

AGREEMENT

BETWEEN

THE CZECH REPUBLIC

AND

ROMANIA

ON SOCIAL SECURITY

The Czech Republic and Romania, hereinafter referred to as “the Contracting States”,
Being desirous of regulating and developing the relations between the two States in the
field of social security,

Have agreed as follows:

Part I - General Provisions

Article 1- Definitions

1. For the purposes of this Agreement:
 - a) the term “legislation” means the laws and other national regulations in force within the territory of each Contracting State and related to the fields of social security provided in Article 2;
 - b) the term “competent authority” means:
 - for the Czech Republic: the Ministry of Labour and Social Affairs and the Ministry of Health;
 - for Romania: the Ministry of Labour and Social Solidarity and the Ministry of Health and Family;
 - c) the term “institution” means the body or authority responsible for applying the legislation in the field of social security in the territory of each Contracting State;
 - d) the term “competent institution” means the institution on the expenses of which the benefits are provided;
 - e) the term “benefit” means all benefits in cash and in kind provided for in Article 2, financed from public funds;
 - f) the expression “benefits in kind” means the medical care services, drugs and sanitary materials;
 - g) the term “residence” means ordinary residence;
 - h) the term “stay” means temporary residence;
 - i) the term “period of insurance” means the periods of contribution and the equivalent periods completed under the legislation of each Contracting State;
 - j) the term “refugee” has the meaning assigned to it in Article 1 of the Convention on the Status of Refugees, signed at Geneva on 28 July 1951, and in Article 1, paragraph 2, of the Protocol on the Status of Refugees, signed at New York, on 31 January 1967;
 - k) the term “stateless person” has the meaning assigned to it in Article 1 of the Convention on the Status of Stateless Persons signed at New York on 28 September 1954;
 - l) the term “members of the family” means the persons defined as such by the legislation applied by the competent institution.
2. The other terms and expressions which are used in this Agreement shall have the meanings assigned to them in the legislation of either Contracting States.

Article 2 - Material scope

- 1) This Agreement shall apply to:
 - a) for Romania, the legislation regulating:
 - i. indemnities for work incapacity as a consequence of common diseases, injuries occurred outside the workplace, occupational diseases and work injuries;
 - ii. benefits in cash for recovering the work capacity;
 - iii. maternity indemnities;
 - iv. indemnities for child raising and sick child care;
 - v. old age pensions;
 - vi. early retirement pensions;
 - vii. invalidity pensions;
 - viii. survivor pensions;
 - ix. death grants;
 - x. unemployment benefits;
 - xi. state allowance for children;
 - xii. benefits in kind for sickness and maternity.
 - b) for the Czech Republic, the legislation regulating:
 - i. sickness and maternity benefits;
 - ii. invalidity benefits;
 - iii. old age benefits;
 - iv. survivor benefits;
 - v. occupational diseases and work injuries benefits;
 - vi. death grants;
 - vii. unemployment benefits;
 - viii. child allowance.
2. This Agreement shall be also applied to the legislation codifying, replacing, amending or supplementing the legislation on the benefits specified in paragraph 1.
3. This Agreement does not apply to the legislation introducing a new social security scheme, unless the competent authorities agree upon otherwise.
4. In the relations between the two Contracting States the obligations resulted from the international agreements concluded by the other Contracting State with the third states shall be taken into account, if these obligations are related to pensions.

Article 3 - Personal scope

This Agreement shall apply to all persons who are or have been subject to the legislation of either or both Contracting States as well as to members of the family and survivors of such persons as their rights derive from those persons.

Article 4 - Equal treatment

Unless otherwise provided in this Agreement, the following persons shall have the same rights and obligations under the legislation of either Contracting State as its own nationals:

- a) nationals of the other Contracting State;
- b) refugees and stateless persons;
- c) survivors and family members of the persons mentioned at letter a) and letter b) with regard to the rights deriving from such persons.

Article 5 - Export of benefits

1. Unless otherwise provided in this Agreement, any provision of the legislation of either Contracting State which make the recognition of rights and payment of the benefits conditional upon the beneficiary residence in its territory shall not be applied if the beneficiary resides in the territory of the other Contracting State.

