du champ d'application matériel (branches couvertes) du règlement.

Article 3. Champ d'application personnel

1. La présente convention s'applique aux personnes ci-après qui ne relèvent pas du champ d'application personnel (personnes couvertes) du règlement :

a) les personnes qui sont ou ont été soumises à la législation de l'une ou des deux Parties contractantes, ou

b) les membres de la famille ou les survivants d'une personne désignée au sous-paragraphe a) du présent paragraphe.

2. La présente convention s'applique également aux personnes qui relèvent du champ d'application personnel (personnes couvertes) du règlement aux fins de l'article 10.

Article 4. Egalité de traitement

Les personnes couvertes par l'article 3 de la présente convention, qui séjournent ou résident sur le territoire de l'une des Parties contractantes, ont les mêmes obligations et droits que les ressortissants de cette Partie contractante au regard de l'application de la législation de cette Partie contractante.

Article 5. Admission à l'assurance volontaire ou facultative continuée

1. Les dispositions de la législation d'une Partie contractante qui subordonnent l'admission à l'assurance volontaire ou facultative continuée à la résidence sur le territoire de cette Partie ne sont pas opposables aux personnes qui résident sur le territoire de l'autre Partie à condition qu'elles aient été soumises à un moment quelconque de leur carrière professionnelle à la législation de la première Partie en tant que travailleur salarié ou non salarié.

2. Si la législation d'une Partie contractante subordonne l'admission à l'assurance volontaire ou facultative continuée à l'accomplissement de périodes d'assurance, les périodes d'assurance ou de résidence accomplies sous la législation de l'autre Partie sont prises en compte, dans la mesure nécessaire, comme si elles avaient été accomplies sous la législation de la première Partie.

Article 6. Prévention du cumul de prestations

1. A moins qu'il ne soit disposé autrement dans le règlement, les clauses de réduction, de suspension ou de suppression prévues par la législation d'une Partie contractante en cas de cumul d'une prestation avec d'autres prestations de sécurité sociale ou avec d'autres revenus de toute nature sont opposables au bénéficiaire, même s'il s'agit de prestations acquises au titre de la législation de l'autre Partie contractante ou de revenus obtenus sur le territoire de l'autre Partie contractante.

2. Les clauses de réduction, de suspension ou de suppression prévues par la législation d'une Partie contractante au cas où le bénéficiaire de prestations d'invalidité ou de prestations anticipées de vieillesse exerce une activité professionnelle lui sont opposables même s'il exerce son activité sur le territoire de l'autre Partie contractante.

PARTIE II. DÉTERMINATION DE LA LÉGISLATION APPLICABLE

Article 7. Règle générale

Les personnes auxquelles les dispositions de la présente convention sont applicables, ne sont soumises qu'à la législation d'une seule Partie contractante. Cette législation est déterminée conformément aux dispositions du Titre II, articles 13 à 17 du règlement.

Article 8. Membres de famille de travailleurs détachés

Le conjoint et les enfants qui accompagnent la personne détachée sur le territoire de l'autre Partie contractante conformément au Titre II, articles 14 à 17 du règlement, sont soumis à la législation de la même Partie contractante que la personne détachée et sont réputés résider sur le territoire de cette Partie contractante, à moins qu'ils n'exercent eux-mêmes une occupation rémunérée sur le territoire de la Partie contractante où la personne est détachée, ou qu'ils n'y soient assurés en raison du bénéfice d'une pension ou d'une prestation en espèces au titre de la législation de cette Partie contractante.

PARTIE III. DISPOSITIONS PARTICULIÈRES CONCERNANT LE DROIT AUX PRESTATIONS DE MALADIE ET DE MATERNITÉ, D'INVALIDITÉ, DE VIEILLESSE, DE SURVIE, DE DÉCÈS ET DE CHÔMAGE

Article 9. Droit aux prestations

1. Les dispositions suivantes s'appliquent par analogie dans les relations entre les Parties contractantes, aux personnes désignées à l'article 3, paragraphe 1, qui résident sur le territoire de l'une des Parties contractantes, pour autant qu'il s'agit d'affaires qui relèvent exclusivement de la compétence de ces Parties :

- a) les dispositions du Titre III, chapitres 1, 2, 3, 4 et 5 du règlement,
- b) les dispositions pertinentes du règlement d'application,
- c) les dispositions pertinentes des annexes au règlement et au règlement d'application,
- d) et tous les arrangements pris pour l'application du règlement et du règlement d'application.

