

No. 4863

**POLAND
and
YUGOSLAVIA**

Agreement concerning social insurance (with Additional Protocol). Signed at Warsaw, on 16 January 1958

Official texts: Polish and Serbo-Croat.

Registered by Poland on 9 September 1959.

**POLOGNE
et
YOUgoslavie**

Accord relatif aux assurances sociales (avec Protocole additionnel). Signé à Varsovie, le 16 janvier 1958

Textes officiels polonais et serbo-croate.

Enregistré par la Pologne le 9 septembre 1959.

[TRANSLATION — TRADUCTION]

No. 4863. AGREEMENT¹ CONCERNING SOCIAL INSURANCE BETWEEN THE GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC AND THE GOVERNMENT OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA. SIGNED AT WARSAW, ON 16 JANUARY 1958

The Government of the Polish People's Republic and the Government of the Federal People's Republic of Yugoslavia, desiring to regulate questions relating to social insurance in a spirit of mutual co-operation and being convinced that such co-operation will serve to strengthen and develop the friendly relations between the two States, have decided to conclude an Agreement concerning social insurance and have for this purpose appointed as their plenipotentiaries :

The Government of the Polish People's Republic :

Stanisław Zawadzki, Minister of Labour and Social Welfare;

The Government of the Federal People's Republic of Yugoslavia :

Momo Marković, member of the Federal Executive Council,

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

PART I

BASIC PROVISIONS

Article 1

(1) In the implementation of this Agreement the legal provisions governing the following types of social insurance shall be applied :

- (a) Sickness and maternity insurance;
- (b) Insurance against invalidity, old age and the death of the family breadwinner, including industrial accident and disease insurance, hereinafter referred to as " pension insurance ";
- (c) Family allowances (benefits).

(2) In the implementation of this Agreement such legal provisions as may in the future amend and supplement the legal provisions governing the types of social insurance referred to in the preceding paragraph shall also be applied.

¹ Came into force on 1 January 1959, the first day of the month following the exchange of the instruments of ratification which took place at Belgrade on 9 December 1958, in accordance with article 22.

Article 2

Nationals of one Contracting Party shall have the same rights and obligations as nationals of the other Contracting Party under the legal provisions referred to in article 1 of this Agreement.

Article 3

(1) Workers and persons treated as workers shall be covered by the social insurance system of the Contracting Party in whose territory the insurable employment or activity is carried on.

(2) The following exceptions shall be made to the principle laid down in the preceding paragraph :

- (a) Officers of diplomatic and consular missions and persons employed therein shall be covered by the social insurance system of the Contracting Party in whose territory they have their permanent residence. The foregoing shall also apply to the officials of State and other public institutions and organizations of one Contracting Party who are employed in the territory of the other Contracting Party;
- (b) Employees of public land, air and water transport undertakings of one Contracting Party who are sent to take up temporary or permanent employment in the territory of the other Contracting Party and employees who are sent, by other undertakings having their head offices in the territory of one Contracting Party, to take up temporary employment in the territory of the other Contracting Party shall be covered by the social insurance system of the Contracting Party in whose territory the undertaking has its head office;
- (c) The crew of a vessel shall be covered by the social insurance system of the Contracting Party whose flag the vessel flies.

(3) The central authorities of the Contracting Parties may establish other exceptions or agree that the exceptions provided for in the preceding paragraph shall not be applicable either in general or in individual cases.

Article 4

(1) In establishing the right to benefit, employment periods (insurance periods) and periods equivalent to employment periods (insurance periods) completed in the territory of either Contracting Party shall be taken into account. If the award of benefit is conditional upon the completion of a certain period in a specified occupation, periods of such employment completed in the territory of either Contracting Party shall be taken into account.

(2) If under the legal provisions of one Contracting Party employment periods (insurance periods) completed in the territory of a third State are treated as employment periods (insurance periods) completed in that Party's own territory, the other Contracting Party shall also take such periods into account in establishing the right to benefit under this Agreement. The recognition of an employment period (insurance period) completed in the territory of a third State with which one Contracting Party has concluded an agreement concerning social insurance shall not affect the calculation of the amount of pension.

(3) Benefits under the social insurance system of one Contracting Party which are payable to the nationals of that Party in virtue of employment periods (insurance periods) and periods equivalent to employment periods (insurance periods) completed in the territory of a third State shall not be payable to the nationals of the other Contracting Party.