2. Provisions of paragraph 1 shall not apply to:

- a) unemployment benefits;
- b) recognition of the entitlement to the total invalidity pension, granted according to the Czech legislation, to persons whom total invalidity occurred before 18 years old and who did not complete the necessary period of insurance;
- c) children allowances.

Article 6 - Avoiding the overlapping of benefits

1. This Agreement cannot provide or maintain the right to two or more benefits of the same kind that cover the same risk, on the ground of the same period of insurance.

2. The provisions of paragraph 1 shall not apply to benefits in case of invalidity, old age, survivors (pensions) or occupational disease which are awarded by the competent institutions of both Contracting States, in accordance with the provisions of Article 19 and Article 24 letter b).

Part II - Applicable legislation

Article 7 - General rules

Unless otherwise provided in this Agreement, a person who performs a gainful activity in the territory of either Contracting State shall be subject only to the legislation of that Contracting State.

Article 8 - Posted workers

The person employed in the territory of either Contracting State and who is posted by his/her employer to the territory of the other Contracting State to perform certain work for that employer shall continue to be subject to the legislation of the first Contracting State for the duration of that work, provided that the anticipated duration of the work does not exceed a period of 24 months.

Article 9 - Personnel of the international transport undertakings

A person employed by an international transport undertaking which has its registered office in the territory of a Contracting State shall be subject to the legislation of that Contracting State. However:

- a) a person employed by a branch or permanent representation of the said undertaking shall be subject to the legislation of the Contracting State in whose territory such branch or permanent representation is situated;
- b) a person employed in the territory of the Contracting State in which he resides shall be subject to the legislation of that Contracting State, even if the undertaking which employs him/her has no registered office or branch or permanent representation in its territory.

Article 10 - Crew members on vessels

A person performing a gainful activity on board of a vessel under the flag of either Contracting State shall be subject to the legislation of that Contracting State.

Article 11 – Civil servants

Civil servants and the persons deemed as such shall be subject to the legislation of the Contracting State in whose administration they are employed.

Article 12 - The diplomatic missions and consular offices

The members of the diplomatic missions and consular offices shall be subject to the provisions of the Vienna Convention on diplomatic relations, on 18 April 1961 and the Vienna Convention on consular relations, on 24 April 1963.

Article 13 – Exceptions from the provisions of Articles 7 to 12

The competent authorities of the two Contracting States or the institutions designated by these may agree, on request, on exceptions to the provisions of Articles 7

to 12, provided that the person referred to in the request is subject to the legislation of one or the other Contracting States.

Part III – Special provisions concerning the various categories of benefits

Section 1 – Sickness and maternity benefits

Article 14 - Aggregation of periods of insurance

If the legislation of either Contracting State makes entitlement to benefits conditional upon the completion of periods of insurance, the competent institution of this State shall take into account, if necessary, the periods of insurance completed under the legislation of the other Contracting State, provided that they do not overlap, as if they were periods of insurance completed under the legislation of the first Contracting State.

Article 15 – Award of benefits

1. A person who has acquired the entitlement to benefits under the legislation of one Contracting State shall receive in the territory of the other Contracting State
 - benefits in kind from the institution of the other Contracting State according to its legislation as if he/she were insured there, but only to the extent necessary, if the health condition of the person in question calls for the immediate provision of such benefits;
 - cash benefits directly from the competent institution of the first Contracting State according to its legislation.
2. Benefits in kind may be awarded in the territory of the other Contracting State even beyond the necessary extent mentioned in paragraph 1 with the consent of the competent institution of the first Contracting State.
3. The provision of prosthesis appliances and other substantial benefits in kind is always conditional upon the consent of the competent institution of the first Contracting State excluding cases where the provision is essential and urgent owing to the risk of life or health of the entitled person.

Article 16 - Health insurance of the pensioners

Persons receiving a pension from the pension scheme of one or both of the Contracting State shall pay contributions and shall be entitled to benefits in kind under the legislation of the Contracting State in the territory of which they have their residence.

