

**AGREEMENT
BETWEEN
THE PORTUGUESE REPUBLIC
AND
ROMANIA
ON SOCIAL SECURITY**

The Portuguese Republic and Romania, hereinafter referred to as "Contracting States", desirous to develop their relations in the field of social security, enshrining namely the principles of equality of treatment and determination of the applicable legislation with a view to guaranteeing to the respective nationals their acquired rights and the rights in course of acquisition, have decided to conclude an agreement on social security and for this purpose, have agreed as follows:

TITLE I

General provisions

Article 1

Definitions

1- For the purpose of the application of this Agreement, the following terms and expressions mean:

- a) "Territory":
 - i) In relation to the Portuguese Republic: the territory in the European continent and the archipelagos of Azores and Madeira.
 - ii) In relation to Romania: the entire State territory of Romania, including the territorial sea and the air space above the territory and the territorial sea where Romania exercises its sovereignty as well as the contiguous zone, the continental shelf and the exclusive economic zone where Romania exercises sovereign rights and jurisdiction, in accordance with its laws and with the rules and principles of the international law.
- b) "National": a person treated as such under the legislation of the Contracting States;
- c) "Legislation": the legal provisions in force relating to the systems referred to in Article 2 of this Agreement;
- d) "Competent authority": in relation to each Contracting State the member or the members of the Government or any other corresponding authority responsible for the matters referred to in Article 2 of this Agreement in all or any part of the territory of the state concerned;
- e) "Competent State": the contracting State in whose territory the competent institution is situated;
- f) "Competent institution":
 - i) The institution to which the person concerned is affiliated at the time of the application for benefit; or
 - ii) The institution from which the person concerned is entitled or would be entitled to benefits if she resided in the territory of the Contracting State in which the institution is situated; or
 - iii) The institution designated by the competent authority of the member State concerned; or
 - iv) In the case of a scheme relating to an employer's obligations in respect of the benefits set out in Article 2, paragraph 1 of this Agreement either the employer or the insured

involved or, in default thereof, the body or authority designated by the competent authority of the Contracting State concerned.

- g) "Benefits and pensions": any cash benefits including all elements thereof, as well as increases and revalorisations or supplementary allowances and lump sum benefits that can be paid in lieu thereof;
- h) "Benefits in kind": medical services provided for by the legislation that regulates the fields in referred to in Article 2, paragraph 1, subparagraphs a)(i)(vii) and b) (vii) of this Agreement;
- i) "Residence": ordinary residence;
- j) "Stay": temporary residence;
- k) "Period of insurance": the periods of contribution or their equivalent, defined or recognised as insurance periods by the legislation of either Contracting State;
- l) "Employed person": any person subject to the legislation referred to in Article 2 of this Agreement;
- m) "Refugee" has the meaning designated to it in Article 1 of the Convention of the Status of Refugees, signed at Geneva on 28 July 1951, and in Article 1, paragraph 2 of the Protocol relating to the Status of Refugees of 31 January 1967;
- n) "Stateless person" has the meaning designated to it in Article 1 of the Convention of the Status of stateless persons, signed in New York on 28 September 1954;
- o) "Member of the family": the person defined or recognised as such by the legislation under which benefits are provided;
- p) "Survivor": the person defined as such by the legislation under which benefits are provided;
- q) "Death grants": any benefits or any once for all payment in the event of death, excluding the lump sum benefits referred to in paragraph 1, subparagraph g) of this Article.

2- The other terms and expressions which are used in this Agreement shall have the meaning assigned to them in the applicable legislation.

