

No. 23604

**ISRAEL
and
SWITZERLAND**

**Convention on social security. Signed at Jerusalem and at
Berne on 23 March 1984**

Authentic texts: Hebrew and German.

Registered by Israel on 23 October 1985.

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et
SUISSE**

**Convention de sécurité sociale. Signée à Jérusalem et à
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Textes authentiques : hébreu et allemand.

Enregistrée par Israël le 23 octobre 1985.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE STATE OF ISRAEL AND THE SWISS CONFEDERATION ON SOCIAL SECURITY

The Government of the State of Israel and the Swiss Federal Council,

Desiring, in the interests of their nationals, to regulate relations between the two States in the matter of social security, have agreed to conclude the following Convention:

PART I. GENERAL PROVISIONS

Article 1. For the purposes of this Convention:

(a) "Territory" means, in the case of Switzerland, the territory of the Swiss Confederation and, in the case of Israel, the territory of the State of Israel;

(b) "National" means, in the case of Switzerland, a person of Swiss nationality and, in the case of Israel, a person of Israeli nationality;

(c) "Legislation" means the laws and ordinances of the Contracting States specified in article 2;

(d) "Competent authority" means, in the case of Switzerland, the Federal Office of Social Insurance and, in the case of Israel, the Minister of Labour and Social Welfare;

(e) "Insurance authority" means the institute or authority responsible for the application of the legislation specified in article 2;

(f) "Pensions insurance" means, in the case of Switzerland, the Swiss old-age and survivors' insurance scheme and the Swiss invalidity insurance scheme and, in the case of Israel, the Israeli old-age and survivors' insurance scheme and the Israeli invalidity insurance scheme;

(g) "Insurance periods" means contribution periods, periods of gainful activity or periods of normal residence and comparable periods defined or recognized as insurance periods by the legislation under which they were completed;

(h) "Cash benefit" or "pension" means a cash benefit or pension including any increase therein and any supplement or additional allowance payable therewith.

Article 2. 1. This Convention shall apply:

A. In Switzerland:

1. To the federal legislation concerning old-age and survivors' insurance;
2. To the federal legislation concerning invalidity insurance;

B. In Israel:

1. To the legislation concerning old-age and survivors' insurance;

¹ Came into force on 1 October 1985, i.e., the first day of the second month following the exchange of the instruments of ratification, which took place at Berne on 20 August 1985, in accordance with article 25 (2).

2. To the legislation concerning invalidity insurance.

2. This Convention shall also apply to all laws and ordinances codifying, amending or supplementing the legislation referred to in paragraph 1.

3. The Convention shall, however, apply:

- (a) To laws and ordinances concerning a new branch of social security only if the Contracting States have agreed thereto;
- (b) To the laws and ordinances extending the existing system to new groups of persons only if the State amending its legislation does not notify the other Contracting State to the contrary within six months of the official promulgation of the law or ordinance.

Article 3. 1. This Convention shall apply, unless otherwise provided, to nationals of the Contracting States and to their family members and survivors in so far as the latter derived their rights from such nationals.

2. This Convention shall also apply to refugees within the meaning of the Convention of 28 July 1951¹ and the Protocol of 31 January 1967² relating to the Status of Refugees and to stateless persons within the meaning of the Convention relating to the Status of Stateless Persons of 28 September 1954³ who are resident in the territory of a Contracting State. It shall apply, subject to the same conditions to their family members and survivors, in so far as the latter derive their rights from such refugees or stateless persons. National legislation which is more favourable shall not be affected.

Article 4. 1. The nationals of one Contracting State and their family members and survivors in so far as the latter derive their rights from such nationals shall, except as otherwise provided in this Convention, be assimilated to nationals of the other Contracting State and to their family members and survivors in matters relating to rights and obligations under the legislation of that Contracting State.

2. The principle of equal treatment set forth in paragraph 1 shall not apply to Swiss legislation concerning the voluntary insurance of Swiss nationals domiciled abroad, the pensions insurance of Swiss nationals who work outside the territory of the Contracting States for an employer in Switzerland and are paid by that employer, special pensions or welfare benefits for Swiss nationals abroad.

3. Notwithstanding the principle of equal treatment set forth in paragraph 1, pensions under the Swiss pensions insurance scheme shall be paid to entitled Israeli nationals, provided that they are normally resident in the territory of a Contracting State.

PART II. APPLICABLE LEGISLATION

Article 5. Except as otherwise provided in articles 6 and 7, the obligation of the persons mentioned in article 3 to participate in an insurance scheme shall be governed by the legislation of the Contracting State in whose territory the person concerned is normally resident or gainfully employed.