Article 17 - Reimbursement of benefits in kind costs

1. The competent institution of one Contracting State shall reimburse to the institution of the other Contracting State the costs of benefits granted under the Article 15, for each case, excepting the administrative expenses.
2. The amount of costs intended for reimbursement by the competent institution is determined by the institution which has provided the benefits, at prices charged to its own insured persons for the provision of benefits.
3. The competent authorities shall agree the technical aspects of the provision of benefits and binding method of reimbursement of costs between the institutions of the Contracting States. With the aim to simplify the administrative procedures they may also agree that for all cases, or for a certain group of cases, lump-sum payments will be used instead of individual reimbursements in each individual concrete case.

Section 2 - Invalidity, old age and survivors' benefits

Article 18 - Aggregation of the insurance periods

1. Where the legislation of either Contracting State makes the entitlement to benefits conditional upon the completion of periods of insurance, the institution which applies that legislation shall take into account, if necessary, the periods of insurance completed under the corresponding legislation of the other Contracting State, as far as they do not overlap, as if they were periods completed under the legislation of the first Contracting State.
2. Where the legislation of either Contracting State makes the granting of certain benefits conditional upon the completion of certain periods in an occupation covered by a special scheme or in a specific occupation or employment, the periods completed under a corresponding scheme or, in the absence of such a scheme, in the same occupation or in the same employment, under the legislation of the other Contracting State shall be taken into account for determining entitlement to such benefits.
3. Where the legislation of either Contracting State makes the granting of benefits conditional upon the person concerned or, in the case of survivors benefit, on the deceased having been subject to that legislation at the time at which the contingency occurred, such condition shall be deemed to be fulfilled if the person concerned or the deceased was subject at that time to the legislation of the other Contracting State or if the person concerned or the survivor can claim corresponding benefits under the legislation of the other Contracting State.
4. Where the legislation of either of the Contracting States provides that the period of payment of a pension is reckonable for determining entitlement to benefit, the competent institution of that State shall, for that purpose, take into account any period during which a pension was paid under the legislation of the other Contracting State.
5. Where the legislation of either Contracting State makes the granting of invalidity benefits conditional upon the person concerned having received incapacity of work or invalidity benefits, during a specified period, it shall be taken into account any period of receiving such benefits under the legislation of the other Contracting State.

Article 19 - Award of benefits ("Pro rata temporis" calculation)

1. Where the person concerned fulfils the conditions under the legislation of one Contracting State for entitlement to a benefit, without taking into account the periods of insurance completed under the legislation of the other Contracting State, the competent institution shall calculate the benefit solely on the basis of the periods completed under the legislation it applies.
2. Where the person concerned fulfils the conditions for entitlement to a benefit, under the legislation of either Contracting State taking into account only the provisions of the Article 18, the competent institution shall calculate the benefit as follows:
 - a) it shall be calculated the theoretical amount of the benefit payable as if all the periods were completed under the legislation it applies;
 - b) where the amount of benefit does not depend on the length of the periods completed, the amount shall be considered to be the theoretical amount referred to in the sub-paragraph a);
 - c) it shall be subsequently calculated the actual amount of the benefit payable by it to the person concerned on the basis of the theoretical amount calculated in accordance with the provisions of sub-paragraph a) or of sub-paragraph b), as appropriate, and in proportion to the relationship between the periods completed before the contingency occurred under the legislation it applies and the total of the periods completed before contingency occurred under the legislation of both Contracting States;
3. For the establishment of the basis of calculation of the benefit shall be excluded the periods of insurance completed under the legislation of the other Contracting State.
4. Where the amount of benefit shall be calculated with regard to the number of members of the family or the survivors of that person, the competent institution shall take into account the members of the family or survivors residing in the territory of the other Contracting State.

Article 20 - Periods of insurance less than one year

1. Notwithstanding the provisions of Article 19, where the total duration of the periods of insurance completed under the legislation of the Contracting State is less than one year and where, on the basis solely of those periods, no right to benefit exists under that legislation, the institution of that Contracting State shall not be bound to grant benefits in respect of the said duration.
2. The periods of insurance referred to in the preceding paragraph shall be taken into account by the institution of the other Contracting State as if those periods had been completed under the legislation it applies.