Article 2

Material scope

1-This Agreement shall apply:

- a) In relation to Portugal, to the legislation concerning:
 - i) The social security schemes applicable to most employed and self employed persons and the optional affiliation schemes of the insurance subsystem of the public social security system, in relation to the benefits in the contingencies of sickness, maternity, paternity and adoption, occupational diseases, unemployment, invalidity, old age and death;
 - ii) The scheme applicable to family expenses benefits of the family protection subsystem of the public social security system;

- iii) The compensation scheme for the damages resulting from accidents at work;
 - iv) The National Health Service scheme.
- b) In relation to Romania, under the Public Social Security System, to the legislation concerning:
- i) Benefits in kind in case of sickness and maternity;
 - ii) Indemnity for temporary incapacity of work due to ordinary diseases and accidents not related to work;
 - iii) Indemnities for prevention of the and recovery of the capacity of work, exclusive due to accidents at work and occupational diseases;
 - iv) Maternity indemnity;
 - v) Indemnity for care of the sick child;
 - vi) Indemnities for incapacity of work due to accidents at work and occupational diseases;
 - vii) Benefits in kind in case of accidents at work and occupational diseases;
 - viii) Old age, invalidity and survivor pensions;
 - ix) Death grant;
 - x) Unemployment benefit;
 - xi) State allowance for children.

2- This Agreement shall also apply to all legal provisions that amend the legislation referred to in paragraph 1 of this Article.

3- Subject to paragraph 2 of this Article, this agreement shall only apply to:

- a) The legal provisions concerning a new branch of social security if so is established in an agreement for that purpose concluded between the Contracting States;
- b) Any legal provisions that extend the existing schemes to new categories of beneficiaries if, the Contracting State concerned notifies in writing the other Contracting State, within three months from the date of official publication of these provisions.

4- Subject to the provisions of Article 8, paragraph 3, this Agreement shall not apply to social and medical assistance schemes or to special schemes for civil servants or person treated as such.

Article 3

Personal scope

This Agreement shall apply to workers who are or have been subject to the legislations mentioned in Article 2 and who are nationals of one of the Contracting States, stateless persons or refugees residing within the territory of one of those States, as well as to members of their family and their survivors.

Article 4

Equality of treatment

Subject to the provisions of this Agreement, the workers mentioned in Article 3, as well as the persons whose rights derive from them, residing in the territory of a Contracting State shall enjoy the benefits and be subject to the obligations provided for in the respective legislation under the same conditions as the nationals of that State.

Article 5

Admission to voluntary or optional continued insurance

1- For the purposes of admission to voluntary or optional continued insurance, in accordance with the legislation of a Contracting State, the periods of insurance completed under the legislation of the other State shall be taken into account, to the extent necessary, insofar as they do not overlap.

2 - The provisions of paragraph 1 of this Article shall only apply to a person who cannot be covered by the compulsory insurance under the legislation of other Contracting State.

Article 6

Waiving of residence clauses

1 – Cash benefits in the contingencies of sickness, maternity, paternity and adoption, invalidity, old age or death, accidents at work or occupational diseases and death grants acquired under the legislation of a Contracting State shall be directly paid to the persons concerned, even if they resided in the territory of the other State.

2- The benefits mentioned in paragraph 1 of this Article shall not be subject to any reduction, suspension or withdrawal because of the fact that the person concerned resides in the territory of the other Contracting State.

3- Old-age, invalidity and survivors' pensions and benefits in respect of accidents at work and occupational diseases provided by the legislation of a Contracting State shall be paid to nationals of the other State who reside in the territory of a third State under the same conditions and to the same extent as if they were nationals of the first State residing in the territory of that third State.

Article 7

Prevention of overlapping of benefits

1- This Agreement shall neither confer nor maintain the right, under the legislations of both Contracting States to several benefits of the same kind for the same period of compulsory insurance.

2 - The provisions of paragraph 1 of this Article shall not apply to benefits in respect of invalidity, old age, death grants awarded in accordance with the provisions of Articles 19, 20 and 22 of this Agreement.

3- The clauses for reduction, suspension or withdrawal of benefits provided for in the legislation of one Contracting State in cases of overlapping with other social security benefits or other income, including those arising from the pursuit of a professional activity, may be invoked against the beneficiary, even in the case of benefits acquired under the legislation of the other State or incomes obtained in the territory of the latter State.

