



ACORD
între Republica Moldova și Republica Polonă în
domeniul asigurărilor sociale

Varșovia, 9 septembrie 2013



COPIE CERTIFICATĂ
TEXT ÎN LIMBA ENGLEZĂ

Part I
GENERAL PROVISIONS

Article 1
Definitions

(1) For the purposes of this Agreement, the following terms and expressions shall mean:

1. "legislation" - the laws and other legal provisions related to the material scope referred to in the Article 2;
2. "competent authority" - in the Republic of Moldova the ministry competent for the social insurance, in the Republic of Poland the minister competent for the social security;
3. "competent institution" - the institution responsible for the application of the legislation;
4. "liaison body" - the institution that provides coordination and exchange of information between the institutions of both Contracting Parties, designated for the implementation of this Agreement and also for providing information about the rights and responsibilities arising therefrom to the persons concerned;
5. "insured person" - any person who is or has been subject to the legislation of either Contracting Party;
6. "period of insurance" - contribution periods, periods of employment or self-employment and equivalent periods completed according to the legislation of each Contracting Party;
7. "benefit"- all kinds of cash benefits provided by the legislation of each Contracting Party, including supplements and increases of these benefits;
8. "place of residence" - the place of permanent stay;
9. "place of stay" - the place of temporary stay;
10. "members of the family" - the persons defined as a members of the family by the legislation applied by the competent institution.

(2) All other terms and expressions used in this Agreement shall have the meaning assigned to them in the applicable legislation of each Contracting Party.

Article 2
Material scope

(1) This Agreement shall apply:

1. to the Republic of Moldova, to the following benefits within the state social insurance:
 - a) old age pensions,

- b) invalidity pensions as a consequence of common diseases,
- c) invalidity pensions and indemnities as a consequence of accidents at work and occupational diseases,
- d) survivors' pensions;

2. to the Republic of Poland, to the following benefits within the social insurance and social insurance for farmers:

- a) old age pensions,
- b) invalidity pensions,
- c) survivors' pensions,
- d) one-time indemnity payments and pensions in respect of accidents at work and occupational diseases.

(2) This Agreement shall also apply to the laws and other legal provisions which replace, codify, amend or supplement the legislation.

(3) This Agreement shall not apply to the laws and other legal provisions which extend the existing legislation of one Contracting Party to new categories of beneficiaries, if the competent authority of that Contracting Party notifies the competent authority of the other Contracting Party, within six months from the date of publication of such laws or legal provisions, that no such extension of this Agreement is intended.

Article 3

Personal scope

This Agreement shall apply to:

- 1. persons who are or have been subject to the legislation of one or both Contracting Parties;
- 2. persons, whose rights derive from the rights of persons specified in subparagraph 1.

Article 4

Equal treatment

Unless otherwise provided in this Agreement, the persons covered by this Agreement have the same rights and are subject to the same obligations under the legislation of one Contracting Party, as citizens of that Contracting Party.

Article 5

Export of benefits

- (1) Unless otherwise provided in this Agreement, the benefits payable under the legislation of one Contracting Party shall not be subject to any reduction,

amendment, suspension, discontinuation or confiscation by reason of the fact that the entitled person has a place of residence in territory of the other Contracting Party.

(2) The provisions of paragraph (1) shall not apply:

1. in the Republic of Moldova to: state benefits, seniority pensions and pensions for some categories of citizens;
2. in the Republic of Poland to: benefits granted under a special procedure or in exceptional cases.

Article 6

Prevention of overlapping of benefits

Unless the provisions of Part III do not provide otherwise, this Agreement shall not confer or maintain the right to two or more benefits in the same respect for the same period of compulsory insurance.

Part II

APPLICABLE LEGISLATION

Article 7

General rules

Unless otherwise provided in this Agreement:

1. a person employed in the territory of one Contracting Party shall, with respect to that employment, be subject to the legislation of this Contracting Party, even if he/she resides in the territory of the other Contracting Party, or if the employer has his head office or his registered office in the territory of the other Contracting Party;
2. self-employed person conducting the activity on the territory of one Contracting Party shall, with respect to that activity, be subject to the legislation of this Contracting Party, even if he/she resides in the territory of the other Contracting Party;
3. civil servant and person treated as such shall be subject to the legislation of the Contracting Party, whose administration employs them.

Article 8

Posted workers

- (1) If a person employed by the employer whose registered office is situated in the territory of one Contracting Party, is posted to the territory of the other Contracting Party in order to perform certain work for that employer, he/she shall

be subject to the legislation of the first Contracting Party, provided that the anticipated duration of employment does not exceed a period of 24 months.

