

No. 13588

**FEDERAL REPUBLIC OF GERMANY
and
POLAND**

Agreement concerning social insurance for employees temporarily assigned to the territory of the other State (with final protocol). Signed at Warsaw on 25 April 1973

Authentic texts: German and Polish.

Registered by the Federal Republic of Germany on 21 October 1974.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
POLOGNE**

Accord relatif au régime d'assurance sociale des employés détachés à titre temporaire sur le territoire de l'autre pays (avec protocole final). Signé à Varsovie le 25 avril 1973

Textes authentiques : allemand et polonais.

Enregistré par la République fédérale d'Allemagne le 21 octobre 1974.

[TRANSLATION — TRADUCTION]

**AGREEMENT¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY
AND THE POLISH PEOPLE'S REPUBLIC CONCERNING SOCIAL
INSURANCE FOR EMPLOYEES TEMPORARILY ASSIGNED TO
THE TERRITORY OF THE OTHER STATE**

The Federal Republic of Germany and the Polish People's Republic,
Desiring to promote mutual co-operation and to settle problems which arise in
the field of social insurance,
Have agreed as follows:

Article 1. For the purposes of this Agreement:

(1) "Legislation" means, in so far as they concern the fields specified in article 2:

In relation to the Federal Republic of Germany,

- laws, ordinances, regulations and implementing provisions;

In relation to the Polish People's Republic,

- laws, together with ordinances and all other provisions for the implementation of laws.

(2) "Competent authority" means:

- In relation to the Federal Republic of Germany, the Federal Minister of Labour and Social Affairs;
- In relation to the Polish People's Republic, the Minister of Labour, Wages and Social Affairs.

(3) "Employee on assignment" means an employee who is temporarily assigned by his employer to the territory of the other Contracting Party and is remunerated by that employer.

(4) "Sending State" means the State in whose territory the employer of the employee on assignment has his head office.

(5) "State of employment" means the State to whose territory the employee is assigned.

(6) "Liaison offices" means the offices designated by the competent authorities of the Contracting Parties.

Article 2. (1) This Agreement shall apply:

In relation to the Federal Republic of Germany, to the legislation concerning:

- a) sickness insurance;
- b) accident insurance;
- c) pensions insurance.

In relation to the Polish People's Republic, to the legislation concerning:

- a) sickness and maternity insurance;

¹ Came into force on 1 September 1974, the first day of the second month after the end of the month in which the instruments of ratification were exchanged (Bonn, 26 July 1974), in accordance with article 17 (2).

- b) old-age assistance for employees, including the special assistance schemes for miners and railwaymen and the special pensions scheme for industrial accidents and occupational diseases;
- c) family insurance.

(2) This Agreement shall also apply to any legislation codifying, amending or supplementing the legislation specified in paragraph (1).

(3) The following shall not be deemed to be legislation as specified in paragraph (1):

- a) agreements concluded by a Contracting Party with third States, or legislation adopted for the purpose of applying such agreements;
- b) legislation adopted by an intergovernmental organization of which a Contracting Party is a member.

Article 3. Except as otherwise provided in articles 4 to 6, the liability of an employee to compulsory insurance coverage shall be governed by the legislation of the Contracting Party in whose territory he is currently employed.

Article 4. (1) Employees on assignment shall, for a period of 24 months beginning with their arrival in the territory of the State of employment, be subject to the legislation of the sending State as if they were employed in its territory; the aforementioned period shall be longer if the legislation of the sending State so provides.

(2) For the period of 24 months beginning with their arrival in the territory of the State of employment, the legislation of that State shall not apply to such employees on assignment.

(3) The period specified in paragraph (2) may, upon application by the employer with the agreement of the employee concerned, be extended by the competent authority of the State of employment. For the period of the extension the provisions of paragraph (1) shall apply.

(4) Applications for extension shall be submitted to the competent authority of the sending State. That authority shall forward the applications to the competent authority of the State of employment, certifying that the employee concerned agrees to the extension.

Article 5. This Agreement shall not apply to persons covered by the Vienna Convention on Diplomatic Relations of 18 April 1961.¹

Article 6. (1) The competent authorities may, upon application by the employer, agree to exempt individual employees or groups of employees from the provisions of articles 3 to 5.

(2) Applications under the terms of paragraph (1) shall be submitted to the competent authority of the Contracting Party in whose territory the employer has his head office.

(3) The employer or the competent authority specified in paragraph (2) shall certify that the employee concerned agrees to the exemption provided for in paragraph (1).

Article 7. (1) Employees on assignment who, under the terms of article 4, are exempt from the application of the legislation of the Federal Republic of Ger-

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

many shall be entitled, irrespective of their age or the amount of their income, to insure themselves for sickness and maternity benefits in kind at reduced contribution rates with the General Local Sickness Fund (*Allgemeine Ortskrankenkasse*) of their place of sojourn (right of affiliation). The insurance shall also cover dependants who are in the territory of the Federal Republic of Germany.

(2) Applications for affiliation must be submitted within three weeks after arrival in the territory of the Federal Republic of Germany. The insurance shall be valid for the entire period of sojourn. Provisions concerning a waiting period for entitlement to benefits shall not apply.

(3) Employees on assignment who exercise their right of affiliation under the terms of paragraph (1) and who sustain an industrial accident shall, during their sojourn in the territory of the Federal Republic of Germany, be provided with benefits in kind by the General Local Sickness Fund competent for the place of sojourn as if they were subject to the legislation of the Federal Republic of Germany.