2. Si conformément à la législation d'une Partie contractante le stage requis pour l'octroi d'une pension d'invalidité ou de survivant doit être accompli au cours d'une période déterminée précédant l'échéance du risque assuré, les circonstances qui prolongent cette période sont également prises en considération si elles sont survenues sous la législation de l'autre Partie contractante.

3. Si une personne n'a pas droit à une prestation d'invalidité, de vieillesse ou de survie sur la base de périodes totalisées conformément aux dispositions afférentes du règlement, le droit à ladite prestation est déterminé en totalisant ces périodes avec les périodes accomplies sous la législation d'un État tiers avec lequel les deux Parties contractantes sont liées par un instrument international de sécurité sociale qui prévoit la totalisation de périodes.

Article 10. Enfants à charge et orphelins

En ce qui concerne

- a) les majorations ou suppléments dans les pensions de vieillesse ou d'invalidité pour enfants à charge de ces bénéficiaires de pension,
- b) les pensions d'orphelin à l'exception des rentes d'orphelin des régimes d'assurance contre les accidents du travail et les maladies professionnelles,

le chapitre 3 du Titre III du règlement, les dispositions pertinentes du règlement d'application, les dispositions pertinentes des annexes au règlement et au règlement d'application et tous les arrangements pris pour leur application, sont applicables par analogie aux personnes désignées à l'article 3, paragraphes 1 et 2 qui résident en dehors du territoire d'une Partie à l'Accord EEE, et aux personnes visées à l'article 3, paragraphe 1, qui résident sur le territoire d'une Partie à l'Accord EEE.

Article 11. Prestations de chômage

En ce qui concerne les personnes désignées à l'article 3, paragraphe 1, l'article 67 du règlement est applicable par analogie.

Article 12. Allocations familiales

En ce qui concerne les personnes désignées à l'article 3, paragraphe 1, les allocations familiales sont payées conformément à la législation de la Partie contractante sur le territoire de laquelle l'enfant réside en tenant compte, le cas échéant, des dispositions de l'article 8.

PARTIE IV. DISPOSITIONS DIVERSES

Article 13. Arrangements administratifs

Les autorités compétentes peuvent, si nécessaire, conclure des arrangements pour l'application de la présente convention.

Article 14. Entraide administrative

Les dispositions pertinentes du règlement et du règlement d'application sur l'entraide administrative, l'exemption de taxes, l'introduction de demandes, de recours ou d'autres documents, les devises, le recouvrement de paiements indus, sont applicables par analogie aux personnes désignées à l'article 3, paragraphe 1 qui résident sur le territoire d'une Partie contractante.

Article 15. Différends

1. Les différends venant à s'élever en relation avec l'application de la présente convention sont à résoudre par des négociations entre les autorités compétentes.

2. Si le différend n'a pas été réglé endéans les six mois suivant le début des négociations prescrites au paragraphe 1 du présent article, il sera soumis à une commission arbitrale dont la composition et la procédure sont déterminées d'un commun accord par les Parties contractantes. La commission arbitrale doit résoudre le différend selon les principes fondamentaux et l'esprit de la présente convention. La décision de la commission arbitrale est définitive et lie les Parties contractantes.

PARTIE V. DISPOSITIONS TRANSITOIRES ET FINALES

Article 16. Dispositions transitoires relatives aux prestations

1. La présente convention s'applique à des événements survenus antérieurement à son entrée en vigueur. Toutefois, aucune prestation n'est payée au titre de la présente convention pour une période antérieure à son entrée en vigueur bien que les périodes d'assurance ou de résidence accomplies avant cette entrée en vigueur doivent être prises en considération pour la détermination des prestations.

2. Toute prestation qui n'a pas été liquidée ou qui a été supprimée en raison de la nationalité de l'intéressé, ou en raison de sa résidence sur le territoire de l'autre Partie contractante ou en raison de tout autre obstacle qui a été levé par la présente convention, est liquidée ou rétablie sur demande à partir de la date de l'entrée en vigueur de la présente convention.

3. Toute prestation liquidée avant l'entrée en vigueur de la présente convention est révisée sur demande, compte tenu des dispositions de celle-ci. Une telle révision ne peut pas avoir pour effet de réduire la prestation antérieure.

4. Les dispositions des législations des Parties contractantes relatives à la prescription et la déchéance des droits aux prestations ne sont pas applicables aux droits découlant des dispositions des paragraphes 1 à 3 de cet article, à condition que le bénéficiaire présente sa demande en obtention d'une prestation endéans les deux années suivant la date de l'entrée en vigueur de la présente convention.

