

**AGREEMENT ON SOCIAL SECURITY
BETWEEN
CANADA
AND
THE REPUBLIC OF SERBIA**

**CANADA
AND
THE REPUBLIC OF SERBIA,**

hereinafter referred to as “the Contracting Parties”,

DESIROUS to co-operate in the field of social security,

HAVE DECIDED to conclude an agreement for this purpose, and

HAVE AGREED AS FOLLOWS:

**PART I
GENERAL PROVISIONS**

**Article 1
Definitions**

1. For the purposes of this Agreement:
 - 1) “legislation” means, as regards a Contracting Party, the laws and regulations specified in Article 2;
 - 2) “competent authority” means, as regards Canada, the Minister or Ministers responsible for the application of the legislation of Canada specified in Article 2; and, as regards the Republic of Serbia, the Ministries responsible for the legislation of the Republic of Serbia specified in Article 2;
 - 3) “competent institution” means, as regards Canada, the competent authority; and, as regards the Republic of Serbia, the organization or institution responsible for the implementation of the legislation of the Republic of Serbia specified in Article 2;
 - 4) “creditable period” means, as regards Canada, a period of contribution used to acquire the right to a benefit under the *Canada Pension Plan*; a period during which a disability pension is paid under that Plan; and a period of residence used to acquire the right to a benefit under the *Old Age Security Act*; and,

as regards the Republic of Serbia, a period of insurance used to acquire the right to a benefit under the legislation of the Republic of Serbia, and including any period defined under that legislation as equivalent to, or recognized as, a period of insurance;
 - 5) “benefit” means, as regards a Contracting Party, any cash benefit which is provided for in the legislation of that Contracting Party and includes any supplements or increases applicable to that cash benefit.
2. A term found in the legislation referred to in Article 2 that is not defined in this Article shall have the meaning assigned to it in that legislation.

**Article 2
Legislation to which this Agreement Applies**

1. This Agreement shall apply to the following legislation:
 - 1) with respect to Canada:
 - (1) the *Old Age Security Act* and the regulations made thereunder;
 - (2) the *Canada Pension Plan* and the regulations made thereunder;

- 2) with respect to the Republic of Serbia:
 - (1) legislation concerning pension and disability insurance;
 - (2) legislation concerning insurance for work-related accidents and occupational disease.
2. This Agreement shall also apply to legislation which amends, supplements, consolidates or supersedes the legislation specified in paragraph 1 of this Article.
3. Notwithstanding paragraph 2 of this Article, this Agreement shall also apply to the extension of legislation of a Contracting Party to new categories of beneficiaries or to new benefits, unless that Contracting Party informs the other Contracting Party, within three months of the entry into force of that legislation, that this Agreement shall not apply to the new categories of beneficiaries or to the new benefits.

Article 3

Persons to whom this Agreement Applies

The Contracting Parties shall apply this Agreement to any person who is or who has been subject to the legislation of one or both Contracting Parties, and to persons who derive rights from that person according to the legislation of either Contracting Party.

Article 4

Equality of Treatment

Any person who is or who has been subject to the legislation of a Contracting Party, and persons who derive rights from that person, shall be subject to the obligations of the legislation of the other Contracting Party and shall be eligible for the benefits of that legislation under the same conditions as citizens of the other Contracting Party.

Article 5

Export of Benefits

1. Unless otherwise provided in this Agreement, benefits granted under the legislation of a Contracting Party to any person described in Article 3, including benefits acquired by virtue of this Agreement, shall not be subject to any reduction, modification, suspension or cancellation by reason only of the fact that the person is in the territory of the other Contracting Party. These benefits shall be paid when that person resides in the territory of the other Contracting Party.
2. With respect to Canada:
 - 1) benefits granted under this Agreement to a person who is or who has been subject to the legislation of both Contracting Parties, or to a person who derives rights from that person, shall also be paid when that person, or a person who

derives rights from that person, resides in the territory of a third State;

- 2) an Old Age Security pension shall be paid to a person who is outside Canada only if that person's periods of residence, when totalized as provided in Part III of Chapter 1, are at least equal to the minimum period of residence in Canada required by the *Old Age Security Act* for the payment of a pension outside Canada;
 - 3) an allowance and a guaranteed income supplement shall be paid to a person who is outside Canada only to the extent permitted by the *Old Age Security Act*.
3. With respect to the Republic of Serbia:
- 1) benefits granted under this Agreement to a person who is or who has been subject to the legislation of both Contracting Parties, or to a person who derives rights from that person, shall also be paid when that person, or a person who derives rights from such a person, resides in the territory of a third State, provided that the Republic of Serbia has concluded a social security agreement with that third State.
 - 2) Paragraph 1 shall not apply to the minimum pension, the cash allowance for the assistance and care of persons and the cash allowance for bodily impairment.

