

Annex 2

Draft, 21. 3. 1997

Agreement

between

the Czech Republic

and

the State of Israel

on Social Security

The Government of the Czech Republic

and

The Government of the State of Israel

guided by the desire to settle establish mutual relations between the two states in the field of Social Security, have agreed as follows:

PART I

G e n e r a l P r o v i s i o n s

Article 1

1. For the purposes of this Agreement the expression:

a) “Legislation”

means laws, regulations and other generally binding legal provisions concerning the branches of Social Security mentioned in Article 2;

b) “Territory”

means in relation to the Czech Republic its territory, and in relation to the State of Israel its territory;

c) “Competent authority”

means the Ministry or other corresponding authority into the competence of which the field of Social Security dealt with by this Agreement falls;

d) “Institution”

means the body responsible for the implementation of the legislation mentioned in Article 2;

e) “Competent institution”

means the institution responsible for providing benefits under the applicable legislation;

f) “Gainfully employed person”

means an employed person, self-employed person or a person treated as such under the legislation of the Contracting Party;

g) “Member of the family”

means a person thus defined under the legislation of the Contracting Party at the expense of which benefits are to be provided;

h) “Periods of insurance”

means periods of contributing to a social insurance scheme as well as periods treated as such;

i) “Benefits”

means cash benefits and benefits in kind provided in the branches of Social Security listed in Article 2;

j) “Cash benefits” and “pensions”

means all financial benefits or pensions including all elements thereof and all revalorization increases, supplementary allowances, compensations and additional payments as well as lump-sum payments and reimbursements;

k) “Benefits in kind”

means health care and further benefits other than cash benefits as well as services;

l) “Children’s allowances”

means periodical cash benefits granted according to the legislation of the Contracting Parties;

m) “Funeral grant”

means a lump-sum payment in the event of death according to the provisions of the legislation of the Contracting Party concerned;

n) “Contributory”

relates to benefits, the provision of which is dependent on periods of insurance;

o) “Non-contributory”

relates to benefits the provision of which does not depend on periods of insurance.

2. Other expressions in this Agreement have the meaning assigned to them in the legislation of each Contracting Party.

Article 2

1. This Agreement shall apply

A. in relation to the Czech Republic, to the legislation on:

- a) sickness insurance,
- b) health insurance,
- c) pension insurance,
- d) social care,
- e) state social support as far as children's allowances, birth and funeral grant are concerned,
- f) working relations insofar as settlement of liability for damage in case of accidents at work and occupational diseases is concerned.

B. in relation to the State of Israel, to the National Insurance Law, (Consolidated Version) 5755 - 1995, as far as it applies to the following branches of insurance:

- a) old age and survivors' insurance,
- b) invalidity insurance,
- c) work injury insurance,
- d) maternity insurance,
- e) children's insurance.

2. This Agreement also relates to the legislation codifying, amending, supplementing or replacing the legislation specified in the preceding paragraph. It does not relate, however, to legislation introducing a new branch of Social Security, unless decided otherwise between the competent authorities.

Article 3

This Agreement shall apply to:

- a) nationals of the Contracting Parties;
- b) refugees, as referred to in Article 1 of the Convention of 28 July 1951 relating to the Status of Refugees and the Protocol of 31 January 1967 to the said Convention;

c) stateless persons, as referred to in Article 1 of the Convention of 28 September 1954 relating to the Status of Stateless Persons;

d) other persons with regard to the rights which they derive from a national of a Contracting Party or from a refugee or stateless person referred to in this Article.

Article 4

Except where otherwise provided in this Agreement, persons specified in Article 3 of this Agreement who are resident in the territory of a Contracting Party shall be equated with nationals of that Contracting Party in the implementation of its legislation.

Article 5

Unless this Agreement provides otherwise, the right to benefits, excluding non-contributory benefits, may not be denied and these benefits may not be reduced, suspended or withdrawn by reason of the fact that the entitled person resides in the territory of the other Contracting Party.