TITLE II

Provisions on determination of the legislation applicable

Article 8

General rules

- 1- Subject to the provisions of Article 9 to 11, a person who pursues a professional activity in the territory of a Contracting State is subject to the legislation of that State, even if he resides in the territory of the other State or if his employer or undertaking has the registered office or place of business in the territory of the other State.
- 2- A person who is employed in the territory of a Contracting State and self-employed persons in the territory of the other Contracting State shall be subject to the legislation of the first Contracting State;
- 3- Civil servants or persons treated as such who are sent from a Contracting State to the other State shall be subject to the legislation of the first State.

Article 9

Special rules

- 1- A person employed in the territory of a Contracting State by an undertaking to which he is normally attached who is posted by that undertaking to the territory of the other Contracting States to perform work there for that undertaking shall continue to be subject to the legislation of the first Contracting State, provided that the anticipated duration of the activity does not exceed a period of twenty four months and that he is not sent to replace another worker who has completed his term of posting.
- 2- A person who is self-employed in the territory of a Contracting State and who provide services on his own in the territory of the other Contracting State, shall be subject to the legislation of the first Contracting State, provided that such activity has a direct relation with the one he usually performs and does not exceed twenty four months.
- 3- A worker who belongs to the travelling or flying personnel of an undertaking which on its own account or for hire or reward, operates transport services for passengers or goods by rail, road, air or waterway, or sea-fishery undertaking, shall be subject to the legislation of the Contracting State in whose territory the registered office is situated, whatever the State where he resides.
- 4- A worker who belongs to the crew of a vessel flying that flag of a third State shall be subject to the legislation of the Contracting State in whose territory the undertaking has its registered office or, if the undertaking has no registered office in one of the Contracting States, to the legislation of the Contracting State in whose territory it has a branch or permanent representation.
- 5- A worker who is employed for the purpose of loading, unloading, carrying out, repair work or performing guard duty on board a vessel belonging to an undertaking that has its registered office in the territory of a Contracting State, and who does not belong to the crew of that vessel, shall be subject to the legislation of that State during the vessel's stay in the territorial waters or at port of the other Contracting State.

Article 10

Special rules applicable to persons employed by diplomatic missions and consular posts

- 1- Subject to paragraphs 2 and 3 of this Article, the members of the diplomatic missions and consular posts shall be subject to the provisions of the Vienna Convention on diplomatic relations of 18 April 1961 and the Vienna Convention on consular relations of 24 April 1963.
- 2- The technical and administrative staff and the auxiliary staff of the diplomatic missions and consular posts of the Contracting States, as well as the private domestic staff of agents of such missions or posts who are not civil servants and are not sent by the Contracting State represented by the diplomatic missions and consular posts shall be subject to the legislation of the Contracting State in whose territory they are employed.
- 3- The workers mentioned in paragraph 2, who are nationals of the Contracting State represented by the diplomatic missions and consular post concerned may opt to be subject to the legislation of that State. That right of option may be exercised once only within one year as from the date of the entry into force of this Agreement, or within six months from the beginning of that activity, as the case may be.

Article 11

Exceptions to the provisions of Articles 8 to 10

The competent authorities of both Contracting States or the bodies designed by them may, by common agreement, establish exceptions to the provisions of Articles 8 to 10 in the interest of certain workers or category of workers.

TITLE III

Specific provisions concerning the different categories of benefits

Chapter I

Sickness and maternity, paternity and adoption

Article 12

Aggregation of periods of insurance

Where a worker has been continuously or non continuously subject to the legislation of both Contracting States, the periods of insurance completed under the legislation of each Contracting State shall be taken into account, to the extent necessary, by the other Contracting State for the acquisition, retention or recovery of the right to benefits provided for in this chapter as if they have been completed under its legislation, insofar as they do not overlap.

Article 13

Stay in a Contracting State other than the competent one

- 1- A worker who satisfies the conditions of the legislation of a Contracting State for the entitlement to benefits, taking into account, where appropriate, of the provisions of Article 12, shall be entitled to benefits in kind during they stay in the territory of the other Contracting State provided that his condition needs emergency medical treatment, under the provisions of Article 18 of this Agreement and under the same conditions as the national workers of the latter Contracting State.
- 2- The provision of paragraph 1 shall not apply to the situation where the purpose of the worker's temporary stay is to obtain medical healthcare.
- 3- The provisions of paragraphs 1 and 2 shall apply by analogy to the members of the family of the worker.

