

No. 3835

**ITALY
and
FEDERAL REPUBLIC OF GERMANY**

**Convention on Social Security (with Final Protocol).
Signed at Rome, on 5 May 1953**

Official texts: Italian and German.

Registered by Italy on 15 May 1957.

**ITALIE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Convention sur l'assurance sociale (avec Protocole final).
Signée à Rome, le 5 mai 1953**

Textes officiels italien et allemand.

Enregistrée par l'Italie le 15 mai 1957.

[TRANSLATION — TRADUCTION]

No. 3835. CONVENTION¹ BETWEEN THE ITALIAN REPUBLIC AND THE FEDERAL REPUBLIC OF GERMANY ON SOCIAL SECURITY. SIGNED AT ROME, ON 5 MAY 1953

THE PRESIDENT OF THE ITALIAN REPUBLIC

and

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

Desirous of regulating mutual relations between their two countries in the field of social security, have resolved to conclude a convention and for this purpose have appointed as their plenipotentiaries :

The President of the Italian Republic :

Professor Francesco Maria Dominedò, Under-Secretary for Foreign Affairs ;

The President of the Federal Republic of Germany :

Mr. Maximilian Sauerborn, State Secretary in the Federal Ministry of Labour,

who, having communicated their full powers, found in good and due form, have agreed on the following provisions :

PART I

GENERAL PRINCIPLES

Article 1

(1) The following legislative measures shall be covered by this Convention :

1. In the Italian Republic :

- (a) The legislation respecting sickness insurance ;
- (b) The legislation respecting tuberculosis insurance ;
- (c) The legislation respecting economic assistance and health insurance for working mothers, in so far as this involves payments in cash and in kind by social insurance institutions during pregnancy and after birth ;
- (d) The legislation respecting insurance against industrial accidents and occupational diseases ;

¹ Came into force on 1 April 1956, in accordance with article 40, the exchange of the instruments of ratification having taken place at Bonn on 23 March 1956.

- (e) The legislation respecting general insurance against invalidity and old age, as well as survivors' insurance ;
 - (f) The legislation respecting special types of insurance prescribed for specific occupational groups, provided they concern risks and benefits which are covered by the legislative measures listed under the preceding sub-headings ;
2. In the Federal Republic of Germany :
- (a) The legislation respecting sickness insurance ;
 - (b) The legislation respecting the protection of working mothers, in so far as this involves payments in cash and in kind by the legally constituted sickness insurance institutions during pregnancy and after birth ;
 - (c) The legislation respecting accident insurance ;
 - (d) The legislation respecting wage-earners' pension insurance (invalidity insurance), salary-earners' pension insurance (salaried employees' insurance), and mine workers' pension insurance.

(2) This Convention shall apply to all laws and other provisions issued for the purpose of carrying out, supplementing or amending the legislative measures mentioned in paragraph 1. The Convention shall apply to any laws or other provisions which extend existing legislative measures to a new branch of social security or to a new class of beneficiaries, provided that no objections are raised against such an extension by the Government of one Contracting State to the Government of the other Contracting State within three months after the official notification of the legislation in question.

Article 2

(1) Italian nationals residing in the Federal Republic of Germany and German nationals residing in the Italian Republic shall be subject to the legislative measures mentioned in article 1. In that respect, they shall have the same rights and duties as nationals of the Contracting State in whose territory they are residing.

(2) Italian and German nationals residing in the territory of one of the two States who cease or have ceased to be insured under an insurance system of the other Contracting State may become voluntarily insured in the country of residence subject to the same conditions and time-limits as insured persons who have withdrawn from the insurance system of that country. For that purpose, the insurance periods to be counted in the two States for the right to voluntary insurance shall be aggregated, irrespective of whether the said periods relate, or have related, to a compulsory or voluntary form of insurance. If, under the foregoing provisions, the continued insurance under the German wage-earning employees' pension insurance system (invalidity insurance) or the salaried employees' pension insurance system (salaried employees' insurance), is admissible, such continued insurance shall take effect only in that one of the two insurance systems which is competent in accordance with the nature of the last employment in the Italian Republic subject to compulsory insurance.