Article 6

Rights to benefits according to the legislation of each of the Contracting Parties should not be reduced, suspended or withdrawn because of the entry into force of this Agreement.

PART II

Provisions concerning the Applicable Legislation

Article 7

Unless Articles 8 and 9 provide otherwise and if not agreed otherwise pursuant to Article 10, gainfully employed persons are subject to the legislation of the Contracting Party in the territory of which the occupational activity is being carried out.

Article 8

1. An employee who is posted by his employer residing in the territory of one Contracting Party to the territory of the other Contracting Party to perform work on behalf of the same employer, shall continue to be subject to the legislation of the first

Contracting Party till the end of the 36th calendar month of his posting as if he were still employed in its territory.

2. Travelling personnel employed by transport undertakings or by air lines, and working in the territories of both Contracting Parties, shall come under the legislation of the Contracting Party in whose territory the undertaking has its head office. If, however, the employee is resident in the territory of the other Contracting Party, the legislation of that Contracting Party shall apply.

3. An employee who is resident in the territory of the other Contracting Party is not considered to be an employee posted to the territory of this Contracting Party pursuant to the provisions of paragraphs 1 and 2.

4. Civil servants and persons treated as such posted by one Contracting Party to the territory of the other Contracting Party, are subject to the legislation of the Contracting Party by which they were posted.

5. The crew of a seafaring ship and other persons employed on a seafaring ship on a permanent basis are subject to the legislation of the Contracting Party under the flag of which the ship sails. If, however, a person employed on board a ship flying the flag of one Contracting Party is paid in respect of this occupation by an undertaking having its principal place of business, or by a person having his place of residence, in the territory of the other Contracting Party, he shall be subject to the legislation of the latter Party. The second sentence applies also where a ship flies the flag of a third country but has a crew which is paid by an undertaking having its principal place of business or by a person resident in one of the Contracting Parties.

Article 9

This Convention does not affect the provisions of the Vienna Convention on Diplomatic Relations or the general principles of customary international law regarding consular privileges and immunities with respect to the legislation specified in paragraph 1 of Article 2.

Article 10

On the joint request of an employee and his employer or the self-employed person the competent authorities of both Contracting Parties may jointly agree on exceptions to the provisions of Articles 7 to 9.

PART III

Special Provisions for Individual Branches of Social Security and Benefits

Chapter One

Sickness and Maternity

Article 11

1. In order to establish a person's entitlement to a maternity cash benefit, periods of insurance completed under the legislation of the other Contracting Party, not overlapping insurance periods acquired under the legislation of the first Contracting Party, will be taken into account on condition that the person has completed at least 8 weeks of insurance under the legislation of the first Contracting Party.

2. When calculating the benefit in accordance with paragraph 1 of this Article, only income accrued in the territory of the Contracting Party which pays the benefit shall be taken into account.

Article 12

1. A woman who is insured for hospitalization in case of childbirth according to the legislation of one Contracting Party shall, when temporarily staying in the territory of the other Contracting Party, receive the corresponding benefit according to the legislation of that Party, without need of reimbursement of the expenses.

2. The provision of paragraph 1 of this Article does not apply to a woman who moves from one country to the other for the specific purpose of receiving such benefit.

Chapter Two

Invalidity, Old-age and Survivors Pensions

Section 1 - Common Provisions

Article 13

Unless otherwise provided in Article 16 paragraph 1 and in Article 19 paragraph 1, where the legislation of one Contracting Party makes the acquisition,

maintenance or recovery of the right to benefits conditional upon the existence or completion of periods of insurance, the competent institution of this Contracting Party shall also take into account, if necessary, the existence or completion of periods of similar insurance schemes acquired under the legislation of the other Contracting Party as though it were an insurance in accordance with its own legislation.