Article 6. 1. A person employed by an enterprise having its principal place of business in the territory of one Contracting State, who is sent to work

¹ United Nations, *Treaty Series*, vol. 189, p. 137.

² *Ibid.*, vol. 606, p. 267.

³ *Ibid.*, vol. 360, p. 117.

temporarily in the territory of the other Contracting State shall continue for the first 24 months to be subject to the legislation of the Contracting State in whose territory the enterprise has its principal place of business. If the assignment exceeds this term, the legislation of the first Contracting State may by way of exception, continue to apply for a further term which shall be mutually agreed upon by the competent authorities of the two Contracting States. The request for an extension shall be submitted before the term expires.

2. A person employed by a transport enterprise having its principal place of business in the territory of one Contracting State, who works in the territory of both Contracting States shall be subject to the legislation of the Contracting State in whose territory the enterprise has its principal place of business, as if he worked there.

3. A person employed by an airline having its principal place of business in the territory of one Contracting State who is sent to work in the territory of the other Contracting State shall be subject to the legislation of the Contracting State in whose territory the airline has its principal place of business.

If the airline has a branch or permanent office in the territory of the other Contracting State, a person employed at that branch or permanent office shall be subject to the legislation of that Contracting State unless he is assigned for a limited term. In such a case the airline of the first Contracting State shall inform the competent insurance authority of the other Contracting State which persons are assigned for a limited term.

4. A person employed in public service who is sent by one Contracting State to the territory of the other Contracting State shall be subject to the legislation of the sending Contracting State.

5. A Swiss or Israeli national belonging to the crew of a vessel flying the flag of a Contracting State shall be subject to the legislation of that Contracting State.

6. This Convention shall not affect those provisions of the Vienna Convention on Diplomatic Relations¹ or the Vienna Convention on Consular Relations² which relate to the legislation referred to in article 2, paragraph 1.

7. Paragraphs 1 to 4 shall apply irrespective of the nationality of the person employed.

Article 7. The competent authorities of the two Contracting States may, by mutual agreement, provide for exceptions to the provisions of articles 5 and 6.

PART III. SPECIAL PROVISIONS

Chapter I. APPLICATION OF SWISS LEGISLATION

Article 8. 1. An Israeli national who is normally resident in Switzerland shall be entitled to rehabilitation benefits under the Swiss invalidity insurance scheme if, immediately before the onset of invalidity, he has contributed to the Swiss insurance scheme for at least one full year.

2. Wives and widows who are not gainfully employed and minor children with Israeli nationality shall be entitled, if immediately before the onset of inva-

¹ United Nations, *Treaty Series*, vol. 500, p. 95.

² *Ibid.*, vol. 596, p. 261.

lidity they were normally resident in Switzerland continuously for at least one year, to rehabilitation benefits under the Swiss invalidity insurance scheme as long as they are normally resident in Switzerland. Furthermore, minor children shall be entitled to such benefits if they are normally resident in Switzerland and were either born there as invalids or have been normally resident there continuously since their birth.

3. Israeli nationals normally resident in Switzerland who leave Switzerland for a period not exceeding two months shall not be deemed to have interrupted their period of residence in Switzerland within the meaning of paragraph 2.

Article 9. 1. Israeli nationals and their survivors shall be entitled, except as otherwise provided in paragraphs 2 to 5 and subject to the same conditions as Swiss nationals and their survivors, to regular pensions and disability compensation under the Swiss pensions insurance scheme.

2. Israeli nationals who as a result of an accident or illness cease their employment or work in Switzerland shall be deemed to be insured for the purposes of establishing entitlement to benefits under the old-age, survivors' and invalidity insurance schemes as long as they receive rehabilitation benefits from the Swiss invalidity insurance scheme or remain in Switzerland, and shall contribute as persons gainfully employed.

3. Regular pensions for insured persons whose working capacity has been diminished by less than 50 per cent and disability compensation under the Swiss pensions insurance scheme shall be granted to Israeli nationals as long as they are normally resident in Switzerland. Where an Israeli national is resident outside Switzerland and draws half the regular pension under the Swiss invalidity insurance scheme, this pension shall henceforth be paid to him at the same rate, even if his degree of disability is increased.

4. Where an Israeli national or his survivor who is not normally resident in Switzerland is entitled to a regular partial pension under the Swiss pensions insurance scheme amounting to not more than a tenth of the full regular pension, he shall be granted, in lieu of the partial pension, a lump sum corresponding to the cash value of the pension that would be paid under Swiss law when the pension became due. If an Israeli national or his survivor drawing such a partial pension leaves Switzerland for good, he shall likewise be paid such a lump sum corresponding to the cash value of the pension at the time of departure. Where the regular partial pension amounts to more than a tenth but does not exceed a fifth of the full regular pension, an Israeli national or his survivor who is not normally resident in Switzerland or who has left Switzerland for good may choose either to draw the pension or to receive a lump sum. This choice shall be made at the time when the pension is determined, if the entitled person is not resident in Switzerland, or at the time of his departure, if he has already drawn a pension in Switzerland.

