

AGREEMENT BETWEEN

THE CZECH REPUBLIC

AND

THE REPUBLIC OF TURKEY

ON SOCIAL SECURITY

The Czech Republic and the Republic of Turkey (hereinafter called Contracting Parties), being desirous 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 purpose of this Agreement:

- (a) "*Legislation*" means the law, by-law and the regulations which relate to the social security branches and schemes specified in Article 2;
- (b) "*Competent Authority*" means
in relation to the Czech Republic, Ministry of Labour and Social Affairs
and Ministry of Health,
in relation to the Republic of Turkey, Ministry of Labour and Social Security
and other related Ministries;
- (c) "*Competent Institution*" means the institutions responsible for the implementation of the legislation mentioned in Article 2 and providing benefits under that legislation;
- (d) "*Institution*" means the authority or the body responsible for applying in all or any part of the legislation mentioned in Article 2;
- (e) "*Insured Person*" means the person who is or has been subject to the legislation mentioned in Article 2;
- (f) "*Periods of Insurance*" means the periods over which insurance contributions or premiums have been paid or considered as paid;
- (g) "*Pension*" and "*Benefit*" means all pension, income and benefit provided according to the legislation mentioned in Article 2;
- (h) "*Benefits in kind*" means health care and further benefits other than cash benefits as well as services;
- (i) "*Residence*" means ordinary residence;

- (j) "*Stay*" means temporary stay;
 - (k) "*Members of the family*" means the persons defined, or recognised as such by the legislation applied by the competent institution;
 - (l) "*Survivor*" means the persons defined, or recognised as such by the legislation according to which pensions and benefits are provided.
2. Other expressions and terms which are used in this Agreement shall have the meanings respectively assigned to them in the legislation applicable.

Article 2

Material scope

1. This Agreement shall apply

A- In relation to the Czech Republic to the legislation regulating:

- 1) Sickness Insurance,
- 2) Health Insurance,
- 3) Pension Insurance,
- 4) Occupational Injuries and Diseases,
- 5) State Social Support (as far as death grants and child allowances are concerned),
- 6) Unemployment Benefits;

B- In relation to the Republic of Turkey to:

- 1) Social Insurance Act covering the contract workers and Social Insurance Act for the Contract Agricultural Workers (invalidity, old age, survivors, occupational injuries and diseases, sickness and maternity),

- 2) The Act on the Retirement Fund of the Republic of Turkey covering the rights of civil servants (invalidity, old age and survivors),
 - 3) Social Insurance Institution Act for Tradesmen, Craftsmen, Artisans and Other Self-Employed and the Social Insurance Act for self-employed in agriculture (invalidity, old age and survivors),
 - 4) Legislation relating to pension funds as stipulated in the provisional Article 20 of Social Insurance Act No. 506. (invalidity, old age, survivors, occupational injuries and diseases, sickness and maternity),
 - 5) Unemployment Insurance Act applying to insured working under the Articles of this Agreement.
2. This Agreement shall also apply to any legislation which supersedes, replaces, amends, supplements or consolidates the legislation specified in paragraph 1, provided that the terms of paragraph 3 are reserved.
 3. This Agreement shall also apply to the legislation relating to a new social insurance branch only on condition that a supplementary agreement is concluded for this purpose between the Contracting Parties.

Article 3

Personal scope

Unless otherwise provided in this Agreement it shall apply to all persons who are or have been subject to the legislation of either or both Contracting Parties as well as to members of the family and survivors of such persons insofar as their rights derive from those persons.

Article 4

Equal treatment

Unless otherwise provided in this Agreement, the persons who are resident in the territory of either Contracting Party and to whom the provisions of this Agreement apply shall enjoy the rights provided by the legislation of the Contracting Party on the territory of which they are resident on the same footing as the nationals of that Contracting Party.

Article 5
Export of benefits

Unless otherwise provided in this Agreement, benefits provided according to the legislation of one of the Contracting Parties to persons identified in Article 3, shall continue to be paid at the same rate while they are resident in the territory of the other Contracting Party or in the territory of a third country other than the Contracting Parties.

Article 6
Prevention of overlapping of benefits

1. Where, according to the legislation of one Contracting Party the benefit provided is reduced, suspended or withdrawn in case it overlaps with other social security benefits or with a profit, similar terms shall apply when rights to social security benefits under the legislation of the other Contracting Party or a profit in the territory of the other Contracting Party is acquired.
2. Paragraph 1 shall not apply to overlapping benefits in respect of invalidity, old age, death or occupational diseases to be awarded by the institutions of both Contracting Parties, in accordance with the provisions of Article 19 and Article 24 (b).