Article 8. (1) Employees on assignment to whom, under the terms of article 4, the legislation of the Polish People's Republic does not apply shall be entitled to claim sickness and maternity benefits in kind in accordance with the regulations governing claims by foreigners for such benefits.

(2) Benefits under the terms of paragraph (1) shall be provided by the social health service establishments.

(3) The provisions of paragraphs (1) and (2) shall also apply to dependants who are in the territory of the Polish People's Republic.

Article 9. The provisions of articles 7 and 8 shall apply *mutatis mutandis* to employees in respect of whom an agreement under the terms of article 6 has been reached and to their dependants.

Article 10. (1) In case of an industrial accident, employees on assignment shall receive first aid in accordance with the legislation of the State of employment as if they were subject to that legislation.

(2) Employers of employees on assignment shall be obligated to co-operate in the field of industrial safety and accident prevention with the social insurance authorities and the organizations of the State of employment competent in that field.

Article 11. (1) For the purpose of implementing this Agreement:

- a) the competent authorities may agree on the measures necessary to that end;
- b) the competent authorities shall communicate directly with each other;
- c) the competent authorities shall inform each other concerning the social insurance legislation in force and any subsequent amendments.

(2) The competent authorities shall resolve by mutual agreement any difficulties as to the application or interpretation of this Agreement.

Article 12. The liaison offices shall communicate directly with each other and, without prejudice to the provisions of article 11, shall, within the limits of their competence and with the participation of the competent authorities, agree on the administrative measures for the application of this Agreement.

Article 13. (1) The authorities and the social insurance authorities shall render administrative and legal assistance to each other free of cost, if necessary through the liaison offices, in connexion with the application of the provisions of

this Agreement and with a view to the settlement of disputes relating to this Agreement.

(2) Documents, particularly claims, notices and appeals, shall not be rejected on the ground that they are drawn up in the official language of the other Contracting Party.

(3) Judgements, decisions or other documents may be served directly, by registered letter with return receipt, on a person who is in the territory of the other Contracting Party.

Article 14. Evidentiary and other documents required to be submitted in connexion with the application of this Agreement need not be authenticated by diplomatic or consular authorities.

Article 15. In conformity with the Quadripartite Agreement of 3 September 1971,¹ this Agreement shall be extended to Berlin (West) in accordance with established procedures.

Article 16. This Agreement is concluded for an indefinite period. It may be denounced in writing by either Contracting Party, but notice of denunciation must be given not later than six months before the end of a calendar year; it shall then cease to have effect at the end of that year.

Article 17. (1) This Agreement shall be ratified. The instruments of ratification shall be exchanged at Bonn as soon as possible.

(2) The Agreement shall enter into force on the first day of the second month after the end of the month in which the instruments of ratification are exchanged.

DONE at Warsaw on 25 April 1973, in two original copies, each in the German and Polish languages, both texts being equally authentic.

For the Federal Republic of Germany:

RUETE

For the Polish People's Republic:

BIALCZYNSKI

FINAL PROTOCOL

Article 1. The competent authorities of the two Contracting Parties shall communicate to each other a list of the liaison offices designated in accordance with article 1 (6) of the Agreement.

Article 2. (1) Contributions to the statutory pensions insurance scheme of the Federal Republic of Germany paid in respect of employees on assignment by Polish employers after 31 December 1969 and prior to the entry into force of the Agreement shall, upon application by the liaison office of the Polish People's Republic, be refunded by the liaison office of the Federal Republic of Germany.

(2) The contributions shall be refunded through the liaison office of the Polish People's Republic. That liaison office shall remit the contributions to the

¹ United Nations, *Treaty Series*, vol. 880, No. 1-12621.

employee, if he himself bore the cost thereof, or otherwise to the employer.

(3) If employees on assignment have claimed statutory benefits under the pensions insurance scheme, the costs thereof shall be deducted from the contributions to be refunded.

(4) Upon receipt by the liaison office of the Polish People's Republic of the contributions to be refunded, all claims against the pensions insurance authorities of the Federal Republic of Germany arising from those contributions or from the periods of employment to which they relate shall be extinguished.

Article 3. In the case of employees on assignment who are already employed in the territory of the other Contracting Party on the date of the entry into force of the Agreement, the period specified in article 4, paragraphs (1) and (2), and the time-limit specified in article 7, paragraph (2), of the Agreement shall begin to run from that date.

Article 4. If, under the terms of articles 4 to 6 of the Agreement, an employee is not subject:

- to the legislation of the Federal Republic of Germany, then the provisions concerning children's allowances (*Kindergeld*), concerning liability for contributions and dues (*Beitrags- und Umlagepflicht*) and concerning benefits under the Promotion of Employment Act (*Arbeitsförderungsgesetz*) shall not apply to him or to his employer;
- to the legislation of the Polish People's Republic, then the provisions concerning compensation for industrial accidents and occupational diseases shall not apply to him or to his employer.

Article 5. The term "agreements" as used in article 2, paragraph 3, *a* of the Agreement includes multilateral conventions which are binding on one of the Contracting Parties.

Article 6. This Final Protocol shall form an integral part of the Agreement between the Federal Republic of Germany and the Polish People's Republic concerning social insurance for employees temporarily assigned to the territory of the other State. It shall enter into force on the date on which the Agreement enters in force and shall remain in force for the same period as the Agreement.

DONE at Warsaw on 25 April 1973, in two original copies, each in the German and Polish languages, both texts being equally authentic.

For the Federal Republic of Germany:

RUETE

For the Polish People's Republic:

BIALCZYNSKI