Article 14

Residence in a Contracting State other than the competent one

- 1- A worker residing in the territory of a Contracting State other than the competent State, who satisfies the conditions required under the legislation of this Contracting State for entitlement to benefits, taking into account, where appropriate, of the provisions of Article 12 shall receive benefits in the Contracting State of residence, under the provisions of Article 18 of this Agreement.
- 2- Subject to Article 17, paragraph 2 of this Agreement, the provision of paragraphs 1 of this Article shall also apply by analogy to the members of the family of the worker.

Article 15

Pensioners and the members of their family

- 1- A pensioner receiving pension under the legislation of both Contracting States, who is entitled to benefits in kind under the legislation of the Contracting State in whose territory he resides, shall, with the members of his family, receive benefits from and at the expense of the institution of the place of residence, as though he were a pensioner whose pension were payable solely under the legislation of that Contracting State.
- 2- A pensioner receiving a pension under the legislation of a Contracting State residing in the territory of the other Contracting State shall, with the members of his family, receive benefits in kind to which he is entitled under the legislation of the first state or that he would be entitled if he were resident in this territory, provided by the institution of the place of residence under the legislation which it applies at the expense of the State where the institution responsible for the benefit is located.
- 3- A pensioner receiving a pension under the legislation of a Contracting State, who is entitled to benefit in kind under the legislation of that State, shall, with the members of his family, receive such benefits during a stay in the territory of the other State, if his condition necessitate emergency treatment, applying by analogy the provisions of Article 13, paragraph 2.

4- The benefits referred to in paragraph 3 of this Article shall be provided by the institution of the place of stay under the legislation which it applies, within the limits and in accordance with the procedures laid down for the provision of benefits. However, the period during which the benefits are provided shall be governed by the legislation of the competent institution, being the institution of this latter State responsible for the cost of these benefits.

Article 16

Substantial benefits in kind

The provision of prosthesis, major appliances and other substantial benefits in kind shall be dependent on the prior approval of the competent institution according to the administrative arrangement, except in emergency cases .

Article 17

Overlapping of rights to sickness and maternity, paternity and adoption benefits

1- Where, by the application of this chapter, a worker is entitled to sickness or maternity, paternity and adoption benefits under the legislation of both Contracting States, the legislation of the State where the contingency occurred shall apply.

2- Where the members of the family of the worker reside in the territory of a Contracting State other than the Competent one, determined under the provisions of Articles 8 to 11 of this Agreement, and where they are entitled to sickness or maternity, paternity and adoption benefits in kind by virtue of the pursuit of a professional activity, the legislation of the State in which the members of the family reside shall apply.

Article 18

Provision and reimbursement of benefits under Articles 13 to 16

1- In the cases covered by Articles 13 and 14 :

- a) Benefits in kind shall be provided on behalf of the competent institution, by the institution of the place of stay or residence of the worker, under the legislation it applies, within the limits and in accordance with the procedures laid down for the provision of benefits. However, the period during which the benefits are provided shall be governed by the legislation of the competent institution;
- b) Cash benefits shall be provided directly to beneficiaries by the competent institution, under the time limits and conditions foreseen in the legislation it applies.

2- Benefits in kind provided under Articles 13 and 14, as well as Article 15, paragraphs 2 and 4 and Article 16 of this Agreement shall be reimbursed in accordance with the procedure laid down by the administrative arrangement referred to in Article 31, paragraph 1, subparagraph a) of this Agreement.

3- The competent authorities of the Contracting States may establish other arrangements for the refund of the costs or on renunciation to refunds of expenses between the institutions.