PART II
APPLICABLE LEGISLATION

Article 7
General rules

Unless otherwise provided in this Agreement:

1. Persons who are employed in the territory of either Contracting Party shall, with respect to that employment, be subject to the legislation of only that Contracting Party, even if they reside in the territory of the other Contracting Party, or if their employer or the registered office of their employer is located in the territory of the other Contracting Party.
2. A self-employed person who follows his occupation in the territory of either Contracting Party shall be subject to the legislation of that Contracting Party, even if s/he resides in the territory of the other Contracting Party.

Article 8
Temporary posting

Where a person employed in the territory of either Contracting Party is posted by his employer to perform certain work in the territory of the other Contracting Party s/he shall continue to be subject to the legislation of the first Contracting Party for a period not exceeding 24 months provided that s/he maintains the employee status of the same employer.

Article 9
Personnel of international transport undertakings

1. A person who is a member of the travelling or flying personnel of an undertaking which, for hire or on its own account, operates international transport services for passengers or goods and has its registered office in the territory of other Contracting Party shall be subject to the legislation of that Contracting Party.
2. A person who is employed by a branch office or permanent representation established in the territory of a Contracting Party other than that where it has its registered office shall be subject to the legislation of the Contracting Party in whose territory such branch office or permanent representation is established.

Article 10
Crew members on vessels

Crew members on vessels as well as any person regularly employed on board a vessel flying the flag of either Contracting Party shall be subject to the legislation of that Contracting Party.

Article 11
Diplomatic missions and consular posts

1. Members of diplomatic missions and consular posts of either Contracting Party shall be subject to the legislation of the posting Contracting Party.
2. Members of the personnel shall be subject to the legislation of the receiving Contracting Party should they are engaged locally. They may opt for

the application of the legislation of the employing Contracting Party within three months following the date of their engagement provided that they are nationals of that Contracting Party.

Article 12
Civil Servants

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

Article 13
Exemptions

On the joint request of an employee and his employer or on an individual request of self-employed persons the competent authorities of the Contracting Parties or bodies authorised by them may agree on exemptions to Articles 7 to 12 of this Agreement regarding the legislation applicable to a person or groups of persons.

PART III
SPECIAL PROVISIONS

SECTION I
SICKNESS AND MATERNITY BENEFITS

Article 14
Aggregation of periods of insurance

If a certain period of insurance is necessary for the acquisition, maintenance or recovery of the entitlement to benefits under the legislation of one Contracting Party, then the competent institution will, to the extent necessary, take also into account not overlapping periods of similar insurance acquired under the legislation of the other Contracting Party.

Article 15

Provision of benefits

1. A person who has acquired the entitlement to benefits under the legislation of one Contracting Party shall receive in the territory of the other Contracting Party
 - benefits in kind from the institution of the other Contracting Party according to its legislation as if he or 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 Party according to its legislation.
2. Benefits in kind may be awarded in the territory of the other Contracting Party even beyond the necessary extent mentioned in paragraph 1 with the consent of the competent institution of the first Contracting Party.
3. The provision of prosthetic appliances and other benefits in kind of greater value is always conditional upon the consent of the competent institution of the first Contracting Party 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 and benefits of the pensioners

Persons receiving a pension from the pension scheme of one or both of the Contracting Parties are subject to the health insurance legislation of the Contracting Party in the territory of which they have their residence. Also, a pension awarded only under the legislation of the second Contracting Party is considered as a pension of the first Contracting Party.

Article 17

Reimbursement of benefits in kind costs

1. The competent institution of one Contracting Party shall reimburse to the institution of the other Contracting Party the costs of benefits granted under the Article 15, except administrative expenses.

2. The amount of costs intended for reimbursement by the competent institution is determined by the institution, which had 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 Parties. With the aim to simplify 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 individual concrete cases.

SECTION II INVALIDITY, OLD-AGE AND SURVIVORS' BENEFITS

Article 18

Aggregation of periods of insurance

1. Where the legislation of either Contracting Party makes entitlement to benefits conditional upon the completion of periods of insurance, the competent institution of that Contracting Party shall take into account periods of insurance completed under the legislation of the other Contracting Party, in so far as they do not coincide, as if they were periods of insurance completed under the legislation of the first Contracting Party.

Where a person does not qualify for a benefit in pursuance of the provisions of this Article, the Contracting Parties shall also take account of the insurance periods completed under the legislation of a Third State with which both Contracting Parties concluded an Agreement on Social Security, in so far as they do not coincide.

2. The method for conversion of periods of insurance under the Czech and Turkish legislation will be specified in the Administrative Agreement.

Article 19

Calculation of benefits

1. Where the person concerned satisfies the conditions under the legislation of either Contracting Party without regard to the provisions of Article 18,

the competent institution of that Contracting Party shall calculate the benefits solely on the basis of the periods completed under the legislation it applies.

