

AGREEMENT
BETWEEN
THE CZECH REPUBLIC
AND
THE FEDERATIVE REPUBLIC OF BRAZIL
ON SOCIAL SECURITY

The Czech Republic and the Federative Republic of Brazil, hereinafter referred to as "the Contracting States",

Being desirous of strengthening the friendship and of regulating 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, the following terms shall mean:
 - a) "*legislation*" – the laws and other national regulations specified in Article 2;
 - b) "*competent authority*"
 - i. For the Czech Republic: the Ministry of Labour and Social Affairs,
 - ii. For the Federative Republic of Brazil: the Ministry of Economy;
 - c) "*competent institution*" – the agency, institution or body responsible for applying the legislation specified in Article 2;
 - d) "*liaison body*" - the body designated to simplify communication and to provide assistance in the implementation of the Agreement;
 - e) "*benefits*" - cash benefits, including any supplements or readjustments, as determined by the legislation specified in Article 2;
 - f) "*residence*" – legally established habitual residence;
 - g) "*stay*" – temporary residence;
 - h) "*periods of insurance*" – the periods of contribution and the equivalent periods completed under the legislation of each Contracting State;
 - i) "*national*" - a person defined as such under the Constitution and laws of each Contracting State.

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 State.

Article 2 – Material scope

1. For the purposes of this Agreement, it shall apply:

a) For the Czech Republic,

to the legislation on pension insurance benefits in respect of old age, disability and survivors, and to the related legislation; and

b) For the Federative Republic of Brazil,

i. to the legislation on the General Scheme of Social Security, with regard to the pensions for old age, disability and survivors,

ii. to the legislation on the Social Security Schemes for Civil Servants, with regard to the pensions for old age, disability and survivors.

2. This Agreement shall be also applied to any legislation that revokes, replaces, amends, supplements or consolidates the legislation specified in paragraph 1.

3. This Agreement shall not apply to social assistance or to benefit schemes for victims of war or its consequences.

Article 3 – Personal scope

This Agreement shall apply to all persons who are or have been subject to the legislations of either or both Contracting States as well as to other persons who derive their rights from those persons.

Article 4 – Equal treatment

Unless otherwise provided in this Agreement, the persons specified in Article 3 shall have the same rights and obligations, which under the legislation of a Contracting State have nationals thereof.

Article 5 – Export of benefits

1. Unless otherwise provided in this Agreement, entitlement to the benefits and their payment according to the legislation of one Contracting State, granted whether due to independent periods of insurance or their totalization, cannot be reduced, amended, suspended, or confiscated on account of the fact that the beneficiary resides in the territory of the other Contracting State.
2. Benefits provided under the legislation of either Contracting State or this Agreement shall be paid to persons who reside in a third State under the same conditions as if they were nationals of that Contracting State residing in the territory of that third State.

Article 6 – Assimilations of events

Events that have legal effect according to the legislation of one Contracting State and which occurred in the territory of the other Contracting State, shall be taken into account as if they had occurred in the territory of the first Contracting State.

Part II – Applicable legislation

Article 7 – General rule

Unless otherwise provided in this Agreement, a person pursuing an activity as an employed or self-employed person in the territory of one of the Contracting States shall with regard to that activity be subject only to the legislation of the Contracting State where such person performs activity.

Article 8 – Posted workers

1. A person normally employed in the territory of one 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 till the end of 36th (thirty-sixth) month of the posting, as if the person were employed in its territory.

2. Paragraph 1 of this Article shall also apply where a person was initially posted from one Contracting State to a territory of a third State and subsequently posted to the other Contracting State.

3. Once the posting period of 36 (thirty-six) months, as provisioned in paragraph 1, has expired a new posting will only be possible according to this Agreement after a period of 12 (twelve) months.

4. The proof of posting and other details shall be established in the Administrative Arrangement.

Article 9 – Crewmembers of an airline company

1. Unless otherwise provided in paragraph 2 the crewmember of an airline company who works in the territories of both Contracting States is subject only to the legislation of the Contracting State in which territory the company has its head office.

2. The crewmember of an airline company, employed by its branch or permanent representation of the airline company shall be subject to the legislation of the Contracting State in whose territory such branch or permanent representation is located.