Article 3

(1) Nationals of either of the two Contracting States who are resident in the territory of the other State shall be entitled to the social insurance benefits which are to be granted under the provisions of each of the two Contracting States in accordance with this Convention, including additional allowances from the public funds, without any restriction except as may be provided by mutual agreement.

(2) The social insurance benefits of one of the two Contracting States, including additional allowances from the public funds, shall be granted to nationals of the other State who are resident in the territory of a third State under the same conditions and to the same extent as to its own nationals when resident in the third State.

(3) The provisions of paragraphs (1) and (2) shall apply notwithstanding any domestic legislation respecting the exclusion of claims or the suspension or withdrawal of benefits on account of temporary or permanent residence abroad.

(4) For the purposes of the provisions of each of the two Contracting States concerning the settlement of claims, permanent or temporary residence in the territory of the other State shall not be deemed to be permanent or temporary residence in a foreign country in the case of Italian and German nationals.

Article 4

When giving effect to social insurance measures the principle shall be to apply the regulations of the Contracting State in whose territory the occupation covered by the insurance is exercised.

Article 5

(1) The principle laid down in article 4 shall be subject to the following exceptions :

1. If an employee of an undertaking in the territory of one of the two Contracting States is transferred for a limited time to the territory of the other State, or if a person who is self-employed in one of the two Contracting States exercises his occupation for a limited time in the territory of the other State, the regulations of that State shall continue to apply where the employee's undertaking or the occupation of the self-employed person has its head office provided that residence in the other territory does not exceed six months. This shall also apply if the employee or self-employed person, by reason of the special nature of his occupation, resides in the territory of the other State on repeated occasions, provided that no single period of residence exceeds six months. If, for unforeseeable reasons, the period of his employment in the territory of the other Contracting State exceeds the limit of six months, the regulations of the State in which his undertaking has its head office may, by way of exception and subject to

the approval of the supreme administrative authorities of the State in which he is temporarily employed, continue to be applied.

2. If employees of a public transport undertaking which has its head office in the territory of one of the two Contracting States are temporarily employed as travelling personnel in the territory of the other State, only the regulations of that State in which the undertaking has its head office shall be applicable. This shall also apply to the employees of an air line having its head office in the territory of one of the two Contracting States, provided that they are nationals of that State and are engaged in flying or ground duties in the territory of the other State, as well as to the other employees of these undertakings irrespective of their nationality who are temporarily transferred to the territory of the other State.
3. The crew of a sea-going vessel shall be subject to the regulations of the Contracting State under whose flag the vessel is sailing. Persons who are engaged in a port of one of the two Contracting States for the work of loading, unloading or repairs or as watchmen for such a vessel shall be subject to the regulations of the State in whose territory the port is situated.
4. Employees of a public administrative department of one Contracting State who are posted to the territory of the other shall be subject to the regulations of the office by which they are posted.
5. Members of diplomatic and consular missions of the two Contracting States—with the exception of honorary consuls—their office personnel and those employed by them for personal services shall be subject to the regulations of the Contracting State of which they are nationals. However, persons who are not regular civil servants, clerical staff or are employed for personal services may, subject to the approval of the highest Government authority responsible for the diplomatic or consular missions of their State, request to be insured in accordance with the regulations of the State in which they are employed, provided that such request is made within three months after they enter upon their duties. If the employment relationship already existed at the date of coming into force of this Convention, the period of three months shall run from the said date.

(2) The supreme administrative authorities of the two Contracting States may by agreement provide for additional exceptions to the principle laid down in article 4 ; they may further, by mutual agreement, permit modification of the provisions of paragraph 1 in its application to individual cases or groups of cases.

Article 6

(1) If, under the regulations of one of the two Contracting States, a social security benefit, or allowances of some other kind, or a position of employment or social security relationship have certain legal effects upon a right to social