Article 17. Abrogation de la convention antérieure

La convention remplace la convention entre le Luxembourg et l'Islande sur la sécurité sociale, signée à Luxembourg, le 11 décembre 1989, qui est entrée en vigueur le 1er janvier 1992 et qui cesse d'être en vigueur à partir de la date d'entrée en vigueur de la présente convention.

Article 18. Dénonciation

1. La présente convention peut être dénoncée par chacune des Parties contractantes. La dénonciation doit être notifiée au plus tard trois mois avant la fin de l'année de calendrier en cours, à la suite de quoi la convention cesse d'être en vigueur à l'expiration de l'année de calendrier au cours de laquelle elle est dénoncée.

2. Si la convention est dénoncée, ses dispositions continuent à s'appliquer aux prestations échues, nonobstant toute disposition qui a pu être introduite dans la législation des deux Parties contractantes relative aux restrictions des droits aux prestations en raison de la résidence dans d'autres pays ou de la nationalité d'autres pays. Les droits aux prestations non échues qui ont pu être acquis en vertu de la présente convention sont réglés par voie d'accord spécial.

Article 19. Entrée en vigueur

Les deux Parties contractantes se notifient l'accomplissement de leurs procédures constitutionnelles respectives requises pour l'entrée en vigueur de la présente convention. La convention entre en vigueur le premier jour du troisième mois qui suit la date de la dernière notification.

En foi de quoi les soussignés, dûment autorisés par leurs Gouvernements respectifs ont signé la présente convention.

Fait à Luxembourg, le 30 novembre 2001, en double exemplaire, en langues française et islandaise, les deux textes faisant également foi.

Pour le Gouvernement du Grand-Duché de Luxembourg :

LYDIE POLFER

Pour le Gouvernement de la République d'Islande :

JÓN KRÍSTJÁNSSON

[ICELANDIC TEXT — TEXTE ISLANDAIS]

SAMNINGUR

MILLI

STÓRHERTOGADÆMISINS LÚXEMBOGAR

OG

LÝÐVELDISINS ÍSLANDS

UM ALMANNATRYGGINGAR

Ríkisstjórn stórhertogadæmisins Lúxemborgar

og

ríkisstjórn lýðveldisins Íslands

hafa,

með hliðsjón af 29. gr. og 1. og 2. lið í VI. viðauka samningsins um Evrópska efnahagssvæðið frá 2. maí 1992 (hér eftir nefndur "EES-samningurinn");

með vísan til 8. gr. reglugerðar (EBE) nr. 1408/71;

og með það í huga að endurskoða samskipti landanna á sviði almannatrygginga, einkum að því er varðar þá einstaklinga sem falla ekki undir þá reglugerð,

orðið ásattnar um að gera með sér samning þennan sem kemur í stað samnings um félagslegt öryggi milli ríkjanna tveggja frá 11. desember 1989:

I. HLUTI
ALMENN ÁKVÆÐI

1. gr.
Skilgreiningar

1. Í þessum samningi merkir:
 - a) "Reglugerð": Reglugerð ráðsins (EBE) nr. 1408/71 um beitingu almannatryggingareglna gagnvart launþegum, sjálfstætt starfandi einstaklingum og aðstandendum þeirra sem flytjast á milli aðildarríkja eins og henni er beitt milli samningsaðilanna hverju sinni;

- b) "Framkvæmdarreglugerð": Reglugerð ráðsins (EBE) nr. 574/72 sem kveður á um framkvæmd reglugerðar (EBE) nr. 1408/71 um beitingu almannatryggingareglna gagnvart launþegum, sjálfstætt starfandi einstaklingum og aðstandendum þeirra sem flytjast á milli aðildarríkja eins og henni er beitt milli samningsaðilanna hverju sinni.

2. Önnur hugtök og orðfæri sem eru notuð í þessum samningi skulu hafa þá merkingu sem þeim er gefin í reglugerðinni, framkvæmdarreglugerðinni eða í innlendra löggjöf, eftir því sem við á.

2. gr.

Efnislegt gildissvið

Samningur þessi skal gilda um alla löggjöf sem fellur undir efnislegt gildissvið reglugerðarinnar (tryggingaflokkar).

3. gr.

Persónulegt gildissvið

1. Samningur þessi skal gilda um eftirtalda einstaklinga sem falla utan persónulegs gildissviðs reglugerðarinnar (einstaklingar sem eru tryggðir):

- a) einstaklinga sem heyra undir eða hafa heyrt undir löggjöf annars samningsaðilans eða beggja; eða
- b) aðstandendur eða eftirlifendur einstaklings sem er tilgreindur í a-lið þessarar málsgreinar.