Article 5

(1) If the legal provisions of one Contracting Party make the acquisition, maintenance and recovery of the right to benefit or the enjoyment of benefit conditional upon residence in that Party's territory, this condition shall not be applied to nationals of the Contracting Parties during such time as they reside in the territory of the other Contracting Party.

(2) Benefits under the social insurance system of one Contracting Party shall be granted to nationals of the other Contracting Party who are resident in a third State under the same conditions and at the same rate as to nationals of the first Party who are resident in the said third State.

Article 6

(1) The legal provisions of one Contracting Party under which a benefit is subject to reduction or suspension when the entitled person draws another benefit, receives remuneration or has means of support from other sources shall also be applied where the benefit is drawn, the remuneration is received or the means of support are owned in the territory of the other Contracting Party.

(2) The central authorities of the Contracting Parties shall if necessary prescribe the scope and method of application of the provisions of the preceding paragraph.

PART II
SPECIAL PROVISIONS

Chapter 1

SICKNESS AND MATERNITY INSURANCE

Article 7

Benefits in kind under sickness and maternity insurance shall be awarded, in accordance with its own domestic provisions and at its own expense, by the authority of the Contracting Party in whose territory the entitled person (worker, pensioner or dependant) resides. The foregoing shall also apply to the persons referred to in article 3, paragraph (2), with the exception of diplomatic and consular officers. The Contracting Parties may agree that the provisions of this article shall also apply to diplomatic and consular officers.

Article 8

(1) Cash benefits under sickness and maternity insurance shall be awarded, in accordance with its own domestic provisions and at its own expense, by the authority of the Contracting Party in which the worker was insured when he became entitled to benefit.

(2) If an entitled person resides in the territory of the other Contracting Party when he draws any benefit under the provisions of the preceding paragraph, the authority responsible for the benefit may entrust the payment of benefit to the authority of the other Contracting Party. The authority which has paid out any benefit in this manner shall be reimbursed by the authority responsible for the payment of such benefit.

Chapter 2

PENSION INSURANCE

Article 9

(1) The pension insurance authority of each Contracting Party shall determine, in accordance with its own domestic legal provisions and having regard to the provisions of article 4, whether a person satisfies the conditions for acquisition of the right to benefit.

(2) If, in virtue of the preceding paragraph, the conditions for benefit are satisfied in accordance with the legal provisions of both Contracting Parties, the pension insurance authority of each Contracting Party shall determine in ac-

cordance with its own provisions the rate of pension, together with all allowances and increments, as though the aggregate employment period (insurance period) completed in the territory of the two Contracting Parties had been completed wholly in accordance with the said authority's legal provisions. Of a pension so calculated, the pension insurance authority of each Contracting Party shall pay that part of the benefit which corresponds to the ratio of the employment period (insurance period) completed in the territory of that Party to the aggregate employment period (insurance period) completed in the territory of the two Contracting Parties.

(3) If the employment period (insurance period) completed in the territory of one Contracting Party is less than six months, there shall be no right to draw benefit from the insurance authority of that Party. The pension insurance authority of the other Contracting Party, which shall be responsible for the pension, shall not reduce the benefit pursuant to the preceding paragraph.

(4) In the event of the death of a pensioner who is drawing a pension in parts in accordance with the provisions of paragraph (2), or of one of his dependants, the funeral allowance shall be payable in its entirety by the social insurance authority of the Contracting Party in whose territory the funeral took place.

(5) The central authorities of the Contracting Parties may, if they recognize that the notion of invalidity is fundamentally the same according to the provisions of both Contracting Parties, direct that the decision of the competent authority or tribunal of one Contracting Party on the question whether or not invalidity exists shall be binding upon the competent authority of the other Contracting Party. In such event, competence to rule on the question of invalidity shall be vested in the authority (tribunal) of the Contracting Party in whose territory the entitled person resides.

Article 10

(1) If an entitled person satisfies the conditions for benefit under the legal provisions of only one Contracting Party, the pension insurance authority of that Party shall award part of the benefit determined in accordance with the provisions of article 9 of this Agreement. However, the part benefit payable in such a case shall not be less than would be payable under the domestic provisions, leaving out of account employment periods (insurance periods) completed in the territory of the other Contracting Party.

(2) If the conditions for benefit under the legal provisions of the other Contracting Party also come to be satisfied, the benefit shall be determined afresh by the pension insurance authorities of the two Contracting Parties in accordance with article 9 of this Agreement, taking into account employment periods (insurance periods) completed after the award of benefit under the preceding paragraph.