Article 14

If under the legislation of one Contracting Party the pre-conditions for the right to benefits are satisfied even without taking account of periods of insurance completed under the legislation of the other Contracting Party, then the competent institution of the first Contracting Party will determine the benefits exclusively on the basis of the periods of insurance completed under its own legislation.

Article 15

1. The provisions of the legislation of one Contracting Party on reduction, suspension or withdrawal of benefits in the event of their overlapping with other benefits or income or by reason of pursuing gainful employment are also applied with respect to recipients of benefits acquired under the legislation of the other Contracting Party or persons deriving an income or pursuing gainful employment in the territory of the other Contracting Party.

2. The rule on reduction, suspension or withdrawal of benefits pursuant to paragraph 1 does not apply to overlapping of benefits of the same kind in respect of invalidity, old-age, survivors and occupational injuries and diseases which are granted by the institutions of both Contracting Parties.

3. If for the overlapping of benefits of different kind reduction of benefits under the legislation of both Contracting Parties was simultaneously implemented, then this would be implemented only to the extent of half the reduction carried out under the legislation of each of the Contracting Parties.

4. The competent authorities of the Contracting Parties may in respect of the recipients of benefits restrict the application of legislative provisions on reduction, suspension or withdrawal of benefits in the event of their concurrency mentioned in the preceding paragraphs or exclude their application totally. This procedure becomes mandatory if the applications of provisions on reduction, suspension or withdrawal of benefits results in diminishing the beneficiaries rights as opposed to

their rights without any Agreement in the field of Social Security between the Czech Republic and the State of Israel.

Article 16

1. If the duration of the period of insurance completed under the legislation of one Contracting Party is less than twelve months and does not found any right to benefits, then the institution of this Contracting Party will not award the benefit.

2. Where the legislation of one Contracting Party makes the amount of benefits conditional upon the number of the members of the family, the competent institution of this Contracting Party will also take into account members of the family who are resident in the territory of the other Contracting Party.

3. For determining the measurement base for the calculation of benefits the periods of insurance completed under the legislation of the other Contracting Party shall be excluded.

Section 2 - Special Provisions

Application of the Legislation of the Czech Republic

Article 17

If under the legislation of the Czech Republic the right to benefits can be acquired only with regard to periods of insurance completed under the legislation of the State of Israel, then these periods are taken into account only to the extent necessary and:

1. Benefits, the amount of which depend on the length of insurance, are determined solely to the extent corresponding to periods of insurance completed exclusively under the legislation of the Czech Republic.

2. Benefits or parts thereof, the amounts of which do not depend on the length of insurance, are determined in the ratio which the periods completed exclusively under the legislation of the Czech Republic bear to 30 years, however to the full amount of the benefit at the most; this does not apply to benefits or parts thereof provided to ensure the minimum income.

3. Periods added to periods of insurance after invalidity occurred in order to determine benefits in respect of a long-term unfavourable state of health and survivors benefits are evaluated in the ratio the periods of insurance completed

exclusively under the legislation of the Czech Republic bear to two thirds of the periods which have elapsed between the 16th year of age of the person in question and the occurrence of invalidity or death, however to the full length at the most.

Article 18

The condition for acquiring the right to a full invalidity pension for persons, who by reason of their long-term unfavourable state of health having originated before reaching eighteen years of age could not participate in the insurance scheme, is permanent residence in the territory of the Czech Republic.

Application of the Legislation of the State of Israel

Old Age and Survivors

Article 19

1. Where a national of one of the Contracting Parties or a person designated in Article 3 b) - d) of this Agreement has been insured in Israel for at least twelve consecutive months but does not have sufficient Israeli periods of insurance for entitlement to an old age or survivor's pension, periods of insurance completed under the legislation of the Czech Republic shall be taken into account insofar as they do not coincide with Israeli periods of insurance. No account shall be taken of any insurance period completed under the legislation of the other Contracting Party before 1 April 1954.