2. Samningur þessi skal einnig gilda um einstaklinga er heyra undir persónulegt gildissvið reglugerðarinnar (einstaklingar sem eru tryggðir) að því er varðar 10. gr.

4. gr.

Jafnræði við málsmeðferð

Einstaklingar sem falla undir 3. gr. þessa samnings og sem dveljast eða eru búsettir á yfirráðasvæði samningsaðila skulu hafa sömu réttindi og skyldur og þarlendir ríkisborgarar að því er varðar beitingu löggjafar þess samningsaðila.

5. gr.

Aðgangur að frjálsum eða frjálsum viðvarandi tryggingum

1. Lagaákvæði annars samningsaðila sem binda aðgang að frjálsum eða frjálsum viðvarandi tryggingum við búsetu á yfirráðasvæði þess aðila skulu ekki gilda um einstaklinga sem eru búsettir á yfirráðasvæði hins samningsaðilans, að því tilskildu að fyrr á starfsævinni hafi þeir heyrt undir löggjöf fyrstnefnda aðilans sem launþegar eða sjálfstætt starfandi einstaklingar.

2. Ef aðgangur að frjálsum tryggingum eða frjálsum viðvarandi tryggingum samkvæmt löggjöf annars samningsaðila er háður því að tryggingatímabilum sé lokið skal taka trygginga- eða búsetutímabil sem hefur verið lokið samkvæmt löggjöf hins aðilans til greina, eftir því sem þörf er á, eins og þeim hefði verið lokið samkvæmt löggjöf fyrstnefnda samningsaðilans.

6. gr.

Komið í veg fyrir að bætur skarist

1. Sé ekki kveðið á um annað í reglugerðinni skal beita lagaákvæðum samningsaðila um lækun, tímabundna stöðvun eða niðurfellingu bóta þar sem þær skarast við aðrar bætur almannatrygginga eða vegna hvers konar annarra tekna, þegar um er að ræða bætur sem bótaþegi hefur áunnið sér samkvæmt löggjöf hins samningsaðilans eða tekjur sem er aflað á yfirráðasvæði hins samningsaðilans.

2. Heimilt er að beita lagaákvæðum samningsaðila um lækun, tímabundna stöðvun eða niðurfellingu bóta þegar um er að ræða einstakling sem fær örorkubætur eða snemmbæran ellilífeyri og

stundar atvinnustarfssemi jafnvei þótt hann stundi starfssemi sína á yfirráðasvæði hins samningsaðilans.

II. HLUTI
ÁKVÖRDUN UM HVADA LÖGGJÖF SKULI BEITA

7. gr.

Almenn regla

Þeir einstaklingar sem þessi samningur nær til skulu aðeins falla undir löggjöf annars samningsaðilans. Sú löggjöf skal ákveðin í samræmi við ákvæði 13. til 17. gr. í II. bálki reglugerðarinnar.

8. gr.

Aðstandendur útsendra starfsmanna

Maki og börn sem fylgja starfsmanni sem sendur er til starfa á yfirráðasvæði hins samningsaðilans samkvæmt 14. til 17. gr. í II. bálki reglugerðarinnar skulu falla undir löggjöf sama samningsaðila og hinn útsendi starfsmaður og skal farið með þau sem væru þau búsett á yfirráðasvæði þess samningsaðila, nema þau stundi sjálf launað starf á yfirráðasvæði samningsaðilans sem starfsmaðurinn er sendur til eða séu tryggð á grundvelli lífeyrisgreiðslna eða greiðslu bóta í peningum samkvæmt löggjöf þess samningsaðila.

III. HLUTI
SÉRÁKVÆÐI VARDANDI RÉTT TIL BÓTA

BÆTUR VEGNA VEIKINDA, MEDGÖNGU OG FÆDINGAR,
ÖRORKU-, ELLI- OG EFTIRLIFENDABÆTUR, DÁNARBÆTUR OG
ATVINNULEYSISBÆTUR

9. gr.