Section 3 - Death grant

Article 21 - Award of death grants

1. The death grants shall be granted exclusively under the legislation of each Contracting State.
2. If there would be entitlement to a death grant under the legislation of both Contracting States:
 - a) the benefit shall be granted only under the legislation of the Contracting State in whose territory the death occurs; or
 - b) if the death does not occur in the territory of either Contracting State, the benefit shall be payable by the competent institution where the person was last insured before the death.

Section 4 - Occupational injuries and diseases benefits

Article 22 - Award of benefits in cash

1. Occupational injuries and diseases benefits shall be granted by the competent institution of the Contracting State whose legislation was applicable to person in the moment when the occupational injuries occurred or the period when the person has been engaged in an occupation liable to cause an occupational disease. The institution of the other Contracting State shall only grant benefits in case of ordinary disease or injury out of work, under the legislation applicable, taking into account the provision of this Agreement.
2. Where the legislation of either Contracting State makes the granting of benefits conditional upon the disease in question being first diagnosed in its territory, that condition shall be deemed to have been fulfilled if the disease was first diagnosed in the territory of the other Contracting State.
3. Where the legislation of either Contracting State makes the granting of benefits subject to the condition that an occupation liable to cause the disease in question was carried out for a specific period, any period of similar occupation carried out under the legislation of the other Contracting State, shall be taken into account.

Article 23 - Benefits in kind

Benefits in kind shall be provided and reimbursed according to the Part III - Section 1 of this Agreement.

Article 24 - Award of a benefit in cash for the aggravation of an occupational disease

Where a person has received or is receiving benefits for occupational disease from the competent institution of one of the Contracting States and claims benefit, in the event

of an aggravation of his disease, due to the occupation liable to cause such a disease in the territory of other Contracting States, the following provisions shall apply:

- a) the benefits are granted by the institution of the first Contracting State, under its legislation without taking into account the aggravation of the disease.
- b) the institution of the other Contracting States shall grant the benefit in the amount equal with the difference between the amount of the benefits due after the aggravation and the amount of the benefit that would have been awarded before the aggravation, under the legislation it applies.

Section 5 - Unemployment benefits

Article 25 - Aggregation of periods of insurance and award of the benefits

1. If the legislation of either Contracting State makes the entitlement or the duration of benefits conditional upon the completion of some periods of insurance, the competent institution of that State shall take into account, to the necessary extent, the periods of insurance completed under the legislation of the other Contracting State, in so far as they do not overlap, as if they were periods completed under the legislation of the first Contracting State.
2. The benefits shall be granted by the competent institutions of the Contracting State in the territory of which the respective person has the residence. For the establishment of the amount of the benefit only the incomes from the activities pursued in the territory of this Contracting State shall be taken into account, and in the case that such earnings would not exist or the incomes would be less than the minimum wage, the benefit shall be calculated taking into account the minimum wage provided in the legislation of that Contracting State.

Section 6 - Children allowances

Article 26 - Award of children allowances

1. The children allowances shall be exclusively granted, under the legislation of each Contracting State.
2. Where the condition for entitlement to children allowances is fulfilled under the legislation of both Contracting States, the children allowances shall be granted only under the legislation of the Contracting State in the territory of which the child has the residence.

Part IV - Miscellaneous provisions

Article 27 - Administrative and co-operation measures

1. The competent authorities of both Contracting States shall regulate and determine the necessary measures for the application of this Agreement.

2. The competent authorities:
 - a) shall agree upon the Administrative Arrangement for the application of this Agreement;
 - b) shall mutually inform about the changes in the legislation of the Contracting States;
 - c) shall establish the liaison bodies with a view to facilitate the communication between the institutions of the Contracting States.
3. The competent authorities and institutions of the two Contracting States shall assist one another on any matter relating to the application of this Agreement as if the matter affected the application of their own legislation. Such assistance shall be free of charge.
4. If a person residing or staying in the territory of either Contracting State has claimed or is receiving benefit under the legislation of the other Contracting State and a medical examination is necessary, the institution of the place of residence or stay of the first Contracting State shall arrange the examination on its expenses at the request of the competent institution of the other Contracting State.
5. Any information about a person which is sent to one Contracting State by the other Contracting State in accordance with this Agreement shall be deemed confidential and may be used only for the purpose of the application of this Agreement.