5. After the lump sum has been paid by the Swiss insurance scheme, neither the person entitled to such sum nor his survivors may make any further claims against such insurance scheme on the basis of contributions paid previously.

Chapter 2. APPLICATION OF ISRAELI LEGISLATION

Article 10. 1. A Swiss national who is normally resident in Israel shall be entitled to benefits under the Israeli invalidity insurance scheme if, immediately

before the onset of invalidity, he has contributed to the Israeli insurance scheme continuously for at least one full year.

2. Wives and widows not gainfully employed who are entitled to widows' pensions under the Israeli insurance scheme but are not insured under the Israeli invalidity insurance scheme and minor children with Swiss nationality shall be entitled to the rehabilitation benefits and services accorded to those enrolled in the Israeli invalidity insurance scheme and to benefits under Chapter Three A of the Israeli National Insurance Act, provided that they are normally resident in Israel and subject to the condition that, immediately before the onset of invalidity, they have lived in Israel continuously for at least one year. Furthermore, minor children shall be entitled to such benefits if they are normally resident in Israel and were either born there as invalids or have been normally resident there continuously since their birth.

3. Swiss nationals normally resident in Israel who leave Israel for a period not exceeding two months shall not be deemed to have interrupted their period of residence in Israel within the meaning of paragraphs 1 and 2.

Article 11. 1. For the purposes of entitlement to benefits under the Israeli pensions insurance scheme, Swiss insurance periods may, if necessary, be taken into account, insofar as they do not overlap with Israeli insurance periods and provided that the latter insurance periods amount to a continuous period of at least one full year.

2. The amount of the pension shall depend on the proportion which the insurance periods completed by the entitled person in Israel bear to the insurance period giving rise to an entitlement in Israel.

3. Persons referred to in article 3 who are entitled to claim cash benefits under the Israeli pensions insurance scheme shall receive such benefits if they are normally resident in the territory of a Contracting State.

4. Where a Swiss national is resident outside Israel and draws a pension there under the Israeli invalidity insurance scheme on the basis of partial disability, this pension shall continue to be paid to him at the same rate even if his degree of disability is increased.

PART IV. MISCELLANEOUS PROVISIONS

Article 12. The competent authorities:

- (a) Shall reach agreement on the necessary provisions for the implementation of this Convention;
- (b) Shall inform each other of any changes in their legislation;
- (c) Shall designate liaison offices to facilitate communication between the insurance authorities of the two Contracting States;
- (d) May, by agreement, decide on provisions concerning the service of legal documents.

Article 13. 1. The insurance authorities, public authorities and courts of the Contracting States shall assist each other in the implementation of this Convention as if they were applying their own legislation. Such assistance shall be free of charge except for medical examinations.

2. For the purpose of assessing a degree of disability, the insurance authorities of either Contracting State may, where appropriate, take into consideration the information provided by the insurance authorities of the other Contracting State and the medical certificates issued by such insurance authorities. Their right to arrange for the insured person to be examined by a physician of their choice shall, however, not be affected.

Article 14. 1. The provisions of the legislation of one Contracting State concerning exemption from or reduction of stamp duties and charges for documents and records required to be submitted under such legislation shall also apply to such documents and records required to be submitted under the legislation of the other Contracting State.

2. The competent public authorities or insurance authorities of the two Contracting States shall not require authentication, through a diplomatic or consular mission, of documents and records to be submitted in implementation of this Convention.

Article 15. 1. The insurance authorities, public authorities and courts of one Contracting State shall not reject applications or other documents on account of the language, where they are drawn up in an official language of the other Contracting State or in the English language.

2. For the purpose of implementing this Convention, the insurance authorities, public authorities and courts of the Contracting States may communicate with each other and with injured persons or their representatives in their official language or in the English language directly or through the liaison offices.

Article 16. Claims, declarations or appeals which, in application of the legislation of one Contracting State, are required to be submitted within a certain time-limit to an administrative authority, court or social insurance authority of that State shall be deemed to have been received in time if within the prescribed time-limit they have been submitted to the corresponding public authority, court or insurance authority of the other Contracting State. In such cases the recipient shall enter the date of receipt on the document and subsequently forward it directly or through a liaison office to the addressee in the first-mentioned State.

Article 17. 1. The insurance authorities liable for benefits under this Convention may discharge their liability by making payment in the currency of their State.