- (2) If a person normally pursuing an activity as a self-employed person in the territory of one Contracting Party, temporarily transfers that activity to the territory of the other Contracting Party, he/she shall continue to be subject to the legislation of the first Contracting Party, provided that the anticipated duration of that activity does not exceed a period of 24 months.
- (3) If the duration of activity exceeds 24 months, upon a common request of the employee and the employer, or of the self-employed person, the legislation of the first Contracting Party shall continue to be applied for a new period of up to 36 months, provided that the competent authority of the other Contracting Party or of the institution designated by this authority gives consent. This consent shall be requested before the expiry of initial 24-months period.

Article 9

The personnel of international transport enterprises

A person employed by an international transport enterprise with registered office in the territory of one Contracting Party who operates, for hire or on its own account, international transport services for persons and goods by rail, road, air or inland waterways, shall be subject to the legislation of that Contracting Party, with the following restrictions:

1. a person employed at a branch office or a permanent representation of an international transport enterprise, shall be subject to the legislation of the Contracting Party in whose territory such branch or permanent representation is situated, if he/she is not a posted worker;
2. a person employed mainly in the territory of the Contracting Party in which he/she has his/her place of residence, shall be subject to the legislation of that Contracting Party, even if the international transport enterprise which employs him/her has no registered office or branch or permanent representation in its territory.

Article 10

Crew members on vessels

A person employed on board of a ship which is flying under the flag of one Contracting Party shall be subject to the legislation of that Contracting Party.

Article 11

Diplomatic missions and consular offices

Staff members of diplomatic missions and consular offices shall be subject to the provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961, and of the Vienna Convention on Consular Relations of 24 April 1963.

Article 12
Exceptions from the provisions of Articles 7 - 10

The competent authorities of both Contracting Parties or institutions designated by them, upon the common request of the employee and the employer, or of the self-employed person, may agree on exceptions from the provisions of Articles 7-10, in the best interest of such person or category of persons.

Part III
SPECIAL PROVISIONS RELATING TO THE
VARIOUS CATEGORIES OF BENEFITS

CHAPTER 1
Pensions

Article 13
Granting of pensions without aggregation of insurance periods

If, according to the legislation of one Contracting Party, a person meets the conditions to receive a pension without the necessity to apply Article 14 of this Agreement, the competent institution of that Contracting Party establishes the right to the pension and calculates its amount solely on the basis of insurance periods completed under the legislation which it applies, unless the pension established in accordance with Article 15 is more favorable.

Article 14
Aggregation of insurance periods

- (1) Where the legislation of one Contracting Party makes acquisition, retaining or recovery of the right to pension conditional upon the completion of a certain insurance period, the competent institution of that Contracting Party shall take into account, if necessary, the insurance periods completed under the legislation of the other Contracting Party as if they were completed according to the legislation of the first Contracting Party, provided that those periods do not overlap.
- (2) Where the legislation of one Contracting Party makes acquisition of the right to pension conditional upon completion of a certain insurance period in a profession subject to insurance under a special scheme, or in specific profession or employment, then the insurance periods completed in that profession or in employment in accordance with the legislation of the other Contracting Party shall be taken into account in order to establish the right to these benefits.
- (3) Where after aggregation, referred to in paragraph (1), the insured person does not acquire the right to a pension, the competent institution of the Contracting Party shall take into account the insurance period completed in a third party with which

both Contracting Parties are bound by an agreement on social insurance providing for aggregation of insurance periods.

Article 15

Granting of pensions through aggregation of insurance periods

If according to the legislation of one Contracting Party, the right to pension is only established following the application of provisions of Article 14 of this Agreement, the competent institution of that Contracting Party establishes the pension in the following way:

1. calculates the theoretical amount of the pension which would be awarded if all insurance periods taken into account were completed under the legislation it applies;
2. in order to define the theoretical amount of pension, referred to in subparagraph 1, in order to establish the base of calculation, it shall take into account only the remuneration received in accordance with the legislation applied by the competent institution, as well as contributions transferred under this legislation;
3. on the basis of the theoretical amount of pension, referred to in subparagraph 1, determine the actual amount of pension on the basis of the ratio of insurance periods completed under the legislation applied by the competent institution granting a pension, to the sum of all considered insurance periods taken into account.

Article 16

Insurance period shorter than 12 months

- (1) If the insurance period completed under the legislation of one Contracting Party is shorter than 12 months and, taking into account this period, the person concerned does not acquire the right to the pension under this legislation, then the competent institution of that Contracting Party shall not grant the benefit.
- (2) Notwithstanding the provisions of paragraph (1), the insurance periods shorter than 12 months completed in accordance with the legislation of each Contracting Party shall be taken into account by the competent institution of that Contracting Party in which the right to benefit occurs after the aggregation of these periods.