Article 10 – Crewmembers on vessels

A person employed as a crewmember on board of a vessel flying 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

This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or of the Vienna Convention on Consular Relations of April 24, 1963.

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

At the joint request of an employee and his/her employer or at the request of a self-employed person, the competent authorities or designated competent institutions of the two Contracting States may agree to grant an exception to the provisions of this Part of the Agreement with respect to individual persons or categories of persons, provided that any affected person shall be subject to the legislation of at least one Contracting State.

Part III – Special provisions concerning pension benefits

Article 14 - Totalization of periods of insurance

1. If the benefit under the legislation of the Contracting State is conditional upon the existence or completion of certain periods of insurance, the competent institution of this Contracting State shall take account of the existence or completion of equivalent periods of insurance under the legislation of the other Contracting State, in so far as they are not overlapping periods of insurance.
2. Each Contracting State shall take into account periods of insurance completed under the laws of third States, within the framework of its international obligations.

Article 15 - Calculation of benefits

1. Where entitlement to a benefit exists under the legislation of one Contracting State without the application of Article 14, the competent institution of this Contracting State shall calculate the amount of the benefit exclusively based on the periods of insurance completed under its legislation, and also according to paragraph 2 of this Article, with the exception when the result of such calculation is equal or lower.
2. In the case of totalization of periods of insurance, the competent institution of the Contracting State shall calculate the amount of the benefit taking into account periods of insurance completed under the legislation of the other Contracting State and of the third State in accordance with Article 14 and:

- a) calculate the theoretical benefit amount that would be paid as if all the periods of insurance had been completed under its own legislation; and
 - b) then calculate the amount due, based on the theoretical amount specified under (a), in proportion of the periods of insurance completed under its legislation, by the totalized periods of insurance.
3. In order to determine the basis for calculating the benefit, the competent institution of the Contracting State shall take into account only the income earned during the periods of insurance completed under its legislation and – as regards the Czech Republic – it shall be equally used for the periods of insurance aggregated for the calculation of the theoretical amount of the benefit.
4. The theoretical amount referred to in sub-paragraph (a) of paragraph 2 of this Article shall not be inferior to the minimum amount guaranteed by the legislation of each Contracting State.
5. The person concerned shall be entitled to the higher amount of the benefit calculated in accordance with paragraphs 1 and 2 of this Article.

Article 16 - Periods of insurance less than 1 (one) year

1. Notwithstanding the provisions of Article 14, where total duration of the periods of insurance completed under the legislation of the Contracting State is less than 1 (one) year and where, on the basis solely of those periods, no right to benefit exists under that legislation, the competent institution of that Contracting State shall not be bound to grant benefits in respect of the said 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 as if those periods of insurance had been completed under the legislation it applies.
3. Notwithstanding the provisions of the preceding paragraphs, if periods of insurance completed in each of the Contracting States are less than 1 (one) year, and, when considered individually, do not give entitlement to benefits, they shall be aggregated in accordance with Article 14 and the benefits shall be determined in accordance with Article 15 paragraph 2.

Article 17 - Special provisions concerning the Czech Republic

1. Notwithstanding Article 14 of this Agreement, only the Czech periods of insurance shall be taken into consideration for the purpose of meeting the condition of minimum period of insurance required by the legislation of the Czech Republic in order to take account of substitute periods of insurance.
2. Article 5 shall not apply to entitlement to the invalidity pension granted according to the Czech legislation to persons whose invalidity occurred before 18 years of age and who did not complete the necessary period of insurance.
3. The competent authority of the Czech Republic may, in the interest of certain categories of beneficiaries, limit the application of Article 6.

Part IV – Miscellaneous provisions

Article 18 – Administrative and co-operation measures

1. The competent authorities of both Contracting States shall regulate and determine the necessary measures for the implementation of this Agreement.
2. The competent authorities shall:
 - a) conclude the Administrative Arrangement for the implementation of this Agreement;
 - b) mutually inform about the changes in the legislation of the Contracting States that may influence this Agreement;
 - c) establish the liaison bodies with a view to facilitate the communication between the Contracting States.
3. The competent authorities and competent institutions of the two Contracting States shall assist one another in any matter relating to the implementation 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 competent institution of the place of residence or stay shall arrange the examination at its expenses at the request of the competent institution of the other Contracting State.

