

AGREEMENT

BETWEEN

THE CZECH REPUBLIC

AND

THE REPUBLIC OF MOLDOVA

ON SOCIAL SECURITY

The Republic of Moldova and the Czech Republic, hereinafter referred to as “the Contracting States”,

Being desirous of regulating and developing the relations between the two States in the field of social security,

Have agreed as follows:

Part I - General Provisions
Article 1- Definitions

1. For the purposes of this Agreement, the following terms shall mean:
 - a) “*legislation*” - the laws and other national regulations related to the fields of social security specified in Article 2;
 - b) “*competent authority*”
 - for the Czech Republic: the Ministry of Labour and Social Affairs;
 - for the Republic of Moldova: the Ministry of Labour, Social Protection and Family;
 - c) “*institution*” - the body or authority responsible for applying the legislation specified in Article 2;
 - d) “*benefits*” and “*pensions*”- all benefits in cash or pensions, including all elements thereof and all increases, supplementary allowances, compensations and additional payments as well as lump-sum payments and reimbursements;
 - e) “*residence*” - ordinary residence;
 - f) “*stay*” - temporary residence;
 - g) “*periods of insurance*” - the periods of contribution and the equivalent periods completed under the legislation of each Contracting State.
2. The other terms and expressions which are used in this Agreement shall have the meanings assigned to them in the legislation of either Contracting States.

Article 2 - Material scope

1. This Agreement shall apply:

A) for the Republic of Moldova, to the legislation regulating:

- a) i. invalidity pensions as a consequence of common diseases;
 - ii. old age pensions;
 - iii. survivor pensions;
 - iv. pensions and invalidity indemnities as a consequence of work injuries and occupational diseases;
- b) liability for payment of social insurance contributions under the legislation determined in accordance with Part II;

B) for the Czech Republic, to the legislation regulating:

- a) i. invalidity pensions;
 - ii. old age pensions;
 - iii. survivor pensions;
- b) liability for payment of social insurance contributions under the legislation determined in accordance with Part II;

2. This Agreement shall be also applied to the legislation codifying, replacing, amending or supplementing the legislation specified in paragraph 1.

3. This Agreement shall not apply to social assistance or to benefit schemes for victims of war or its consequences.

4. This Agreement does not apply to the legislation introducing a new social security scheme, unless the competent authorities agree upon otherwise.

Article 3 - Personal scope

This Agreement shall apply to all persons who are or have been subject to the legislation of either or both Contracting States as well as to other persons who derive their rights from those persons.

Article 4 - Equal treatment

Unless otherwise provided in this Agreement the persons specified in Art. 3, residing on the territory of one of the Contracting States, shall have the same rights and obligations under the legislation of this Contracting State as its own nationals.

Article 5 - Export of benefits

1. Entitlement to and payment of benefits according to the legislation of one Contracting State cannot be reduced, amended, suspended, or confiscated for the reason that the beneficiary resides in the territory of the other Contracting State, unless otherwise is provided in this Agreement.
2. Provisions of paragraph 1 shall not apply to:
 - A) Having regard to legislation of the Republic of Moldova:
 - state benefits, seniority pensions and special pensions allocated in accordance with the legislation of the Republic of Moldova;
 - B) Having regard to legislation of the Czech Republic:
 - recognition of the entitlement to the invalidity pension, granted according to the Czech legislation, to persons whom invalidity occurred before 18 years old and who did not complete the necessary period of insurance;
3. Benefits provided under the legislation of either Contracting State or this Agreement shall be paid to persons who reside in the territory of the third State under the same conditions as if they were nationals of the first Contracting State residing in the territory of the third State.

Article 6 - Avoiding the overlapping of benefits

This Agreement shall neither confer nor maintain the right to several benefits of the same kind for one and the same period of compulsory insurance.

Article 7 - Assimilation of Facts

1. Events that have legal effect on entitlement to, reduction, suspension or amount of benefits, and which occurred in the territory of the other Contracting State, shall be taken into account as if they had taken place in the territory of the first Contracting State.
2. The competent authority of each Contracting State may, in the interest of categories of beneficiaries, limit the application of the provision of paragraph 1.

Part II - Applicable legislation

Article 8 - General rules

Unless otherwise provided in this Agreement, a person who performs a gainful

activity in the territory of either Contracting State shall be subject only to the legislation of that Contracting State even if he/she resides on the territory of the other Contracting State or if employer's head office or registered residence is located on the territory of the other Contracting State.

Article 9 - Posted workers

1. The person employed in the territory of either Contracting State and who is posted by his/her employer to the territory of the other Contracting State to perform certain work for that employer shall continue to be subject to the legislation of the first Contracting State for the duration of that work, provided that the anticipated duration of the work does not exceed a period of 24 months.