2. If the beneficiary or his survivor qualifies for the benefit when periods of insurance completed under the legislation of both Contracting Parties are added together, the Israeli competent insurance institution shall determine the benefit as follows:

a) The Israeli benefit which is payable to a person who has completed the qualifying periods of insurance according to Israeli legislation shall be taken into account as a theoretical sum.

b) On the basis of the above theoretical sum the insurance institution shall calculate the partial benefit payable according to the ratio between the length of Israeli periods of insurance which the person has completed under the legislation of Israel and the total of all insurance periods completed by him under the legislation of both Contracting Parties.

3. The right to an old age pension shall be conditional on the beneficiary having been a resident of Israel or the Czech Republic immediately before attaining the age entitling him to an old age pension.

4. The right to a survivor's pension shall be conditional on the beneficiary and the deceased having been residents of Israel or the Czech Republic at the time of death, or the deceased having received an old age pension immediately before his death.

5. Vocational training and subsistence allowance for widows and orphans are payable to persons designated in paragraph 1 only if they reside in Israel and for as long as they are actually present in Israel.

Invalidity

Article 20

1. A person covered by this Agreement shall be entitled to an invalidity benefit if he has been insured as a resident in Israel for at least twelve consecutive months immediately prior to becoming an invalid.

2. Special services for handicapped, subsistence allowances for handicapped children of an insured person, professional rehabilitation for a handicapped person, vocational training and a subsistence for his spouse are payable to such a person as mentioned above, provided he is resident in Israel and as long as he is actually present in Israel.

3. A person covered by this Agreement who resides outside Israel and is entitled to an Israeli invalidity pension shall continue to receive the pension that he was awarded even if there is an increase in the degree of his invalidity, as a result of an aggravation of his invalidity or the addition of a further cause of invalidity arising abroad.

Chapter Three

Occupational Injuries and Diseases

Section 1 - Common Provisions

Article 21

Benefits in respect of occupational injuries and diseases are provided by the institution of that Contracting Party to whose legislation the person was subject at the time he or she sustained an injury at work or last performed work followed by an occupational disease. The institution of the other Contracting Party provides only

such benefits which it would be obliged to provide under the legislation of this Contracting Party and this Agreement in the event of non-occupational injuries and diseases .

Article 22

If the legislation of one Contracting Party stipulates that benefits in respect of an occupational disease are provided only if the activity which might cause the disease is carried out for a certain minimum period, then the competent institution of this Contracting Party shall, where necessary, take into account periods of pursuing such an activity during which the above activity was subject to the legislation of the other Contracting Party.

Article 23

In the event of aggravation of an occupational disease for which a person has received or is receiving benefit under the legislation of a Contracting Party, the following rules shall apply:

a) if the person concerned has not, while in receipt of benefits, been engaged in an occupation under the legislation of the other Contracting Party likely to cause or aggravate the disease in question, the competent institution of the first Contracting Party shall meet the cost of the benefits under the provisions of the legislation which it administers taking into account the aggravation;

b) if the person concerned, while in receipt of benefits, has pursued such an activity under the legislation of the other Contracting Party, the competent institution of the first Contracting Party shall meet the cost of the benefits under the legislation which it administers without taking the aggravation into account. The competent institution of the second Contracting Party shall grant a supplement to the person concerned, the amount of which shall be equal to the difference between the amount of benefits due after aggravation and the amount which would have been due prior to the aggravation under the legislation which it administers if the disease in question had occurred under the legislation of that Contracting Party.

Article 24

1. When a person, who is insured under the legislation of one Contracting Party, needs urgent medical care as a consequence of an occupational accident

occurring in the territory of the other Contracting Party, such care shall be supplied by the insurance institution of that Contracting Party.

2. The cost of the urgent care provided in accordance with paragraph 1 of this Article shall be borne by the insurance institution providing the urgent care.

