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]

CONVENTION[1] 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 thean 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.