(3) Entitlement to benefit acquired in virtue of insurance in the territory of one Contracting Party shall not be lost when an old age or invalidity pension under paragraph (1) is drawn from the pension insurance authority of the other Contracting Party.

Article 11

(1) The provisions of articles 9 and 10 of this Agreement shall also apply where the invalidity or death of a worker is due to an industrial accident or disease. However, the pension increment or part pension which is added in such a case to a pension for invalidity not caused by industrial accident or disease shall be awarded and paid by the pension insurance authority of the Contracting Party in whose territory the accident occurred or the worker contracted the industrial disease.

(2) If a worker was exposed to an industrial disease during employment in the territory of only one Contracting Party, the benefit therefor under the provisions of the preceding paragraph shall be awarded by the pension insurance authority of that Party. If a worker was exposed to an industrial disease during employment in the territory of both Contracting Parties, the benefit therefor shall be awarded in accordance with the preceding paragraph by the pension insurance authority of the Contracting Party in whose territory the worker was last employed.

(3) If an entitled person who is drawing benefit for an industrial accident or disease from the pension insurance authority of one Contracting Party meets with an accident or contracts an industrial disease during employment in the territory of the other Contracting Party, the pension insurance authority of the latter Contracting Party shall determine the said person's entitlement under its own legal provisions, taking into account the previous accident or industrial disease. The foregoing shall also apply in the event of deterioration in the health of an entitled person caused by work performed in the territory of the other Contracting Party.

Chapter 3

FAMILY ALLOWANCES (BENEFITS)

Article 12

Family allowances (benefits) shall be paid by the responsible insurance authority of either Contracting Party even if the dependants to whom such family allowances (benefits) are payable reside in the territory of the other Contracting Party.

Article 13

Family allowances (benefits) for dependants resident in the territory of a third State shall be paid by the insurance authority of each Contracting Party under the same conditions and at the same rate as to its own nationals whose dependants reside in the said third State.

PART III

GENERAL, TRANSITIONAL AND FINAL PROVISIONS

Article 14

An application for benefit under this Agreement may be filed with the social insurance authority of either Contracting Party. The authority of the Contracting Party with which the application is filed shall notify thereof the authority of the other Contracting Party.

Article 15

(1) The competent authorities of the Contracting Parties shall render each other free of charge such assistance as is necessary for the implementation of this Agreement.

(2) The consular missions (consular departments of diplomatic missions) of either Contracting Party shall be entitled, without special authorization, to represent the nationals and authorities of their own State before the authorities (tribunals) of the other Contracting Party in all matters arising out of this Agreement. The foregoing shall not affect any domestic legal provisions of either Contracting Party requiring representation by a lawyer or other person.

Article 16

The competent authorities of the Contracting Parties shall consult one another directly in the implementation of this Agreement.

Article 17

(1) The documentation, not excluding the results of medical examinations, issued by the competent authorities of one Contracting Party shall be valid for the authorities of the other Contracting Party in the implementation of this Agreement. The central authorities of the Contracting Parties may determine in what manner the documentation prescribed in the legal provisions of one

Contracting Party may be replaced by a certificate from the competent authority of the other Contracting Party.

(2) Documents, applications, complaints and other papers prepared pursuant to this Agreement may be written in the official language of either Contracting Party and shall be exempt from all fees and from legalization.

(3) Applications, complaints, legal instruments and other papers relating to matters covered by this Agreement which are required to be filed with the authority (tribunal) of one Contracting Party within a specified time-limit shall be deemed to have been filed in time if they are filed within such time-limit with the authority (tribunal) of the other Contracting Party. In such event, the papers in question must be transmitted forthwith to the competent authority (tribunal) of the other Contracting Party.

Article 18

Transfers of cash benefits to the territory of the other Contracting Party shall be made in accordance with the provisions of the agreements concerning non-commercial payments which are in force between the two Contracting Parties on the date of transfer.

Article 19

(1) The central authorities of the Contracting Parties may conclude such agreements as are necessary for the implementation of this Agreement.

(2) The said authorities shall inform each other of any changes made in the domestic legal provisions referred to in article 1 of this Agreement.

(3) Any difficulties and differences of opinion arising in the implementation of this Agreement shall be resolved by agreement between the central authorities of the Contracting Parties.