Section 2 - Special Provisions

Application of the Legislation of the Czech Republic

Article 25

The provision of benefits in respect of occupational injuries and diseases under the Czech legislation is governed by analogy by the provisions on sickness and maternity benefits, invalidity, old-age and survivors pensions.

Chapter Four

Funeral Grant

Article 26

1. The competent institution of one Contracting Party shall provide funeral grant in accordance with its legislation even in case where the person dies in the territory of the other Contracting Party. In relation to Israel, funeral grant shall not be payable in respect of a person who died outside Israel and was not a resident of Israel at the day of his death.

2. The provisions of the preceding paragraph also apply in the event of death resulting from occupational injury and disease.

Article 27

If entitlement to funeral grant arises under the legislation of each of the Contracting Parties, the institution competent to provide funeral grant is the institution of that Contracting Party to the legislation of which the deceased was subject by reason of the occupational activity he pursued at the time of his death or in the territory of which the not gainfully employed deceased was permanently resident.

Chapter Five
Children's Allowances

Article 28

If the legislation of one Contracting Party makes the acquisition, maintenance or recovery of the entitlement to children's allowances conditional upon completing certain periods of insurance, the competent institution of this Contracting Party shall, to the extent necessary, also take into account the periods of insurance completed under the legislation of the other Contracting Party.

Article 29

1. Children's allowances are payable by the Contracting Party in whose territory the children reside.

2. Where entitlement to children's allowances exists according to the legislation of both Contracting Parties they shall be paid only by the Contracting Party in whose territory the children are present.

PART IV

Miscellaneous Provisions

Article 30

1. The competent authorities of the Contracting Parties shall lay down procedures and adopt measures for the implementation of this Agreement.

2. The competent authorities shall, in particular,

a) conclude an Administrative Arrangement for the application of this Agreement;

b) inform each other about changes in their legislation mentioned in Article 2 of this Agreement;

c) designate liaison authorities to facilitate communication between the institutions of both Contracting Parties.

Article 31

1. The institutions, authorities and tribunals of the Contracting Parties shall assist each other in implementing this Agreement and shall act in a way as though they would apply their own legislation. This assistance shall be free of charge.

2. The institutions shall mutually recognize each other's documents issued by the competent bodies of the other Contracting Party; however, as regards the assessment of health conditions or degrees of invalidity, decisions may be taken exclusively by the institution of that Contracting Party which is liable to provide benefits. In doing so account may be taken of reports and medical opinions submitted by the institution of the other Contracting Party.

3. Medical examinations required under the legislation of one Contracting Party in respect of a person residing in the territory of the other Contracting Party will be carried out at the request of the competent institution by a doctor, a medical institution or the institution in the place of residence of the above person in the territory of the other Contracting Party at the expense of the institution that carries out the medical examinations.

Article 32

1. Exemption from or reduction of administrative charges laid down by the legislation of one Contracting Party in respect of certificates and other documents required to be submitted for the purposes of this legislation shall be extended to similar certificates and other documents required to be submitted for the purposes of the legislation of the other Contracting Party in implementing this Agreement.

2. Certificates and other documents required to be submitted for the implementation of this Agreement shall be exempt from authentication by diplomatic or consular authorities.

Article 33

1. Institutions responsible for insurance, authorities and tribunals of one Contracting Party may not reject claims or other documents submitted to them on the grounds that they are written in the official language of the other Contracting Party or in English.

2. In implementing this Agreement the institutions responsible for insurance, authorities and tribunals may communicate directly with each other and with the persons concerned or their representatives or by means of liaison authorities in their official languages or in English.

Article 34

1. Any claim, declaration or appeal which should have been submitted, in order to comply with the legislation of one Contracting Party, within a specified period of time to an administrative authority, tribunal or institution shall be admissible if it is submitted within the same period of time to a corresponding authority, tribunal or institution of the other Contracting Party.