PART II PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

Article 6 General Rule

Unless otherwise provided in this Agreement, an employed person who works in the territory of a Contracting Party shall, in respect of that employment, be subject only to the legislation of that Contracting Party.

Article 7 Employees and Self-employed Persons

1. If an employer, having a place of business in the territory of one Contracting Party, sends an employee who is subject to the legislation of that Contracting Party to work in the territory of the other Contracting Party, that employee shall, in respect of that work, be subject only to the legislation of the first Contracting Party, as though that work was performed in its territory. This provision may be maintained for a period of up to 36 months and can be extended for an additional period of 24 months with the consent of the competent authorities of both Contracting Parties.

2. If a self-employed person is subject to the legislation of one Contracting Party and works temporarily for his or her own account in the territory of the other Contracting Party, or in the territories of both Contracting Parties, that person shall, in respect of that work, be subject only to the legislation of the first Contracting Party. This provision may be maintained for a period of up to 24 months and can be extended for an additional period of 12 months with the consent of the competent authorities of both Contracting Parties.

Article 8 Crews of Ships

A person who is subject to the legislation of both Contracting Parties in respect of employment as a member of the crew of a ship shall, in respect of that employment, be subject only to the legislation of Canada if that person resides in the territory of Canada and only to the legislation of the Republic of Serbia in any other case.

Article 9 Civil Servants, Diplomatic and Consular Staff

1. A person employed by the government, in the civil service or as an official representative who is sent by one Contracting Party to work in the territory of the other Contracting Party, shall, in respect of that work, be subject to the legislation of the first Contracting Party.
2. Diplomatic and consular staff, as well their private servants, who are sent by one Contracting Party to work in the territory of the other Contracting Party, shall, in respect of that work, be subject to the legislation of the first Contracting Party.
3. Except as provided in paragraphs 1 and 2, a person who resides in the territory of one Contracting Party and who is employed in that territory by the government, in the civil service or diplomatic mission of the other Contracting Party, shall, in respect of that work, be subject only to the legislation of the first Contracting Party. That person's employer shall respect the provisions of the legislation of the first Contracting Party applicable to employers.

Article 10 Exceptions

The competent authorities of the Contracting Parties may, by mutual consent, modify the application of the provisions of Articles 6 to 9 with respect to any person or categories of persons.

Article 11
Periods of Residence under the Legislation of Canada

1. For the purpose of calculating benefits under the *Old Age Security Act*:
 - 1) if a person is subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada during any period of presence or residence in the Republic of Serbia, that period shall be considered as a period of residence in Canada for that person; that period shall also be considered as a period of residence in Canada for that person's spouse or common-law partner and dependants who reside with him or her and who are not subject to the legislation of the Republic of Serbia by reason of employment or self-employment;
 - 2) if a person is subject to the legislation of the Republic of Serbia during any period of presence or residence in Canada, that period shall not be considered as a period of residence in Canada for that person; it shall also not be considered as a period of residence in Canada for that person's spouse or common-law partner and dependants who reside with him or her and who are not subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada by reason of employment or self-employment.
2. In the application of paragraph 1:
 - 1) a person shall be considered to be subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada during a period of presence or residence in the Republic of Serbia only if that person makes contributions pursuant to the plan concerned during that period by reason of employment or self-employment;
 - 2) a person shall be considered to be subject to the legislation of the Republic of Serbia during a period of presence or residence in Canada only if that person makes compulsory contributions pursuant to that legislation during that period by reason of employment or self-employment.

PART III
PROVISIONS CONCERNING BENEFITS

CHAPTER 1
TOTALIZING PERIODS

Article 12
Periods to be Totalized

1. The competent institution of one Contracting Party shall, in determining eligibility for benefits under the legislation which it applies, take into account, to the extent necessary, periods which are creditable under the legislation of the other Contracting Party, provided such periods do not overlap.

2.
 - 1) For the purposes of determining eligibility for a benefit under the *Old Age Security Act* of Canada, a creditable period under the legislation of the Republic of Serbia shall be considered as a period of residence in Canada;
 - 2) For the purposes of determining eligibility for a benefit under the *Canada Pension Plan*, a calendar year including at least 3 months which are creditable periods under the legislation of the Republic of Serbia shall be considered as a year which is creditable under the *Canada Pension Plan*.
3. For the purposes of determining eligibility for an old age pension under the legislation of the Republic of Serbia:
 - 1) a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as 12 months which are creditable under the legislation of the Republic of Serbia;
 - 2) a month which is a creditable period under the *Old Age Security Act* of Canada and which is not part of a creditable period under the *Canada Pension Plan* shall be considered as a month which is creditable under the legislation of the Republic of Serbia.
4. For the purposes of determining eligibility for a disability or survivor's pension under the legislation of the Republic of Serbia, a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as 12 months which are creditable under the legislation of the Republic of Serbia.