CHAPTER II

Invalidity, old age and death

Section I

Invalidity, old age and survivors' pensions

Article 19

Aggregation of periods of insurance

1- Where a worker has been successively or alternatively subject to the legislation of both Contracting States, the periods of insurance completed under the legislation of each Contracting State shall be taken into account, to the extent necessary, by the other Contracting State for the acquisition, retention or recovery of the right to benefits provided for in this chapter as if they have been completed under its legislation, insofar as they do not overlap.

2- Where the legislation of one Contracting State makes the granting of certain benefits conditional upon the periods of insurance having been completed in an occupation subject to a special social insurance scheme, occupation or certain activity, the periods completed under the legislation of the other Contracting State shall be taken into account only if completed under a corresponding special scheme, or failing that, in the same occupation or in the same activity.

3-Where, account having been taken of the periods completed in accordance with paragraph 2, the person concerned does not satisfy the conditions for receipt of such benefits, those periods shall be taken into account for the granting of benefits under the general scheme.

4-For purposes of paragraph 1 of this Article, the periods of insurance completed under the legislation of a Contracting State, other than one of those mentioned in Article 2, shall be taken into account, provided that they have been considered as periods of insurance under the legislation covered by this Agreement.

5- Where account having been taken of the aggregated periods of insurance completed under the legislation of both Contracting States, as provided for in this Article, no right to benefit is acquired, account shall be taken of periods of insurance completed under the legislation of a third State to which both Contracting States are bound by a social security instrument that provides for the aggregation of periods of insurance.

Article 20

Calculation and award of benefits

1- The competent institution of each Contracting State shall determine whether the person concerned satisfies the conditions for entitlement to benefits, taking into account, where appropriate, the provisions of Article 19 of this Agreement.

2- Where the person concerned satisfies the conditions referred to in paragraph 1 of this Article, the competent institution shall calculate the amount of the benefit solely and directly on the basis of the periods of insurance completed under the legislation it applies.

3- Where the total benefits payable by the competent institutions of both Contracting States is less than the minimum amount established by the legislation of the Contracting State in whose territory the person concerned resides, the competent institution of that State shall pay him, throughout the period of his residence in its territory, a supplement equal to the difference between both amounts.

Article 21

Periods of insurance of less than one year

1- Notwithstanding the provisions of Article 19 of this Agreement, where the total duration of the period of insurance completed under the legislation of either Contracting State is less than one year and where, no right to benefits was acquired under that legislation on the basis solely of those period, the competent institution of that Contracting State shall not be bound to grant benefits in respect of those periods.

2- The periods of insurance referred to in paragraph 1 of this Article shall be taken into account by the competent institution of the other Contracting State regarding the application of the provisions of Article 19, as if they had been completed under its own legislation.

Section II

Death grants

Article 22

Aggregation of periods of insurance and the provision of benefits

1- Where a deceased worker has been successively or alternately subject to the legislation of both Contracting States, the periods of insurance completed under the legislation of each Contracting State, shall be taken into account, to the extent necessary, by the other Contracting State for the acquisition, retention and recovery of the right to death grants, as if they have been completed under its legislation, insofar as they do not overlap.

2- Where the legislation of either Contracting State makes the provision of death grant conditional upon death having occurred in its territory, such condition shall be deemed to be satisfied if the death has occurred in the territory of the other Contracting State or of a third State, to which both Contracting States are bound by an international social security instrument subject to more favourable provisions of the applicable legislation.

CHAPTER III

Accidents at work and occupational diseases

Article 23

Equal treatment of facts occurred in the territory of a State other than the competent one

1-Where, in order to assess the degree of incapacity in cases of accidents at work or occupational diseases, the legislation of either Contracting State takes into account the accidents at work and occupational diseases previously occurred, the accidents at work and occupational diseases occurred under the legislation of the other Contracting State, shall also be taken into account as if they had occurred under the legislation of the first Contracting State.

2-Where the granting of benefits in respect of an occupational disease under the legislation of either Contracting State is subject to the condition that the disease in question was first diagnosed within its territory, such condition shall be deemed to be satisfied if the disease was first diagnosed in the territory of the other Contracting State.