2. If a Contracting State should introduce currency restrictions, the Contracting States shall take prompt measures to ensure the transfer of amounts payable by each side under the provisions of this Convention.

3. Swiss nationals who are normally resident in Israel shall be fully entitled to take out voluntary insurance under Swiss legislation, particularly with regard to the payment of contributions and to the receipt of any pension payable in respect of such contributions.

Article 18. 1. Where an insurance authority of one Contracting State awards cash benefits erroneously, the amount paid in error may be deducted from a corresponding benefit payable under the legislation of the other Contracting State for the account of the insurance authority concerned.

2. Where an insurance authority of one Contracting State has made an advance payment relating to a benefit under the legislation of the other Con-

tracting State, the amount paid shall be deducted for the account of the insurance authority when the benefit is paid.

3. Where a person is entitled, under the legislation of one Contracting State, to a cash benefit for a period in respect of which he or his family members received benefits from a public assistance agency or any other authority of the other Contracting State, such cash benefit shall, at the request of the agency entitled to reimbursement under the legislation applicable to the first Contracting State, be withheld for the account of such agency as if the agency had its principal place of business in the territory of that Contracting State.

Article 19. 1. Where a person who is to receive benefits under the legislation of one Contracting State in respect of an injury is entitled to claim compensation for such injury from a third party, the other Contracting State shall recognize the transfer of the claim for compensation to the insurance authority of the first-mentioned Contracting State in accordance with the legislation applicable to that insurance authority.

2. Where both an insurance authority of one Contracting State and an insurance authority of the other Contracting State are entitled to claim compensation in respect of similar benefits as a result of the same contingency, the third party may validly discharge the claims transferred to the two insurance authorities by making payment either to the one or to the other. The insurance authorities shall make the necessary internal arrangements to divide the payment between them in proportion to the benefits payable by each of them.

Article 20. 1. Disputes arising in connection with the application of this Convention shall be settled by the competent authorities of the Contracting States by mutual agreement.

2. If no settlement can be reached in this manner, the dispute shall be referred to an arbitral tribunal which shall settle it in keeping with the spirit and letter of this Convention. The constitution and procedure of such tribunals shall be decided upon by agreement between the Contracting States.

PART V. TRANSITIONAL AND FINAL PROVISIONS

Article 21. 1. This Convention shall also apply to insurance contingencies which occurred before its entry into force.

2. This Convention shall not confer any entitlement to benefits for periods prior to the date of its entry into force.

3. For the purpose of determining entitlement to benefits under this Convention, insurance periods completed before its entry into force shall also be taken into account.

4. This Convention shall not apply to liabilities which have been discharged by means of a lump sum or by reimbursement of contributions.

5. Israeli nationals resident in Israel who have already reached pensionable age under Swiss legislation before this Convention enters into force and whose entitlement to a Swiss old-age pension rests on the provisions of this Convention may choose to receive either such old-age pension or a lump sum equivalent to the cash value of the pension at the time when this Convention enters into force.

Article 22. Contributions paid into the Swiss old-age and survivors' insurance scheme which are subsequently reimbursed to Israeli nationals may not

subsequently be retransferred to the Swiss insurance scheme. No further rights under the Swiss pensions insurance scheme may be invoked in respect of such contributions.

Article 23. 1. Earlier administrative or court decisions shall not affect the application of this Convention.

2. Pensions which were determined prior to the entry into force of this Convention shall, upon application, be reviewed. A review may also be made *ex officio*. If the finding of the review is that the pension should not be paid or that the pension should be paid in a lower amount than that most recently paid during the period prior to the entry into force of this Convention, the pension shall continue to be paid in the same amount as before.

Article 24. In respect of entitlements arising from this Convention, the limitation and expiry periods according to the legislation of the two Contracting States shall not begin before the entry into force of the Convention. In any event, they shall amount, subject to more favourable domestic regulations, to two years calculated from the date of entry into force of the Convention.

Article 25. 1. This Convention shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Berne.

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

Article 26. 1. This Convention is concluded for an indefinite period. Either of the Contracting States may denounce it in writing through the diplomatic channel upon at least one year's notice.

2. If the Convention is denounced, the acquired rights and future rights of a person under the Convention shall be regulated by agreement.

IN WITNESS WHEREOF the plenipotentiaries of the Contracting States have signed this Convention and thereto affixed their seals.

DONE in duplicate in the Hebrew and German languages, both texts being equally authentic.

Jerusalem, 23 March 1984

For the Government of Israel:

[DANIEL AZRIEL]

Berne, 23 March 1984

For the Swiss Federal Council:

[ADELRICH SCHÜLER]