CHAPTER 2

Benefits in respect of accidents at work and occupational diseases

Article 17

Right to benefits

The right to benefits in respect of accidents at work and occupational diseases shall be determined pursuant to the legislation applicable at the date the accident took place or at the time work resulting in an occupational disease was performed.

Article 18

Occupational diseases

- (1) If the legislation of one Contracting Party makes the entitlement to benefits in respect of an occupational disease conditional upon the diagnosis of the disease for the first time in the territory of that Contracting Party, this condition shall be deemed to be fulfilled if this disease was first diagnosed in the territory of the other Contracting Party.
- (2) If the legislation of one Contracting Party makes the entitlement to benefits conditional upon the diagnosis of an occupational disease within a certain period after ceasing the occupation which is likely to be the reason for the disease, the competent institution shall also take into account, if necessary, any other activity that involves similar risk carried out under the legislation of the other Contracting Party.
- (3) If the legislation of one Contracting Party makes the entitlement to benefits in respect of an occupational disease conditional upon performing, for a certain period of time, the work which is likely to cause a disease, for the purpose of calculating the benefits shall also be taken into account the periods in which such work was performed in the territory of the other Contracting Party.

Article 19

Aggravation of an occupational disease

- (1) If the right to benefits in respect of an occupational disease was established under the legislation of one Contracting Party, the competent institution of that Contracting Party shall be responsible for the payment of the benefits for the aggravation of an occupational disease, even if it occurred at the time when the insured person was subject to the legislation of the other Contracting Party, on condition that in that territory the person did not perform work which would expose him/her to an occupational disease.
- (2) In case of aggravation of an occupational disease of a person receiving benefits in respect of an occupational disease under the legislation of the first Contracting Party, while performing in the territory of the other Contracting Party work likely to aggravate the occupational disease:
 1. the competent institution of the first Contracting Party shall continue to pay the granted benefits, without taking into account the aggravation of an occupational disease;
 2. the competent institution of the latter Contracting Party, whose legislation the insured person has been subject to while performing work which might result in aggravation of the occupational disease, shall grant a benefit in the amount equal to the difference between the amount of the benefit the insured person is entitled to after the aggravation of an occupational disease and the amount of

the benefit that would be due before the aggravation of an occupational disease, in accordance with the legislation it applies.

Part IV

MISCELLANEOUS PROVISIONS

Article 20

Competences of the competent authorities

- (1) The competent authorities of both Contracting Parties shall establish the administrative measures necessary for the application of this Agreement.
- (2) The competent authorities shall:
 1. decide on the procedures of application of this Agreement in the Administrative Arrangement;
 2. designate liaison bodies and the competent institutions for the purpose of facilitating and accelerating the application of the provisions of this Agreement;
 3. inform each other on the amendments made to the legislation each of the Contracting Parties, as far as these changes affect the application of this Agreement.

Article 21

Administrative and legal assistance, medical examinations

- (1) The competent authorities, the liaison bodies and competent institutions of the Contracting Parties shall assist each other in applying the provisions of this Agreement. This assistance shall be free of charge, unless the competent authorities establish the reimbursement of certain expenses related to providing that support.
- (2) Certificates and documents, issued by the competent authorities, liaison bodies and competent institutions of one Contracting Party, shall be recognized by the competent authorities, liaison bodies and competent institutions of the other Contracting Party.
- (3) Medical examinations of persons who have their place of residence or stay in the territory of the other Contracting Party shall be carried out by the institution of the place of residence or stay upon the request and at the expense of a competent institution. Cost of medical examinations shall not be reimbursed if the examinations are performed for the institutions of both Contracting Parties

Article 22
Protection of personal data

- (1) Any personal data sent between the Contracting Parties for the purpose of application of this Agreement are confidential. After personal data are sent, they shall fall under the legislation that regulates the protection of such data of the Contracting Party which receives the data.
- (2) The use of personal data for a different purpose than defined in the paragraph (1) may be done only with the consent of the person concerned.
- (3) Persons, whose personal data are or will be sent, have the right to receive, upon request, the information about the transmitted data or about the data that will be transmitted, to exercise their right to access and intervention on these personal data, and to be allowed to complain to the national competent authority for the protection of personal data or to the court, also therein claiming damages in case of unlawful processing of personal data.

Article 23
Exemption from fees and authentication

- (1) If the legislation of one Contracting Party provides that certificates or other documents submitted pursuant to the legislation of that Contracting Party shall be exempted wholly or partly from fees, court taxes, office or registration costs, this exemption shall also be applied to any certificates or other documents issued under the legislation of the other Contracting Party, for the purpose of application of this Agreement.
- (2) The Contracting Parties shall mutually recognize all documents or certificates of any kind necessary for the application of this Agreement, just as if they were issued by the relevant competent authorities, without the requirement of their authentication by the diplomatic and consular authorities.
- (3) The copies of documents which are certified as true and exact copies by the competent institution of one Contracting Party shall be accepted as true and exact copies by the competent institution of the other Contracting Party without further authentication.

