

No. 14881

**FEDERAL REPUBLIC OF GERMANY
and
POLAND**

**Agreement on pension insurance and accident insurance.
Signed at Warsaw on 9 October 1975**

Authentic texts: German and Polish.

Registered by the Federal Republic of Germany on 21 July 1976.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
POLOGNE**

**Accord relatif à l'assurance pension et à l'assurance acci-
dent. Signé à Varsovie le 9 octobre 1975**

Textes authentiques : allemand et polonais.

Enregistré par la République fédérale d'Allemagne le 21 juillet 1976.

[TRANSLATION — TRADUCTION]

**AGREEMENT¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY
AND THE POLISH PEOPLE'S REPUBLIC ON PENSION IN-
SURANCE AND ACCIDENT INSURANCE**

The Federal Republic of Germany and the Polish People's Republic,
With a view to regulating relations in the field of pension insurance and accident
insurance,

Have agreed as follows:

I. GENERAL PROVISIONS

Article 1. For the purposes of this Agreement:

1. "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;

2. "Place of residence" or "resident" means:

- in relation to the Federal Republic of Germany, the place of ordinary residence or ordinarily resident;
- in relation to the Polish People's Republic, the place of permanent residence or permanently resident;

3. "Pension insurance" means:

- in relation to the Federal Republic of Germany, the pension insurance scheme for old age, invalidity or death;
- in relation to the Polish People's Republic, the benefits scheme for old age, invalidity or death.

4. "Accident insurance" means:

- in relation to the Federal Republic of Germany, the insurance scheme for industrial accidents and occupational diseases;
- in relation to the Polish People's Republic, the special pension scheme for employed persons for industrial accidents and occupational diseases;

5. "Optional benefits" means pensions which may be paid by the insurance institutions under the laws and regulations relating to pension insurance or accident insurance but which those institutions are not obligated to provide.

Article 2. (1) This Agreement shall apply:

- in relation to the Federal Republic of Germany, to:
 - (a) pension insurance for manual workers, for salaried workers and for miners;
 - (b) accident insurance;

¹ Came into force on 1 May 1976, i.e., the first day of the second month following the month in which the instruments of ratification were exchanged (Bonn, 24 March 1976), in accordance with article 19 (2).

- in relation to the Polish People's Republic, to:
 - (a) the old-age benefits scheme for employed persons, including the benefits schemes for miners and railway workers;
 - (b) accident insurance.
- (2) This Agreement shall apply to any amendments of the regulations in the branches specified in paragraph 1.

Article 3. This Agreement shall not affect:

- (a) conventions which have been concluded by a State with third States;
- (b) provisions enacted by an international agency of which a State is a member;
- (c) the Agreement of 25 April 1973¹ 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.

II. PENSION INSURANCE

Article 4. (1) Pensions under a pension insurance scheme shall be provided by the insurance institution of the State in whose territory the beneficiary is resident, in accordance with the laws and regulations applicable to that institution.

(2) The insurance institution specified in paragraph 1 shall, in determining the pension in accordance with the laws and regulations applicable to it, take into account insurance periods, periods of employment and equivalent periods in the other State as if they had been completed in the territory of the first State.

(3) Pensions under paragraph 2 shall be payable only for such time as the person concerned is resident in the territory of the State whose insurance institution determined the pension. Except as otherwise provided in article 15 or article 16, a person in receipt of a pension shall during that time have no claim on the insurance institution of the other State by reason of insurance periods, periods of employment and equivalent periods in that other State.

Article 5. (1) If a pensioner transfers his place of ordinary residence to the territory of the other State, payment of the pension shall be discontinued as from the end of the month in which the change of residence occurred.

(2) The insurance institution of the State to which the pensioner has transferred his place of ordinary residence shall decide upon the entitlement to a pension for the period following the discontinuation of payment, in accordance with the laws and regulations applicable to it; article 4, paragraph 2, shall apply *mutatis mutandis*.

(3) Application for the provision of a pension under paragraph 2 must be made within three months. In case of later application, the commencement of payment of the pension shall be governed by the laws and regulations of the State to which the pensioner has transferred his place of ordinary residence.

(4) If a pensioner retransfers his place of ordinary residence to the territory of the first State, the insurance institution of that State shall resume payment of the pension as from the first day of the month following his return.

Article 6. (1) Persons resident in the territory of the Federal Republic of Germany shall have no claim to a refund of contributions which they have paid to insurance institutions of the Polish People's Republic.

¹ United Nations, *Treaty Series*, vol. 951, p. 331.

(2) Persons resident in the territory of the Polish People's Republic shall have no claim to a refund of contributions which they have paid to insurance institutions of the Federal Republic of Germany.

(3) Insurance institutions shall not reclaim contributions which have already been refunded.

III. ACCIDENT INSURANCE

Article 7. (1) Benefits under an accident insurance scheme shall be provided by the insurance institution of the State in whose territory the beneficiary is resident, in accordance with the laws and regulations applicable to that institution.

(2) The insurance institution specified in paragraph 1 shall, in determining the benefit in accordance with the laws and regulations applicable to it, take into account accidents sustained or deemed to have been sustained or diseases contracted or deemed to have been contracted in the territory of the other State as if they had been sustained or contracted in the territory of the first State.