Article 28 - Use of official languages

1. For the application of this Agreement, the authorities and the institutions of the Contracting States may communicate with one another directly in their official languages and also in English.
2. No claim or document shall be rejected on the ground that it is written in the official language of the other Contracting State.

Article 29 - Exemption from charges and authentication

1. If the legislation of either Contracting States provides exemption, either wholly or partly, from any legal dues, consular fees or administrative charges, such exemption shall be applied to any documents submitted under the legislation of the other Contracting State for application of this Agreement.
2. All statements, documents and certificates of any kind required for the application of this Agreement shall be exempted from authentication by the diplomatic and consular authorities.

Article 30 - Submission of claim or appeal

Any claim or appeal which, under the legislation of either Contracting State, has to be submitted within a prescribed period to an institution of that Contracting State shall be

treated as such if it is submitted within the same period to the corresponding institution of the other Contracting State.

Article 31 - Recovery of overdue payments

The institutions of the Contracting States shall agree upon the reimbursement of the amounts overpaid for the benefits.

Article 32 - Enforcement procedures

1. Enforceable court decisions of either Contracting State as well as enforceable documents issued by an authority or institution of either Contracting State, in respect of social security contributions and other debts, shall be recognized in the territory of the other Contracting State.
2. Recognition may be refused only if it would be incompatible with the public order of the Contracting State in whose territory recognition of the decision or the document should be enforced.
3. Enforceable decisions and documents recognized under paragraph 1 of this Article shall be enforced in the territory of the other Contracting State. The enforcement procedure shall be in compliance with the legislation governing the enforcement of such decisions and documents of the Contracting State in whose territory enforcement takes place. A certificate indicating its enforceability shall accompany the decision or document.
4. Contribution debts to the institution of either Contracting State shall have, in any bankruptcy procedure or enforced settlement in the territory of the other Contracting State, the same precedence as the equivalent claims in the territory of that Contracting State.

Article 33 - Currency of payment

1. Payment of any benefit in accordance with this Agreement may be made in the currency of the Contracting State whose competent institution grants the benefits.
2. Payments in the other Contracting State, resulting from the application of this Agreement shall be made in convertible currencies.

Article 34 – Resolution of disputes

1. Any disputes concerning the interpretation or application of this Agreement shall be settled by consultations between the competent authorities or institutions of the Contracting States.
2. In case that the disputes could not be settled in accordance with the preceding paragraph, the Contracting States shall make all reasonable efforts to find a solution to the disputes.

Part V - Transitional and final provisions

Article 35 - Transitional provisions

1. This Agreement shall confer no rights for any period before its entry into force.
2. All periods of insurance completed under the legislation of the Contracting States before the entry into force of this Agreement shall be taken into account for the purpose of determining rights arising from this Agreement.
3. Subject to paragraph 1 of this Article, rights may arise under this Agreement even in respect of a contingency which arose before its entry into force, except for lump-sum payment.
4. Any benefit, which has been determined before the date of the entry into force of this Agreement, shall not be recalculated.

Article 36 – Entry into force

1. The Contracting States shall inform each other by a written notification that all the internal requirements necessary for the entry into force of the Agreement have been met. This Agreement shall enter into force the first day of the third month following the month when the last notification has been delivered to the other Contracting State.

2. On the date of the entry into force of this Agreement, the Convention between the Czechoslovak Republic and the Popular Republic of Romania on the co-operation in social affairs, signed in Prague, on 2 May 1957, shall cease to be valid in the relations between the Contracting States.

Article 37 – Validity and termination

1. This Agreement is concluded for an undetermined period.

2. Each Contracting State may denounce this Agreement by a written notification to the other Contracting State. In this case, this Agreement shall cease to be valid on the first day of the sixth month following the month when the written notification has been delivered to the other Contracting State.

3. In case of denunciation of this Agreement, all rights acquired under its provisions shall be maintained, and the claims submitted before the end of the validity of this Agreement shall be solved under its provisions.

Done aton, in two original copies, each in the Czech, Romanian and English languages, all texts being equally authentic. In case of differences of interpretation, the English version shall prevail.

For the Czech Republic

For Romania