Réttur til bóta

1. Eftirfarandi ákvæði skulu eiga við á hliðstæðan hátt í samskiptum samningsaðilanna um einstaklinga sem eru tilgreindir í

1. mgr. 3. gr. og búsettir á yfirráðasvæði annars samningsaðilans þegar um er að ræða mál sem heyra einungis undir þessa samningsaðila:

- a) ákvæði 1., 2., 3., 4. og 5. kafla í III. bálki reglugerðarinnar,
- b) viðeigandi ákvæði framkvæmdarreglugerðarinnar,
- c) viðeigandi ákvæði viðauka við reglugerðina og framkvæmdarreglugerðina,
- d) og öll ákvæði sem sett eru vegna beitingar reglugerðarinnar og framkvæmdarreglugerðarinnar.

2. Þegar þess er krafist í löggjöf annars samningsaðilans að þeim biðtíma sem þarf til þess að öðlast rétt til örorkulífeyris eða eftirlifendalífeyris skuli vera lokið innan tiltekinna tímamarka fyrir tryggingaratburð ber að taka til greina aðstæður sem lengja þetta tímabil ef þær áttu sér stað samkvæmt löggjöf hins samningsaðilans.

3. Ef einstaklingur á ekki rétt til örorku-, elli eða eftirlifandibóta á grundvelli samlagningar tímabila, með tilliti til tilheyrandi ákvæða reglugerðarinnar, þá skal rétturinn til slíkra bóta ákveðinn með samlagningu þessara tímabila og tímabila sem áunnist hafa samkvæmt löggjöf þriðja ríkis, sem báðir samningsaðilar eru bundnir við með alþjóðlegum samningi um almannatryggingar, sem gerir ráð fyrir samlagningu slíkra tímabila.

10. gr.

Börn á framfæri

og börn sem misst hafa annað eða báða foreldra sína

Vegna einstaklinga sem getið er í 1. og 2. mgr. 3. gr. og eru búsettir utan yfirráðasvæðis aðila að EES-samningnum, og einstaklinga, sem eru tilgreindir í 1. mgr. 3. gr. og eru búsettir á yfirráðasvæði aðila að EES-samningnum, að því er varðar:

- a) hækkanir eða viðbætur við ellilífeyri eða örorkulífeyri vegna barna á framfæri lífeyrisþega,
- b) barnalífeyri, að undanskildum barnalífeyri frá tryggingakerfum vegna vinnuslysa og atvinnusjúkdóma.

skulu ákvæði 3. kafla í III. bálki reglugerðarinnar, viðeigandi ákvæði framkvæmdarreglugerðarinnar, viðeigandi ákvæði viðauka við reglugerðina og við framkvæmdarreglugerðina og öll ákvæði sem sett eru vegna beitingar þeirra gilda á hliðstæðan hátt.

11. gr.

Atvinnuleysisbætur

Ákvæði 67. gr. reglugerðarinnar skulu gilda á hliðstæðan hátt um einstaklinga sem eru tilgreindir í 1. mgr. 3. gr.

12. gr.

Fjölskyldugreiðslur

Að því er varðar einstaklinga sem eru tilgreindir í 1. mgr. 3. gr. skal inna af hendi fjölskyldugreiðslur samkvæmt löggjöf þess samningsaðila sem fer með yfirráð á því landsvæði þar sem barnið er búsett, að teknu tilliti til ákvæða 8. gr., eftir því sem við á.

IV. HLUTI

ÝMIS ÁKVÆÐI

13. gr.

Framkvæmdaákvæði

Lögbær yfirvöld geta gert með sér samkomulag um framkvæmd þessa samnings, ef nauðsyn krefur.

14. gr.

Gagnkvæm aðstoð

Viðeigandi ákvæði reglugerðarinnar og framkvæmdarreglugerðarinnar um gagnkvæma aðstoð, undanþágur frá þóknun, framlagningu umsókna, málskot eða önnur skjöl, gjaldeyri og endurheimtu ofgreiddra bóta skulu gilda á hliðstæðan hátt um einstaklinga sem eru tilgreindir í 1. mgr. 3. gr. og eru búsettir á yfirráðasvæði samningsaðila.

15. gr.

Ágreiningur

1. Ágreining sem ris í sambandi við framkvæmd þessa samnings ber að leysa með samningaviðræðum milli lögbærra yfirvalda.
2. Hafi slíkur ágreiningur ekki verið leystur innan sex mánaða frá því að samningaviðræður sem mælt er fyrir um í 1. mgr. þessarar greinar hófust skal hann lagður í gerðardóm sem er skipaður og starfar samkvæmt samkomulagi samningsaðilanna. Gerðardómur skal leysa úr ágreiningnum í samræmi við þær meginreglur sem liggja til grundvallar og í anda þessa samnings. Úrskurðir gerðardómsins eru endanlegir og bindandi fyrir samningsaðila.