Article 24
Submission of documents

- (1) Claims, complaints, appeals against decisions and declarations submitted to the competent authority, liaison body or competent institution of one Contracting Party shall be regarded as submitted to the competent authority, liaison body or competent institution of the other Contracting Party on the same date.

- (2) A claim for benefits under the legislation of one Contracting Party shall be regarded as a claim for respective benefits under the legislation of the other Contracting Party, unless the claimant requests deferment of the determination of right to the old-age pension under the legislation of the latter Contracting Party.

Article 25

Applicable language

- (1) For the application of this Agreement, the competent authorities, liaison bodies and competent institutions of the Contracting Parties may communicate in an official language of any of the Contracting Parties.
- (2) The competent authorities, liaison bodies and competent institutions of one Contracting Party may not reject the claims, appeals or other documents sent to them for the reason of being written in the official language of the other Contracting Party.

Article 26

Payment of benefits

The competent institutions of each Contracting Party shall pay the benefits according to the provisions of this Agreement directly to the entitled persons having their place of residence in the territory of the other Contracting Party in the official currency of its state, and in case of the lack of convertible currency in other freely convertible currency.

Article 27

Resolution of disputes

The competent authorities of the Contracting Parties shall make every justified effort to solve disputes concerning the interpretation or application of this Agreement by means of direct consultations.

Part V

TRANSITIONAL AND FINAL PROVISIONS

Article 28

Transitional provisions

- (1) This Agreement shall confer no right for payment of benefits for any period before the date of its entry into force.
- (2) All insurance periods completed under the legislation of one Contracting Party before the date of entry into force of this Agreement, shall be taken into account for the purpose of determination of the rights to benefits arising from this Agreement.

- (3) Subject to paragraph (1), this Agreement shall apply to insurance events that took place before the date of its entry into force, provided that the obligations resulting from them have not been previously regulated in the form of capitalized benefits.
- (4) Determination of rights to the benefits obtained before the date of entry into force of this Agreement shall not affect the rights granted arising from this Agreement.
- (5) Benefits granted before the date of entry into force of this Agreement may be revised upon the request in accordance with this Agreement, if the change results exclusively from the provisions of this Agreement. If the revising of the rights results in deprivation of rights to benefits or reducing their amount compared to that paid before, the competent institution of the Republic of Poland will ensure completion of the amount of Moldovan and Polish benefits or of the Moldovan benefits to the amount of the benefits paid before, upon the condition that the beneficiary resides in the territory of the Republic of Poland.
- (6) In case of applying Article 8 of this Agreement to the employees posted to the territory of one Contracting Party before the date of entry into force of this Agreement, it shall be considered that the periods of employment listed in this Article will start on the date when the Agreement enters into force.

Article 29 **Duration of the Agreement**

- (1) This Agreement is concluded for an undetermined period.
- (2) Each Contracting Party may denounce it by means of a written notification, through diplomatic channels, no later than six months before the end of a given calendar year. In this case the Agreement shall expire in the last day of this calendar year.
- (3) In case of denouncement of this Agreement, all rights acquired under its provisions shall be maintained and the claims submitted before the expiry of this Agreement shall be settled under its provisions.

Article 30 **Amending and supplementing of the Agreement**

This Agreement may be amended or supplemented by mutual consent of the Contracting Parties, by means of additional protocols. These protocols shall constitute an integral part of this Agreement and shall enter into force according to the provisions of Article 31 of this Agreement.

Article 31
Entry into force of the Agreement

- (1) This Agreement shall be ratified by each Contracting Party.
- (2) The Contracting Parties shall notify each other through diplomatic channels, about the fulfillment of the internal procedures required for the entry into force of the Agreement.
- (3) This Agreement shall enter into force on the first day of the third month following the receipt of the last notification.

In witness whereof, the undersigned, being duly authorized thereto, have signed this Agreement.

Done at 09.09.2013 on Warsaw, in duplicate, in the Moldovan, Polish and English languages, each texts being equally authentic. In case of any divergence of interpretation, the English version shall prevail.

For the Republic of Moldova

N. Bulige

For the Republic of Poland

Marek Buncior

Prin prezenta confirm că textul alăturat este o copie certificată de pe Acordul între Republica Moldova și Republica Polonă în domeniul asigurărilor sociale (Varșovia, 9 septembrie 2013), originalul căruia este depozitat la Arhiva Tratatelor a Ministerului Afacerilor Externe și Integrării Europene.



Dumitru SOCCOLAN,
Șef al Direcției Generale Drept
Internațional a Ministerului Afacerilor
Externe și Integrării Europene al
Republicii Moldova