2. A claim for benefits submitted under the legislation of one Contracting Party is deemed as a claim for a similar benefit under the legislation of the other Contracting Party. This does not apply, however, if the applicant expressly requests to postpone the award of old-age benefits under the legislation of one of the Contracting Parties.

Article 35

In cases where the competent institution of one Contracting Party is obliged to provide cash benefits to an entitled person residing in the territory of the other Contracting Party the amount of this obligation is expressed in the currency of the first Contracting Party.

Article 36

1. Payments arising from this Agreement are effected in freely convertible currencies.

2. Upon the request of the entitled person the competent institution liable to provide cash benefits will ensure that the above benefits are deposited on an account opened by the entitled person with a financial institution in the territory of that Contracting Party in which this institution has its head office.

Article 37

1. If a person, having the right to benefits under the legislation of one of the Contracting Parties in respect of a damage resulting from an occurrence in the territory of the other Contracting Party under its legislation, is authorized to damages from a third person, the right of compensation for the damage is transferred to the institution of the first Contracting Party obliged to pay benefits according to the relevant legislation; the other Contracting Party will recognize this transfer of entitlement.

2. If, under the provisions of paragraph 1 of this Article, institutions of each of the Contracting Parties have the right to damages from a third person in respect of one and the same occurrence they will be deemed as co-creditors. The third person

may satisfy the claims of both institutions transferred under paragraph 1 by effecting payment to one of them. The institutions are obliged to a partial settlement between each other in a ratio proportionate to the amount of benefits they should provide.

Article 38

1. If in implementing this Agreement hardships occurred, the competent authorities of both Contracting Parties may decide on the application of the provisions of this Agreement and adopt measures in favour of the entitled persons.

2. Differences and disputes which may arise in implementing this Agreement will be settled by agreement between the competent authorities of the Contracting Parties.

3. If agreement cannot be reached in accordance with the preceding paragraph, the dispute will be settled by negotiations between the Contracting Parties.

PART V

Transitional and Final Provisions

Article 39

1. This Agreement shall confer no rights to benefits for any period before its entry into force.

2. This Agreement also applies to events which have occurred prior to the date on which it came into force provided that the rights previously determined have not given rise to lump-sum payments.

3. When determining rights to benefits in accordance with this Agreement the periods of insurance completed prior to the date on which this Agreement came into force shall be also taken into account.

Article 40

1. Any benefit which has not been awarded or has been withdrawn on account of the nationality of the person concerned or on account of his residence in the territory of the other Contracting Party, or by reason of another obstacle which has

been removed through this Agreement, shall on application be awarded or resumed with effect from the date of entry into force of this Agreement.

2. Upon an application being received, a benefit granted prior to the entry into force of this Agreement shall be recalculated in compliance with the provisions of the same. Such benefits may also be recalculated without any application being made. This recalculation should not result in any reduction of the benefit paid.

Article 41

For rights which have been applied on the grounds of previous occurrences pursuant to Article 39 paragraph 2 and Article 40, the terms for their application as well as the time limits in accordance with the legislation of the Contracting Parties start, at the earliest, from the date on which this Agreement comes into force.

Article 42

1. This Agreement is subject to ratification.
2. This Agreement will enter into force on the first day of the second month following the day on which the ratification documents have been exchanged.

Article 43

1. This Agreement has been concluded for an indefinite period. Each of the Contracting Parties may, however, denounce the Agreement in writing. In such a case the validity of the Agreement expires 12 months after the date of the delivery of the notice on denunciation to the other Contracting Party.

2. In the event of denunciation of this Agreement the rights acquired under its provisions shall be maintained.

In witness whereof, the undersigned, being duly authorized thereto, have signed this Agreement.

Done at Jerusalem this day of which corresponds to..... in duplicate, each in the Czech, Hebrew and English language, each version being equally authentic. In case of differences of interpretation the English version is the authoritative one.

For the Government
of the Czech Republic

For the Government
of the State of Israel