3-Where the granting of benefits in respect of an occupational disease under the legislation of either Contracting State is subject to the condition that the activity liable to cause the disease in question was pursued for a certain length of time, periods during which the worker pursued an activity of the same kind in the territory of the other Contracting State shall be taken into account, as if such an activity had been pursued in the territory of the other Contracting State.

Article 24

Accidents while travelling at the beginning of an occupational activity

The employed person holding a labour contract who sustains an accident while travelling to his workplace from one Contracting State to the other Contracting State is entitled to benefits provided for in this chapter under the legislation of the Contracting State where he will begin the occupational activity.

Article 25

Stay or residence in the Contracting State other than the competent one

1- The provisions of Article 13, paragraph 1 and Article 14, paragraph 1 shall apply by analogy to a worker who sustains an accident at work or contracts an occupational disease, and who stays or resides in the territory of a Contracting State other than the competent Contracting State, being the benefits provided in accordance with the provisions of Article 18, paragraph 1 of this Agreement.

2- The benefits in kind provided under paragraph 1 shall be reimbursed in accordance with the provisions of Article 18, paragraph 2 of this Agreement.

Article 26

Benefits for an occupational disease where the person concerned has been exposed to the same risk in both Contracting States

Where a worker who has contracted an occupational disease has pursued in the territory of both Contracting States an activity liable to cause that disease, under the respective legislations, the benefits shall be awarded solely under the legislation of the Contracting State where the activity was last pursued, insofar as the conditions provided for in that legislation are satisfied, taking into account, where appropriate, the provisions of Article 23 of this Agreement.

Article 27

Aggravation of an occupational disease

In the event of aggravation of an occupational disease for which cash benefits have been granted under the legislation of either Contracting State to a worker residing in territory of the other Contracting State, the following rules shall apply:

- a) Where the worker has not pursued in the territory of the Contracting State where he resides, an occupation liable to cause or aggravate the disease in question, the competent institution of the first Contracting State, shall bear the cost corresponding to the aggravation of the disease under the provisions of the legislation it applies;
- b) Where the worker has pursued in the territory of the Contracting State where he resides, an occupation liable to cause or aggravate the disease in question, the competent institution of the first Contracting State, shall bear the cost of benefits previously assumed and the competent institution of the latter State shall bear the cost corresponding to the aggravation of the disease.

CHAPTER IV

Unemployment

Article 28

Aggregation of periods of insurance and provision of benefits

1-A worker meeting the eligibility conditions under the legislation of a Contracting State where he pursues an occupational activity, for granting the unemployment benefit, taking into account, to the extent necessary, the periods of insurance completed under the legislation of the other Contracting State, insofar as they do not overlap shall be entitled to those benefits during his stay in the territory of the first State.

2-The competent institution of the Contracting State granting the unemployment benefit according paragraph 1 of this Article shall only take into account the salary received by the person concerned during his last employment on the territory of that Contracting State.

CHAPTER V

Family benefits

Article 29

Aggregation of periods of insurance

Where a worker has been successively or alternatively subject to the legislation of both Contracting States, the periods of insurance completed under the legislation of each Contracting State shall be taken into account, to the extent necessary, by the other Contracting State for the acquisition, retention and recovery of the right to benefits provided for in this chapter as if they have been completed under its legislation, insofar they do not overlap.

Article 30

Provision of benefits

1- The Portuguese national workers covered by the Romanian legislation shall be entitled, in respect of the members of their family residing in Romania, to the family allowance provided for in that legislation, under the same conditions as the Romanian nationals, insofar as they satisfy the respective eligibility conditions.

2- The Romanian national workers covered by the Portuguese legislation shall be entitled, in respect of the members of their family residing in Portugal, to the family allowance for children and young people provided for in that legislation, under the same conditions as the Portuguese nationals, insofar as they satisfy the respective eligibility conditions.

3- The provisions of paragraphs 1 and 2 shall apply by analogy to pensioners.