Article 13 **Periods under the System of a Third State**

If a person is not eligible for a benefit on the basis of the creditable periods under the legislation of the Contracting Parties, totalized as provided in Article 12, the eligibility of that person for that benefit shall be determined by totalizing these periods and periods completed under the system of a third State with which both Contracting Parties are bound by social security treaties which provide for the totalizing of periods.

Article 14 **Minimum Period to be Totalized**

If the total duration of the creditable periods accumulated by a person under the legislation of a Contracting Party is less than one year and if, taking into account only those periods, a right to a benefit does not exist under the legislation of that Contracting Party, the competent institution of that Contracting Party shall not be required to pay a benefit to that person for those periods. These creditable periods shall, however, be taken into consideration by the competent institution of the other Contracting Party to determine eligibility for the benefits of that Contracting Party through the application of Chapter 1.

CHAPTER 2
BENEFITS UNDER THE LEGISLATION OF CANADA

Article 15
Benefits under the Old Age Security Act

1. If a person is eligible for a pension or allowance under the *Old Age Security Act* solely through the application of the totalizing provisions of Chapter 1, the competent institution of Canada shall calculate the amount of the pension or allowance payable to that person in accordance with the provisions of that Act governing the payment of a partial pension or allowance, based exclusively on the periods of residence in Canada which may be considered under that Act.
2. Paragraph 1 of this Article shall also apply to a person residing outside Canada who would be eligible for a full pension in Canada but who has not resided in Canada for the minimum period required by the *Old Age Security Act* for the payment of a pension outside Canada.

Article 16
Benefits under the Canada Pension Plan

If a person is eligible for a benefit solely through the application of the totalizing provisions of Chapter 1, the competent institution of Canada shall calculate the amount of benefit payable to that person in the following manner:

- 1) the earnings-related portion of the benefit shall be determined in accordance with the provisions of the *Canada Pension Plan*, exclusively on the basis of the pensionable earnings under that Plan;
- 2) the flat-rate portion of the benefit shall be determined by multiplying:

the amount of the flat-rate portion of the benefit determined in accordance with the provisions of the *Canada Pension Plan*

by

the fraction representing the ratio of the periods of contribution to the *Canada Pension Plan* in relation to the minimum qualifying period required under that Plan to establish eligibility for that benefit. That fraction shall not exceed the value of one.

CHAPTER 3
BENEFITS UNDER THE LEGISLATION OF
THE REPUBLIC OF SERBIA

Article 17
Determining the Pension Amount

1. If entitlement to a pension exists under the legislation of the Republic of Serbia, without the application of the totalizing provisions of Chapter 1, the amount of the pension shall be determined exclusively in accordance with the provisions of the legislation of the Republic of Serbia.
2. If entitlement to a pension is established solely through the application of the totalizing provisions of Chapter 1, the competent institution of the Republic of Serbia:
 - 1) shall calculate the theoretical amount of the benefit which would be paid if the totalized creditable periods accumulated under the legislation of the Republic of Serbia and under the legislation of Canada had been accumulated under the legislation of the Republic of Serbia alone; and
 - 2) on the basis of the theoretical amount, shall determine the actual amount of the pension payable by applying the ratio of the length of the creditable periods accumulated under the legislation of the Republic of Serbia to the total creditable periods accumulated under the legislation of the Republic of Serbia and under the legislation of Canada.

PART IV
ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Article 18
Administrative Understanding

1. The competent authorities of the Contracting Parties shall conclude an administrative understanding which establishes the measures necessary for the application of this Agreement.
2. The liaison agencies of the Contracting Parties shall be designated in that understanding.