(3) Benefits under paragraph 2 shall be payable only for such time as the person concerned is resident in the territory of the State whose insurance institution determined the pension. Except as otherwise provided in article 15 or article 16, a person in receipt of a benefit shall during that time have no claim on the insurance institution of the other State by reason of industrial accidents sustained or occupational diseases contracted in that other State.

Article 8. If a person in receipt of a benefit under an accident insurance scheme transfers his place of ordinary residence to the territory of the other State, article 5 shall apply *mutatis mutandis*.

IV. COMMON PROVISIONS

Article 9. Cash benefits other than pensions, and benefits in kind, including rehabilitation benefits, under a pension insurance or accident insurance scheme shall be provided only by the insurance institution of the State in whose territory the beneficiary is resident, in accordance with the laws and regulations applicable to that institution. Article 4, paragraph 2, shall apply *mutatis mutandis*.

Article 10. The insurance institution providing benefits under this Agreement shall not receive from an insurance institution of the other State any reimbursement of expenses incurred in respect of the benefits provided.

Article 11. For the purpose of implementing this Agreement:

- (a) the competent authorities shall communicate directly with each other;
- (b) the competent authorities may agree on the measures necessary to that end;
- (c) the competent authorities may establish, for their respective fields, one or more liaison offices;
- (d) the competent authorities shall inform each other concerning the legislation in force in the field of social insurance and any subsequent amendments.

Article 12. (1) The authorities and institutions shall render administrative and legal assistance to each other free of cost, if necessary through the liaison offices, in connexion with the implementation of this Agreement and the settlement of disputes relating to this Agreement.

(2) The authorities and institutions shall upon request transmit to each other free of cost, if necessary through the liaison offices, information and records concerning developments in the fields of labour and insurance in the territory of the other State.

(3) The competent offices and persons resident in the territory of the other State may correspond directly with each other. Judgements, decisions and other documents, service of which is required, may be served by registered letter with return receipt.

Article 13. Documents, particularly claims, notices and appeals, may be drawn up in German or Polish and shall not be rejected by reason of the choice of one of the two languages.

Article 14. Evidentiary and other documents required to be submitted in connexion with the application of this Agreement shall not require authentication by diplomatic or consular missions.

V. TRANSITIONAL AND FINAL PROVISIONS

Article 15. (1) This Agreement shall establish rights and obligations with respect to the provision of benefits only for a period subsequent to its entry into force.

(2) For the purpose of determining a benefit under this Agreement, insurance periods, periods of employment and equivalent periods and other relevant facts obtaining prior to its entry into force, shall also be taken into account.

(3) Where, by reason of a binding pension decision or a final judgement, pensions under a pension insurance scheme or benefits under an accident insurance scheme are payable to persons in the territory of the other State prior to the entry into force of this Agreement, the continued payment of such pensions subsequent to its entry into force shall not be affected by the Agreement.

(4) For the purposes of paragraph 3, an accident pension shall be deemed to have been paid prior to the entry into force of this Agreement if, pursuant to International Labour Organisation Convention No. 19,¹ such pension is paid retroactively for a period prior to the entry into force of the present Agreement.

(5) For the purposes of article 9, pensions under paragraphs 3 and 4 shall be deemed to be pensions paid by the insurance institution of the State in which the beneficiary is resident.

Article 16. Where pensions under the pension insurance scheme or accident benefits under the accident insurance scheme of the Federal Republic of Germany are payable to persons in the territory of the Polish People's Republic for the calendar month preceding the entry into force of this Agreement, the continued payment of such pensions subsequent to its entry into force shall not be affected by this Agreement; the foregoing shall also apply to any new and directly related insurance contingency. Where pensions under the laws and regulations of the Federal Republic of Germany concerning the payment of pensions during a period of residence abroad are payable to persons in the Polish People's Republic for periods prior to the entry into force of the Agreement, the payment of such pensions shall have commenced not more than four years prior to the entry into force of this Agreement.

¹ United Nations, *Treaty Series*, vol. 38, p. 257.

Optional benefits under a pension insurance or accident insurance scheme pursuant to the laws and regulations in force in one of the States shall not be paid to persons in the territory of the other State. Where optional benefits were being paid to persons in the territory of the other State prior to the signature of this Agreement by reason of a binding decision or a final judgement, the continued payment of such optional benefits subsequent to its entry into force shall not be affected by this Agreement.

Article 17. 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 18. (1) This Agreement is concluded for an indefinite period. It may be denounced in writing by either State, 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.

(2) In the event of termination of the Agreement, its provisions shall continue to apply in respect of rights acquired or in the course of acquisition up to the date of its termination.

Article 19. (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 following the month in which the instruments of ratification are exchanged.

DONE at Warsaw on 9 October 1975, in two original copies, each in the German and Polish languages, both texts being equally authentic.

For the Federal Republic of Germany:

GENSCHER

For the Polish People's Republic:

OLSZOWSKI

¹ United Nations, *Treaty Series*, vol. 880, p. 115.