5. All information about persons sent from one Contracting State to the other Contracting State in accordance with this Agreement shall be deemed confidential and may be used only for the purpose of the implementation of this Agreement.

Article 19 – Use of official languages

1. For the implementation of this Agreement, the competent authorities, competent institutions and liaison bodies of the Contracting States may communicate with one another directly in their official languages and 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 20 – Exemption from charges and authentication

1. If the legislation of either Contracting State provides exemption, either wholly or partly, from consular fees or administrative charges, such exemption shall be applied to any documents submitted to the competent authority, liaison body or competent institution of the other Contracting State in the implementation of this Agreement.

2. Documents and certificates required to be produced for the purposes of this Agreement shall be exempt from legalization, as well as from the Apostille provided for in the Hague Convention of 5 October 1961 (*Apostille Convention*) on Abolishing the Requirement of Legalization for Foreign Public Documents, provided that they are processed between the competent authorities, competent institutions and liaison bodies.

3. Copies of documents which are certified as true and exact copies by the competent institution of one Contracting State, shall be accepted by the competent institution of the other Contracting State, without additional certification.

Article 21 – 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 the competent authority or competent institution of that Contracting State shall be treated as such if it is submitted within the same period to the corresponding competent authority or competent institution of the other Contracting State. In such a case, the competent authority or competent institution of the Contracting State, which receives the claim or appeal, forwards it, immediately, to the competent authority or competent institution of the first Contracting State, either directly, or through liaison bodies of both Contracting States.

Article 22 – Recovery of undue payments

If the competent institution of a Contracting State has paid benefits unduly or in excess to a person, this competent institution may, within the terms and limits laid down in the legislation it applies, request the competent institution of the other Contracting State responsible for paying benefits to the person concerned to deduct the undue amount from arrears or on-going payments owed to the person concerned. The competent institution of the other Contracting State shall deduct the amount concerned subject to the conditions and limits in accordance with the legislation it applies in the same way as if it had made the overpayments itself, and shall transfer the amount to the competent institution that has paid benefits unduly or in excess.

Article 23 – Currency of payment

1. Benefits shall be determined in the currency of the Contracting State making the payment.
2. Payments into the other Contracting State resulting from the implementation of this Agreement shall be made in convertible currencies.
3. In the event of one of the Contracting States introducing provisions restricting exchange or transfer of currency, both Contracting States shall immediately take the necessary measures to ensure the transfer of benefits due.

Article 24 – Resolution of disputes

Any disputes concerning the interpretation or implementation of this Agreement shall be settled by consultations between the competent authorities or competent institutions of the Contracting State.

Part V – Transitional and final provisions

Article 25 – Transitional provisions

1. This Agreement shall confer no entitlement to a benefit and its payment for any period prior to the date of the entry into force of this Agreement.
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 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 arose before its entry into force, except for lump- sum payment.
4. In applying Article 8 (Posted workers) of this Agreement in the case of persons who were sent to work in the territory of a Contracting State prior to the date of entry into force of this Agreement, the period of employment referred to in that Article shall be considered to begin on the date of entry into force of this Agreement.

Article 26 – Ratification and entry into force

1. This Agreement is subject to ratification.
2. This Agreement shall enter into force on the 1st (first) day of the 3rd (third) calendar month following the month in which the Contracting State inform each other by written notification that all necessary internal requirements for the entry into force of this Agreement have been fulfilled.

Article 27 – Revision or amendment

Each Contracting State may request revision or amendment to this Agreement. Upon mutual agreement, such revision or amendment will enter into force upon fulfilment of the same conditions as this Agreement.

Article 28 - Duration and termination of the Agreement

1. This Agreement is concluded for an undetermined period.
2. Each Contracting State may terminate this Agreement by a written notification to the other Contracting State. In this case, this Agreement shall remain in force until the last day of the 5th (fifth) calendar month following the month when the written notification has been delivered to the other Contracting State.
3. If this Agreement is terminated, rights regarding entitlement to or payment of benefits acquired under it shall be retained.

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

Done at BRASILIA on 07 OF DECEMBER 2010, in two original copies, each in the Czech, Portuguese and English languages, all texts being equally authentic. In case of differences of interpretation, the English text shall prevail.

For the Czech Republic

For the Federative Republic of Brazil