V. HLUTI

BRÁÐABIRGÐAÁKVÆÐI OG LOKAÁKVÆÐI

16. gr.

Bráðabirgðaákvæði varðandi batur

1. Þessi samningur skal gilda um tilvik sem áttu sér stað áður en hann tók gildi. Engu að síður verða engar batur inntar af hendi samkvæmt þessum samningi fyrir tímabil sem voru liðin fyrir gildistöku hans, enda þótt taka skuli til greina tryggingatímabil eða búsetutímabil, sem var lokið áður en hann tók gildi, við ákvörðun bóta.
2. Hvers konar batur sem hafa ekki verið veittar eða hafa verið felldar niður vegna ríkisfangs hlutaðeigandi einstaklings eða vegna búsetu hans á yfirráðasvæði hins samningsaðilans eða vegna annarra hindrana sem þessi samningur hefur rutt úr vegi skulu veittar eða teknar upp aftur frá og með gildistöku þessa samnings ef sótt er um það.

3. Hvers konar bætur sem veittar hafa verið fyrir gildistöku þessa samnings skulu endurreiknaðar í samræmi við ákvæði hans ef sótt er um það. Þessi endurútreikningur getur ekki leitt til lækkunar greiddra bóta.

4. Ákvæði löggjafa samningsaðilanna um fyrningu og niðurfellingu bótaréttar eiga ekki við um réttindi sem leiða af ákvæðum í 1. til 3. mgr. þessarar greinar að því tilskildu að bótaþegi leggi fram umsókn um bætur innan tveggja ára frá gildistöku þessa samnings.

17. gr.

Niðurfelling fyrri samnings

Þessi samningur kemur í stað samnings milli Lúxemborgar og Íslands um félagslegt öryggi, sem var undirritaður í Lúxemborg 11. desember 1989 og öðlaðist gildi 1. janúar 1992, og skal hann falla úr gildi frá og með gildistöku þessa samnings.

18. gr.

Uppsögn

1. Hvor samningsaðili um sig getur sagt þessum samningi upp. Uppsögn skal tilkynnt í síðasta lagi þremur mánuðum fyrir lok almanaksársins og fellur þá samningurinn úr gildi í lok sama almanaksárs og honum var sagt upp.

2. Verði samningnum sagt upp skulu ákvæði hans gilda áfram um áunnar bætur þrátt fyrir ákvæði sem kunna að hafa verið sett í löggjöf samningsaðilanna varðandi takmarkanir á rétti til bóta vegna búsetu eða ríkisfangs í öðrum löndum. Um réttindi sem gætu hafa áunnist síðar samkvæmt þessum samningi skal fjalla í sérstöku samkomulagi.

19. gr.

Gildistaka

Hvor samningsaðili um sig skal tilkynna hinum skriflega þegar stjórnskipulegri málsmeðferð, sem þarf til þess að samningur þessi geti öðlast gildi, er lokið. Samningurinn tekur gildi frá og með


fyrsta degi þriðja mánaðar eftir dagsetningu síðari tilkynningarinnar.

ÞESSU TIL STAÐFESTU hafa undirritaðir, sem til þess hafa fullt umboð ríkisstjórna sinna, undirritað samning þennan.

GJÖRT í *Lúxemborg*, hinn *30. nóvember 2001*
í tvíriti á frönsku og íslensku og eru báðir textarnir jafngildir.

Fyrir hönd ríkisstjórnar
Stórhertogadansins Lúxemborgar

Fyrir hönd ríkisstjórnar
Lýðveldisins Íslands



[TRANSLATION - TRADUCTION]

CONVENTION BETWEEN THE GRAND DUCHY OF LUXEMBOURG AND THE REPUBLIC OF ICELAND ON SOCIAL SECURITY

The Government of the Grand Duchy of Luxembourg and the Government of the Republic of Iceland,

Taking into account article 29, annex VI, Nos. 1 and 2, of the Agreement on the European Economic Area of 2 May 1992 (hereinafter called "the EEA Agreement");

Having regard to article 8 of Regulation (EEC) No. 1408/71;

Considering that it is important to re-examine their relations in the area of social security, especially with regard to persons not covered by the Regulation;

Have agreed to conclude this Convention, which supersedes the social security convention between the two States of 11 December 1989.

PART I. GENERAL PROVISIONS

Article 1. Definitions

1. For the purposes of this Convention:

(a) "Regulation" means Council Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, in the version in force between the Contracting Parties at the time of application;

(b) "Implementing Regulation" means Council Regulation (EEC) No. 574/72 fixing the procedure for implementing Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, in the version in force between the Contracting Parties at the time of application.