2. Paragraph 1 shall apply analogously to a self-employed person who ordinarily exercises self-employed activities in the territory of one Contracting State when that person exercises temporarily self-employed activities in the other Contracting State.

Article 10 - Personnel of the international transport undertakings

A person employed by an international transport undertaking which has its registered office in the territory of a Contracting State shall be subject to the legislation of that Contracting State. However:

- a) a person employed by a branch or permanent representation of the said undertaking shall be subject to the legislation of the Contracting State in whose territory such branch or permanent representation is situated;
- b) a person employed in the territory of the Contracting State in which he resides shall be subject to the legislation of that Contracting State, even if the undertaking which employs him/her has no registered office or branch or permanent representation in its territory.

Article 11 - Crew members on vessels

A person performing a gainful activity on board of a vessel flying the flag of either Contracting State shall be subject to the legislation of that Contracting State.

Article 12 - Civil servants

Civil servants and the persons deemed as such shall be subject to the legislation of the Contracting State in whose administration they are employed.

Article 13 - The diplomatic missions and consular offices

The members of the diplomatic missions and consular offices, as well as private personnel employed in their service, shall be subject to the provisions of the Vienna Convention on diplomatic relations, on 18 April 1961 and the Vienna Convention on consular relations, on 24 April 1963.

Article 14 - Exceptions from the provisions of Articles 8 to 13

At the joint request of an employee and his employer or a self-employed person, the competent authorities or designated institutions of the two Contracting States may agree to grant an exception to the provisions of this Part with respect to individual persons or categories of persons, provided that any affected person shall be subject to the legislation of one Contracting State.

Part III - Special provisions concerning the pensions

Article 15 - Aggregation of the insurance periods

1. Where the legislation of either Contracting State makes the entitlement to benefits conditional upon the completion of periods of insurance, the institution which applies that legislation shall take into account the periods of insurance completed under the corresponding legislation of the other Contracting State, as far as they do not overlap, as if they were periods completed under the legislation of the first Contracting State.
2. For entitlement to a benefit the institution of each Contracting State takes into account also periods of insurance completed under the legislation of a third state with which this Contracting State is bound by social security instrument which provides for the totalization of periods.

Article 16 - Calculation of benefits

1. The institution of each Contracting State shall determine the benefits:
 - a) on the basis of the periods of insurance completed exclusively under its legislation provided that the conditions for entitlement to benefits are satisfied;
 - and
 - b) according to the rules provided by paragraph 2, with the exception when the result of this calculation is equal to or lower than the result of the calculation under subparagraph (a).
2. If, under the legislation of one Contracting State, the right to benefits can be acquired

only with regard to periods of insurance completed under the legislation of the other Contracting State or the third State within the meaning of Article 15, then the institution of the first Contracting State shall take into account these periods and:

- a) calculate the theoretical amount of the benefit which could have been claimed provided that all periods of insurance had been completed under its legislation; and
- b) then - on the basis of the theoretical amount calculated in accordance with subparagraph (a) - determine the amount of the benefit payable by applying the ratio of the duration of the periods of insurance completed under its legislation to the total periods of insurance.

In order to determine the basis for calculation of the benefit, the institution shall take into account only income earned during the periods of insurance completed under the legislation which it applies. This institution shall consider this income – indexed and averaged if presumed by applicable legislation – as gained during the periods of insurance that are taken into account for the calculation of the theoretical amount of the benefit.

3. The person concerned shall be entitled to the highest amount calculated in accordance with paragraphs 1 and 2.

Article 17 - Periods of insurance less than one year

1. Notwithstanding the provisions of Article 15, where the total duration of the periods of insurance completed under the legislation of the Contracting State is less than one year and where, on the basis solely of those periods, no right to benefit exists under that legislation, the institution of that Contracting State shall not be bound to grant benefits in respect of the said duration.

2. The periods of insurance referred to in paragraph 1 shall be taken into account by the institution of the other Contracting State as if those periods had been completed under the legislation it applies.

Part IV - Miscellaneous provisions

Article 18 - Administrative and co-operation measures

1. The competent authorities of both Contracting States shall regulate and determine the necessary measures for the application of this Agreement.

2. The competent authorities:

- a) shall agree upon the Administrative Arrangement for the application of this Agreement;

b) shall mutually inform about the changes in the legislation of the Contracting States;

c) shall establish the liaison bodies with a view to facilitate the communication between the institutions of the Contracting States.

3. The competent authorities and institutions of the two Contracting States shall assist one another on any matter relating to the application of this Agreement as if the matter affected the application of their own legislation. Such assistance shall be free of charge.

4. If a person residing or staying in the territory of either Contracting State has claimed or is receiving benefit under the legislation of the other Contracting State and a medical examination is necessary, the institution of the place of residence or stay of the first Contracting State shall arrange the examination on its expenses at the request of the institution of the other Contracting State.