Article 19
Exchange of Information and Mutual Assistance

1. The competent authorities and institutions responsible for the application of this Agreement:

- 1) shall, to the extent permitted by the legislation which they administer, communicate to each other any information necessary for the application of that legislation;
 - 2) shall provide assistance to one another for the purpose of determining eligibility for, or the amount of, any benefit under this Agreement, or under the legislation to which this Agreement applies, as if the matter involved the application of their own legislation;
 - 3) shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their respective legislation in so far as these changes affect the application of this Agreement.
2. The assistance referred to in sub-paragraph 1.2) of this Article shall be provided free of charge, subject to any provisions contained in this Agreement or in an administrative understanding concluded pursuant to Article 18.
 3. If the competent institution of a Contracting Party requires that a claimant or a beneficiary who resides in the territory of the other Contracting Party undergo a medical examination, the competent institution of the other Contracting Party, at the request of the competent institution of the first Contracting Party, shall make the arrangements for this examination. If the medical examination is exclusively for the use of the institution which requests it, that competent institution shall reimburse the competent institution of the other Contracting Party for the costs of the examination. However, if the medical examination is for the use of both competent institutions, the costs shall not be reimbursed.
 4. Unless release of information is required under the laws of a Contracting Party, any information about a person which is transmitted in accordance with this Agreement to that Contracting Party by the other Contracting Party is confidential and shall be used only for the purposes of implementing this Agreement and the legislation to which this Agreement applies.

Article 20

Exemption or Reduction of Dues, Fees or Charges

1. Any exemption from or reduction of legal dues, consular fees and administrative charges for which provision is made in the legislation of a Contracting Party, in connection with the issuing of any certificate or document required to be produced for the application of that legislation, shall apply to certificates or documents required to be produced for the application of the legislation of the other Contracting Party.
2. Any documents of an official nature required for the application of this Agreement shall be exempt from any authentication by diplomatic or consular authorities.

Article 21
Language of Communication

For the application of this Agreement, the competent authorities and institutions of the Contracting Parties may communicate directly in any official language of the Contracting Parties.

Article 22
Submitting a Claim, Notice or Appeal

1. Claims, notices and appeals concerning eligibility for, or the amount of, a benefit under the legislation of a Contracting Party which should have been presented within a prescribed period to a competent authority or institution of that Contracting Party, but which are presented within the same period to an authority or institution of the other Contracting Party, shall be treated as if they had been presented to the competent authority or institution of the first Contracting Party. The date of presentation of claims, notices and appeals to the authority or institution of the other Contracting Party shall be deemed to be the date of their presentation to the competent authority or institution of the first Contracting Party.
2. A claim for a benefit under the legislation of a Contracting Party made after the date of entry into force of this Agreement shall be deemed to be a claim for the corresponding benefit under the legislation of the other Contracting Party, provided that the applicant at the time of application provides information indicating that creditable periods have been completed under the legislation of the other Contracting Party. This shall not apply upon the request of the applicant.
3. The competent authority or institution to which a claim, notice or appeal has been submitted shall transmit it without delay to the competent authority or institution of the other Contracting Party.

Article 23
Payment of Benefits

1. The competent institution of a Contracting Party shall pay benefits under this Agreement to a beneficiary who resides outside its territory in a freely convertible currency according to the legislation which it applies.
2. A competent institution of a Contracting Party shall pay benefits under this Agreement without any deduction for its administrative expenses.

Article 24
Questions under Dispute

The competent authorities of the Contracting Parties shall resolve, to the extent possible, any disputes which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.

Article 25
Understandings with a Province of Canada

The relevant authority of the Republic of Serbia and a province of Canada may conclude understandings concerning any social security matter within provincial jurisdiction in Canada in so far as those understandings are not inconsistent with the provisions of this Agreement.

PART V
TRANSITIONAL AND FINAL PROVISIONS

Article 26
Transitional Provisions

1. Any creditable period completed before the date of entry into force of this Agreement shall be taken into account for the purpose of determining the right to a benefit under this Agreement and its amount.
2. The provisions of this Agreement shall not confer any right to receive payment of a benefit for a period before the date of entry into force of this Agreement.
3. Notwithstanding paragraph 2 of this Article, a benefit, other than a lump sum payment, shall be paid under this Agreement in respect of contingencies which occurred before the date of entry into force of this Agreement.

Article 27
Duration and Termination

1. This Agreement shall remain in force without any limitation on its duration. It may be terminated at any time by either Contracting Party giving 12 months' notice in writing to the other Contracting Party.
2. In the event that this Agreement is terminated, any right acquired by a person in accordance with its provisions shall be maintained. This Agreement shall continue to have effect in relation to all persons who, prior to its termination, had applied for and would have acquired rights by virtue of this Agreement if it had not been terminated.

Article 28
Entry into Force

This Agreement shall enter into force on the first day of the fourth month following the month in which the Contracting Parties exchange diplomatic notes confirming that they have fulfilled all requirements for the entry into force of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Belgrade, on April 12, 2013, in the English, French and Serbian languages, each text being equally authentic.

FOR CANADA

Roman Wascuk
Ambassador of Canada in Republic of Serbia

FOR THE REPUBLIC OF SERBIA

dr. Jovan Krkobabić
Vice - premier of Government and Minister
of Labour, Employment and Social policy