(4) The Contracting Parties shall inform each other which authorities of each Contracting Party are, for the purposes of this Agreement, the central authorities competent to implement the same.

Article 20

(1) In the application of the provisions of this Agreement, employment periods (insurance periods) and periods equivalent to employment periods (insurance periods) completed before the entry into force of the Agreement shall also be taken into account.

(2) The provisions of this Agreement shall also be applied, on the application of an entitled person or of the competent pension insurance authority, in

cases in which, before the entry into force of the Agreement, a pension was not awarded because the requisite employment period (insurance period) had not been completed.

(3) Pensions awarded before the entry into force of this Agreement shall be examined afresh on the application of the entitled person or competent authority in order to establish the right to benefit under the provisions of this Agreement.

(4) An application for review under paragraphs (2) and (3) must be filed within three years after the date of entry into force of this Agreement. Benefits awarded as a result of such review shall be payable at the earliest from the date of entry into force of this Agreement.

Article 21

This Agreement shall not apply to members of the armed forces, war and military invalids, participants in the partisan and underground movement during the Second World War, or victims of fascist terror. Questions relating to the payment of benefits to such persons and their dependants shall be governed by the Additional Protocol¹ to this Agreement, which shall form an integral part thereof.

Article 22

This Agreement shall be subject to ratification and shall enter into force on the first day of the month following the exchange of the instruments of ratification, which shall take place at Belgrade.

Article 23

(1) This Agreement is concluded for an indefinite term. It may be denounced by either Contracting Party not later than six months before the end of a calendar year, and shall cease to have effect at the end of that year.

(2) If this Agreement is denounced, its provisions and the provisions of any supplementary agreements shall remain applicable to rights already acquired.

(3) In cases in which employment periods (insurance periods) have been completed in the territory of both Contracting Parties but the right to benefit has not been acquired before the date of termination of this Agreement, the maintenance of the right to benefit in virtue of such periods shall be governed by the domestic legal provisions of each Contracting Party.

¹ See p. 176 of this volume.

This Agreement was done at Warsaw on 16 January 1958 in two copies, each in the Polish and Serbo-Croat languages, both texts being equally authentic.

IN WITNESS WHEREOF the aforementioned plenipotentiaries have signed this Agreement and have thereto affixed their seals.

For the Government
of the Polish People's
Republic :
S. ZAWADZKI

For the Government
of the Federal People's
Republic of Yugoslavia :
M. MARKOVIĆ

ADDITIONAL PROTOCOL

On signing the Agreement concerning social insurance¹ between the Government of the Polish People's Republic and the Government of the Federal People's Republic of Yugoslavia, the Contracting Parties, being anxious to enable their nationals to qualify for other benefits besides those of social insurance, have agreed as follows :

Article I

(1) The provisions of articles 5 and 18 of the Agreement concerning social insurance shall apply as appropriate to the payment of benefits to the persons referred to in article 21 of that Agreement.

(2) Acquisition of the nationality of the other Contracting Party shall not entail loss of the right to benefits payable, under special provisions outside the social insurance system, to the persons referred to in article 21 of the Agreement concerning social insurance.

(3) If the benefits referred to in the preceding paragraph have not been awarded, or if the payment thereof has been withheld by reason of the entitled person's residence in the territory of the other Contracting Party or of his acquisition of that Party's nationality, the entitlement of the person concerned shall be examined afresh on his application or on that of the competent authority of the Contracting Party of which the entitled person is a national. Such application must be filed within three years after the date of entry into force of the Agreement concerning social insurance. Benefits awarded as a result of such review shall be payable at the earliest from the date of entry into force of the said Agreement.

¹ See p. 158 of this volume.

Article II

A person drawing from the authority of one Contracting Party the benefits referred to in article I of this Protocol shall receive, during his residence in the territory of the other Contracting Party, essential preventive medical care and treatment from the competent authorities of that Party under the same conditions and to the same extent as nationals of that Party who are entitled to such benefits. For this purpose, the provisions of article 7 of the Agreement concerning social insurance shall be applied as appropriate.

This Protocol was done at Warsaw on 16 January 1958 in two copies, each in the Polish and Serbo-Croat languages, both texts being equally authentic.

For the Government
of the Polish People's
Republic :
S. ZAWADZKI

For the Government
of the Federal People's Republic
of Yugoslavia :
M. MARKOVIĆ