5. Any information about a person which is sent to one Contracting State by the other Contracting State in accordance with this Agreement shall be deemed confidential and may be used only for the purpose of the application of this Agreement.

Article 19 - Use of official languages

1. For the application of this Agreement, the authorities and the institutions of the Contracting States may communicate with one another directly in their official languages and also in English.

2. No claim or document shall be rejected on the ground that it is written in the official language of the other Contracting State.

Article 20 - Exemption from charges and authentication

1. If the legislation of either Contracting States provides exemption, either wholly or partly, from any legal dues, consular fees or administrative charges, such exemption shall be applied to any documents submitted under the legislation of the other Contracting State for application of this Agreement.

2. All statements, documents and certificates of any kind required for the application of this Agreement shall be exempted from authentication by the diplomatic and consular authorities.

3. Copies of documents which are certified as true and exact copies by an institution of one Contracting State shall be accepted as true and exact copies by an institution of the other Contracting State, without further certification.

Article 21 - Submission of claim or appeal

Any claim or appeal which, under the legislation of either Contracting State, has to be submitted within a prescribed period to the competent authority or institution of that Contracting State shall be treated as such if it is submitted within the same period to the corresponding authority or institution of the other Contracting State. In such a case, the competent authority or institution of the Contracting State which receives the claim or appeal, forwards it, without delay, to the competent authority or institution of the first Contracting State, either directly, or through liaison bodies of both Contracting States.

Article 22 - Recovery of overdue payments

If the institution of the Contracting State has paid benefits unduly or in excess to a person, this institution may, within the terms and limits laid down in the legislation it applies, request the institution of the other Contracting State responsible for paying benefits to the person concerned to deduct the undue amount from arrears or on-going payments owed to the person concerned. The institution of the other Contracting State shall deduct the amount concerned subject to the conditions and limits in accordance with the legislation it applies in the same way as if it had made the overpayments itself, and shall transfer the amount deducted to the institution that has paid benefits unduly or in excess.

Article 23 - Enforcement procedures

1. Enforceable court decisions of either Contracting State as well as enforceable documents issued by an authority or institution of either Contracting State, in respect of social security contributions and other debts, shall be recognized in the territory of the other Contracting State.
2. Recognition may be refused only if it would be incompatible with the public order of the Contracting State in whose territory recognition of the decision or the document should be enforced.
3. Enforceable decisions and documents recognized under paragraph 1 of this Article shall be enforced in the territory of the other Contracting State. The enforcement procedure shall be in compliance with the legislation governing the enforcement of such decisions and documents of the Contracting State in whose territory enforcement takes place. A certificate indicating its enforceability shall accompany the decision or document.
4. Contribution debts to the institution of either Contracting State shall in enforcement, bankruptcy or settlement proceeding in the territory of the other Contracting State, the same precedence as the equivalent claims in the territory of that Contracting State.

Article 24 - Currency of payment

Payments in the other Contracting State, resulting from the application of this Agreement shall be made in convertible currencies.

Article 25 - Resolution of disputes

Any disputes concerning the interpretation or application of this Agreement shall be settled by consultations between the competent authorities or institutions of the Contracting States.

Part V - Transitional and final provisions

Article 26 - Transitional provisions

1. This Agreement shall confer no rights for any period before its entry into force.
2. All periods of insurance completed under the legislation of the Contracting States before the entry into force of this Agreement shall be taken into account for the purpose of determining rights arising from this Agreement.
3. Subject to paragraph 1 of this Article, rights may arise under this Agreement even in respect of a contingency which arose before its entry into force, except for lump-sum payment.
4. Any benefit, which has been determined before the date of the entry into force of this Agreement, shall not be recalculated.

Article 27 - Ratification and entry into force

1. This Agreement is subject to ratification.
2. This Agreement shall enter into force on the first day of the third calendar month following the month in which the Contracting States inform each other by written notification that all necessary legal requirements for the entry into force of this Agreement have been fulfilled.

Article 28 - Duration and termination of the Agreement

1. This Agreement is concluded for an undetermined period.
2. Each Contracting State may terminate this Agreement by a written notification to the

other Contracting State. In this case, this Agreement shall cease to be valid on the first day of the sixth calendar month following the month when the written notification has been delivered to the other Contracting State.

3. In case of termination of this Agreement, all rights acquired under its provisions shall be maintained and the claims submitted before the end of the validity of this Agreement shall be solved under its provisions.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

Done atPrague.....on29th November 2011....., in two original copies, each in the Czech, Moldovan and English languages, all texts being equally authentic. In case of differences of interpretation, the English version shall prevail.

For the Czech Republic

Jaromír Drábek
Minister of Labour and Social Affairs

For the Republic of Moldova

Valentina Buliga
Minister of Labour, Social Protection
and Family