2. Other terms and expressions used in this Convention shall have the meaning assigned to them, respectively, in the Regulation, the Implementing Regulation or in national legislation, as the case may be.

Article 2. Material scope

This Convention shall apply to all legislation falling within the material scope (branches covered) of the Regulation.

Article 3. Personal scope

1. This Convention shall apply to the following persons who do not fall within the personal scope (persons covered) of the Regulation:

- (a) Persons who are or have been subject to the legislation of one or both of the Contracting Parties; or
 - (b) Family members or survivors of a person referred to in subparagraph (a).
2. This Convention also applies to persons falling within the personal scope (persons covered) of the Regulation for the purposes of article 10.

Article 4. Equality of treatment

Persons covered by article 3 of this Convention who are staying or resident in the territory of one of the Contracting Parties shall be subject to the same obligations and have the same rights as nationals of that Contracting Party with respect to the application of the legislation of that Contracting Party.

Article 5. Admission to voluntary or optional continued insurance

1. Legislative provisions of a Contracting Party that make admission to voluntary or optional continued insurance conditional upon residence in the territory of that Party shall not apply to persons who are resident in the territory of the other Party, provided that at some point in their working life they were subject to the legislation of the first Party as employed or self-employed persons.

2. Where, under the legislation of a Contracting Party, admission to voluntary or optional continued insurance is conditional upon completion of insurance periods, the insurance or residence periods completed under the legislation of the other Party shall be taken into account, to the extent required, as if they were completed under the legislation of the first Party.

Article 6. Prevention of overlapping of benefits

1. Unless otherwise specified in the Regulation, legislative provisions of a Contracting Party providing for reduction, suspension or withdrawal of benefit in case of overlapping with other social security benefits or other income of any kind may be invoked even though the right to such benefits was acquired under the legislation of the other Contracting Party or such income arises in the territory of the other Contracting Party.

2. Legislative provisions of a Contracting Party providing for reduction, suspension or withdrawal of benefit if a person in receipt of invalidity benefits or anticipatory old-age benefits is pursuing an occupational activity may be invoked against such person even though he/she is pursuing the activity in the territory of the other Party.

PART II. DETERMINATION OF APPLICABLE LEGISLATION

Article 7. General rules

The persons to whom the provisions of this Convention apply shall be subject to the legislation of only one Contracting Party. That legislation shall be determined in accordance with the provisions of title II, articles 13 to 17, of the Regulation.

Article 8. Family members of seconded workers

The accompanying spouse and children of a person seconded to the territory of the other Contracting Party in accordance with the provisions of title II, articles 14 to 17, of the Regulation shall be subject to the legislation of the same Contracting Party as the seconded person and shall be considered to reside in the territory of that Contracting Party, unless they themselves are gainfully employed in the territory of the Contracting Party to which the person is seconded or are covered there in that they are drawing a pension or a cash benefit under the legislation of that Contracting Party.

PART III. SPECIAL PROVISIONS CONCERNING ENTITLEMENT TO BENEFITS SICKNESS AND MATERNITY, INVALIDITY, OLD-AGE, SURVIVOR'S, DEATH, AND UNEMPLOYMENT BENEFITS

Article 9. Entitlement to benefits

1. The following provisions shall apply *mutatis mutandis* in relations between the Contracting Parties to the persons referred to in article 3, paragraph 1, who reside in the territory of one of the Contracting Parties, provided that the matters concerned fall exclusively within the competence of these Parties:

- (a) The provisions of title III, chapters 1, 2, 3, 4 and 5 of the Regulation;
- (b) The relevant provisions of the Implementing Regulation;
- (c) The relevant provisions of the annexes to the Regulation and to the Implementing Regulation;
- (d) and all agreed arrangements for the implementation of the Regulation and the Implementing Regulation.

2. When under the legislation of a Contracting Party the acquiring period required for the award of invalidity or survivors' benefit must be completed in the course of a specified period prior to the occurrence of the insured event, the circumstances leading to the extension of that period shall also be taken into consideration if they occurred under the legislation of the other Contracting Party.

3. If a person is not entitled to an invalidity, old-age or survivors' benefit on the basis of the periods aggregated in accordance with the relevant provisions of the Regulation, entitlement to such benefit shall be determined by aggregating these periods with the periods completed under the legislation of a third State to which both Contracting Parties are bound by an international social security arrangement which provides for the aggregation of periods.