TITLE IV

Miscellaneous provisions

Article 31

Cooperation between competent authorities and institutions

- 1- The competent authorities of both Contracting States:
 - a) Shall establish the administrative arrangement necessary for the implementation of this Agreement;
 - b) Shall communicate to each other the measures taken for the implementation of this Agreement;
 - c) Shall communicate to each the information concerning the amendments to the respective legislation liable to affect the implementation of this Agreement;
 - d) Shall designate the respective liaison bodies and establish their tasks.

2- For the purposes of implementing this Agreement, the competent authorities and the competent institutions of both Contracting States shall lend their good office, as well as the necessary technical and administrative assistance, free of charge, as if they were implementing their own legislation.

3- For the purposes of granting benefits exclusively due by either Contracting State to nationals of a third State under other international instruments binding that State, the other Contracting State shall lend its good offices, as well as the necessary technical and administrative assistance, by providing the necessary information on the affiliation and insurance record of the person concerned that are or have been subject to its legislation, according to the provisions to be established in the administrative arrangement mentioned in paragraph 1, subparagraph a) of this Article.

4- For the purposes of implementing this Agreement, the competent authorities and the competent institutions of both Contracting States may communicate directly with one other and with the persons concerned or their representatives.

5- For the purpose of implementing this Agreement, the authorities and the institutions of both Contracting States may communicate with each another directly in their official languages or in English.

Article 32

Protection of personal data

1- The communication of personal data between the competent authorities or institutions of the Contracting States under this Agreement or under the administrative arrangements mentioned in Article 31, paragraph, 1 subparagraph a) of this Agreement shall be subject to the data protection legislation of the Contracting State transmitting them.

2- Any communication, storage, alteration and destruction of the data by the authority or institution of the receiving Contracting State shall be subject to the data protection legislation of that Contracting State.

Article 33

Exemption from or reductions of taxes and exemption from authentication

1- Any exemption from or reduction taxes, stamp duty, notarial or registration fees provided for in the legislation of either Contracting State in respect of any certificates or documents required to be produced in application of the legislation of that Contracting State may apply to similar certificates or documents required to be produced under the legislation of the other Contracting State or of the provisions of this Agreement.

2- All the statements, documents or certificates required to be produced for the purposes of this Agreement shall be exempt from authentication by diplomatic or consular authorities.

Article 34

Submission of claim, declarations or appeals

- 1- For the purpose of this Agreement, no claims or documents may be rejected on the ground that they are written in the official language of the other Contracting State.
- 2- Any claim, declaration or appeal that should be submitted, under the legislation of either Contracting State, within a specified period of time to an authority, institution or tribunal of that Contracting State shall be admissible if they are submitted within the same period to a corresponding authority, institution or tribunal of the other Contracting State.
- 3- In the cases mentioned in paragraph 2, the authority, institution or tribunal receiving the claim declaration or appeal shall forward it without delay to the competent authority, institution or tribunal of the first Contracting State, directly or through the liaison body.

Article 35

Recovery of undue payments

- 1- Where the institution of either Contracting State has paid to a beneficiary, under the provisions of Title III, Chapter II of this Agreement, an amount exceeding the one to which he is entitled, that institution may, under the conditions and within the limits of the legislation it applies, request the institution of the other Contracting State, responsible for payment of benefits to that person, to deduct the amount overpaid from the payments due to him.
- 2- The latter institution shall deduct the amount under the conditions and within the limits laid down for such deduction by the legislation it applies, as if the overpayment had been made by it and shall transfer the amount so deducted to the creditor institution.

Article 36

Rights of institutions responsible for benefits against liable third parties

Where a person receives benefits under the legislation of either Contracting State due to an injury resulting from facts occurred in the territory of the other Contracting State, any rights of the institution responsible for providing benefits against the third party liable to provide compensation for the injury shall be governed by the following rules:

- a) Where the institution responsible for providing benefits is, under the legislation it applies, subrogated to the rights which the beneficiary has against the third party, such subrogation shall be recognised by each Contracting State;
- b) Where the institution responsible for providing benefits has a direct right against the third party, each Contracting State shall recognise such right.

Article 37
Recovery of advance payments

- 1- Where the institution of either Contracting State has made an advance payment of benefit to the beneficiary, that institution may request, where necessary, the component institution of the other State to deduct the amount of the advance from the payments due to him.
- 2- The latter institution shall deduct the amount under the conditions and within the limits laid down for such a deduction by the legislation it applies and shall transfer the amount so deducted to the creditor institution.

Article 38
**Transfers from either Contracting State to the other of
amounts payable in application to this Agreement**

- 1- The institutions of either Contracting State that, under this Agreement, responsible for the payment of cash benefits to beneficiaries in the territory of the other Contracting State shall validly discharge their liability to pay those benefits in the currency of their own State.
- 2- Amounts due to institutions in the territory of either Contracting State shall be paid in the currency of that State in the currency established by Administrative Arrangement mentioned in Article 31, paragraph 1, subparagraph a) of this Agreement.

Article 39
Administrative checks and medical examinations

The administrative checks and medical examinations of the claimants and persons entitled under the legislation of a Contracting State, that reside or are staying in the territory of the other Contracting State, shall be carried out at the request of the competent institution, by the institution of the place of residence or of stay or by the liaison body, under the conditions laid down in the Administrative Arrangement mentioned in Article 31, paragraph 1, subparagraph a) of this Agreement.

Article 40
Settlement of disputes

- 1- Any dispute on the interpretation or implementation of this Agreement shall be settled by consultations between the competent institutions and between the competent authorities of the Contracting States.
- 2- If the dispute cannot be settled in accordance with paragraph 1 of this Article, the Contracting States shall carry out all diligences necessary for its settlement.

3- If the dispute cannot be settled in accordance with the previous paragraphs of this Article within six months, it shall be submitted to an arbitration tribunal, whose composition and rules of procedure shall be approved through mutual agreement by the Contracting States.

4- The decision of the arbitration tribunal shall be binding and definitive.

TITLE V

Transitional and final provisions

Article 41

Transitional provisions

1- This Agreement shall confer no rights for a period prior to the date of its entry into force.

2- All periods of insurance completed under the legislation of either Contracting State before the entry into force of this Agreement shall be taken into account for determining the rights acquired in accordance with the provisions of this Agreement.

3-Subject to the provisions of paragraph 1 of this Article, a right shall be acquired under this Agreement even if it relates to a contingency, occurred prior to the date of its entry into force, except for lump-sum payments.

4-Any benefit which has not been awarded or which has been suspended by reasons of the nationality or place of residence of the person concerned shall, upon request, be provided or requested with effect from the date of entry into force of this Agreement, if the application is submitted within two years from this date, being, in this case, the provisions of the legislation of the Contracting State concerning the forfeiture or limitation or rights not applicable.

5-If the application referred to in paragraph 4 is submitted after the expiry of that period, the rights, which have not been forfeited or time barred, shall have effect from the date on which the application was submitted, subject to more favourable provisions under the legislation of either Contracting State.

Article 42

Entry into force

This Agreement shall enter into force on the first day of the second month after the date of receipt of the last notification, through diplomatic channels, stating that all the internal law requisites have been fulfilled for that purpose in both Contracting States.

Article 43

Duration and denunciation

1- This Agreement shall remain in force for the period of one year and shall be tacitly renewed every year for equal periods.

2- Either Contracting State may denounce this Agreement. Notice of denunciation shall be given up to six months before the end of each calendar year, whereupon the Agreement shall cease to be in force at the expiry of that calendar year.

3- In the event of denunciation of this Agreement, the acquired rights and the rights in course of acquisition shall be maintained in accordance with its provisions.

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

Done in two copies at Bucharest, this First day of August, Two Thousand and Six in Portuguese, Romanian and English languages, all texts being equal authentic. In case of divergences of interpretation between the Portuguese and the Romanian texts, the English text shall prevail.

For

The Portuguese Republic

José António Fonseca Vieira da Silva,
Minister of Labour and Social Solidarity

For

Romania

Gheorghe BARBU, Minister of Labour, Social
Solidarity and Family