Article 10. Dependent children and orphans

With respect to

(a) Increases in old-age or invalidity benefits or supplements for dependent children of these pension beneficiaries, and

(b) Orphan's benefits, save for orphan's annuities under insurance schemes against industrial accidents and occupational diseases,

title III, chapter 3, of the Regulation, the relevant provisions of the Implementing Regulation, the relevant provisions of the annexes to the Regulation and to the Implementing Regulation and all agreed arrangements for their implementation shall apply mutatis mutandis to persons referred to in article 3, paragraphs 1 and 2, residing outside the territory of a party to the EEA Agreement and to persons referred to in article 3, paragraph 1, residing in the territory of a party to the EEA Agreement.

Article 11. Unemployment benefits

Article 67 of the Regulation applies mutatis mutandis with respect to persons referred to in article 3, paragraph 1.

Article 12. Family allowances

With respect to persons referred to in article 3, paragraph 1, family allowances shall be paid in accordance with the legislation of the Contracting Party in whose territory the child resides, taking into account, where appropriate, the provisions of article 8.

PART IV. MISCELLANEOUS PROVISIONS

Article 13. Administrative arrangements

The competent authorities may, where necessary, agree to administrative arrangements to implement this Convention.

Article 14. Administrative assistance

The relevant provisions of the Regulation and the Implementing Regulation on administrative assistance, tax exemption, filing of claims, appeals or other documents, foreign exchange and recovery of payments wrongly made shall apply mutatis mutandis to persons referred to in article 3, paragraph 1, residing in the territory of a Contracting Party.

Article 15. Disputes

I. Disputes concerning the application of this Convention shall be settled through negotiations between the competent authorities.

2. If the dispute has not been settled within a period of six months from the opening of the negotiations provided for in paragraph 1 of this article, it shall be submitted to an arbitration commission whose composition and procedure shall be determined by agreement between the Contracting Parties. The arbitration commission shall settle the dispute in accordance with the basic principles and the spirit of this Convention. The decision of the arbitration commission shall be final and binding on the Contracting Parties.

PART V. TRANSITIONAL AND FINAL PROVISIONS

Article 16. Transitional provisions relating to benefits

1. This Convention applies to events that occurred prior to its entry into force. However, no benefit shall be paid under this Convention for periods before the date of its entry into force, although periods of insurance or residence completed before its entry into force shall be taken into account for the purpose of determining benefits.

2. Any benefit that was not paid or was withdrawn by reason of the beneficiary's nationality or residence in the territory of the other Contracting Party or owing to any other obstacle eliminated by this Convention shall be paid or reinstated on request as from the date of entry into force of this Convention.

3. Any benefit paid before the entry into force of this Convention shall be reviewed on request, taking into account the provisions thereof. Such reviews shall not have the effect of reducing the previous benefit.

4. The provisions of the legislation of the Contracting Parties concerning the lapse and extinction of entitlements to benefits shall not apply to entitlements derived from the provisions of paragraphs 1 to 3 of this article, provided that the beneficiary submits a request to obtain the benefit within two years from the date of the entry into force of this Convention.

Article 17. Termination of the previous Convention

This Convention shall replace the Convention between Luxembourg and Iceland on social security signed in Luxembourg on 11 December 1989, which entered into force on 1 January 1992, and which shall cease to have effect from the date of entry into force of this Convention.

Article 18. Termination

1. This Convention may be denounced by either of the Contracting Parties. Notice shall be given no later than three months before the end of the current calendar year; the Convention shall then cease to have effect at the expiry of the calendar year in the course of which it was denounced.

2. If this Convention is denounced, its provisions shall continue to apply to benefits due, notwithstanding any provision that may have been introduced in the legislation of the two Contracting Parties regarding restrictions on entitlements to benefits by reason of res-

idence in or nationality of other countries. Entitlements to benefits not yet payable that have been acquired under this Convention shall be determined by special agreement.

Article 19. Entry into force

The two Contracting Parties shall notify each other of the completion of their respective constitutional procedures required for the entry into force of this Convention. The Convention shall enter into force on the first day of the third month following the date of the last such notification.

In witness whereof the undersigned, duly empowered by their respective Governments, have signed this Convention.

Done at Luxembourg on 30 November 2001, in two copies, in the French and Icelandic languages, both texts being equally authentic.

For the Government of the Grand Duchy of Luxembourg:

LYDIE POLFER

For the Government of the Republic of Iceland:

JÓN KRISTJÁNSSON