2. Where the person concerned satisfies the conditions under the legislation of either Contracting Party, only with regard to the provisions of Article 18, the competent institution of this Contracting Party shall calculate the benefit as follows:

(a) the competent institution shall calculate the theoretical amount of benefits payable as if all the periods completed under the legislation of both Contracting Parties had been completed solely under the legislation which that institution applies;

(b) however, in case of benefits the amount of which does not depend on the length of periods completed, that amount shall be taken to be the theoretical amount referred to in the preceding sub-paragraph;

(c) the competent institution shall then calculate the actual amount of 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) of this paragraph, as appropriate, and in proportion to the relationship between the periods completed before the contingency arose under the legislation it applies and the total of the periods completed before the contingency arose under the legislation of both Contracting Parties. This is the amount payable to the person concerned.

3. In order to determine the average earning which shall be taken into consideration for calculation of the benefits payable, the competent institution shall take into consideration the earnings corresponding only to the insurance periods completed under the legislation it applies.

Article 20

Period 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 a Contracting Party is less than one year and where, on the basis of those periods only, no right to benefit exists under that legislation, the institution of the Party concerned shall not be bound to grant benefit in respect of the said periods.

2. In this case, the competent institution of the other Contracting Party, shall calculate the pension by taking into account the periods of insurance referred to in paragraph 1 of this Article as if those periods had been completed under the legislation it applies.

Article 21
Special Provision

1. In determining the conditions with regard to the entitlement to a benefit according to the Turkish legislation, the date of the first start to work in the territory of the other Contracting Party shall be taken into consideration.
2. The condition for acquiring the entitlement to a full invalidity pension according to the Czech legislation for the persons whose full invalidity originated before reaching eighteen years of age and who were not insured for the necessary period, is the permanent residence in the territory of the Czech Republic.

SECTION III
DEATH GRANT

Article 22
Payment of death grants

1. The provision of death grants is governed exclusively by the respective legislation of each Contracting Party.
2. Where in the application of this Agreement a right to death grant under the legislation of both Contracting Parties exists, the grant shall be paid only under the legislation of the Contracting Party in the territory of which the death occurs.

SECTION IV
OCCUPATIONAL DISEASES AND WORK ACCIDENTS

Article 23
Exposition to the same risk in both Contracting Parties

1. Where a person contracts an occupational disease after engaging in the territories of both Contracting Parties in an occupation liable to cause that disease, benefits which s/he or his/her survivors may be entitled shall be

awarded under the legislation of the last Contracting Party the conditions of which are satisfied, regard being given, where appropriate, to the provision of paragraphs 2 to 4 of this Article.

2. Where under the legislation of one Contracting Party the eligibility to receive benefits for occupational diseases is conditional upon the disease in question being first diagnosed in its territory, that condition shall be deemed to have been satisfied had the disease being first diagnosed in the territory of the other Contracting Party.
3. Where under the legislation of one Contracting Party the eligibility to receive benefits for occupational diseases is conditional upon the disease in question being diagnosed within a specified period after the termination of the last occupation liable to cause such a disease, the competent institution of that Contracting Party shall take into account any similar occupation engaged in the territory of the other Contracting Party as if they had been performed under the legislation of the first Contracting Party.
4. Where under the legislation of one Contracting Party the granting of benefits for occupational diseases is explicitly or implicitly subject to the condition that an occupation liable to cause the disease in question was carried out for a specific period, the competent institution of that Contracting Party shall in process of aggravation take into account periods during which such an occupation was carried on in the territory of the other Contracting Party.

Article 24

Aggravation of an occupational disease

The following rules shall be applied when the condition of an insured person who has received cash benefits according to the legislation of one of the Contracting Parties for an occupational disease, aggravates during his/her residence in the territory of the other Contracting Party:

- (a) Where an insured person who has contracted an occupational disease is not engaged, under the legislation of the second Contracting Party, in an occupation liable to cause or aggravate the disease in question, the competent institution of the first Contracting Party shall provide cash benefit, taking the degree of aggravation into account, in accordance with the provisions of the legislation that it applies;
- b) where the insured person is engaged in such an occupation in the territory of the second Contracting Party, the competent

institution of the first Contracting Party shall provide cash benefit, without taking the degree of aggravation into account, in accordance with the provisions of the legislation it applies; the competent institution of the second Contracting Party shall grant to the worker a cash benefit the amount of which shall be equal to the difference between the amount of cash benefit due in accordance with the provisions of the legislation which it applies after the aggravation and the amount of cash benefit that would have been due before the aggravation.

Article 25

Benefits in kind

The provision and reimbursement of benefits in kind is governed by the provision of Part III, Section I on sickness and maternity benefits.

SECTION V

UNEMPLOYMENT BENEFIT

Article 26

Aggregation of periods of insurance

1. Where the entitlement to benefits according to one of the Contracting Parties' legislation is conditional upon the completion of periods of insurance, the competent institution of that Contracting Party shall take into account periods of insurance completed under the legislation of the other Contracting Party, in so far as they do not coincide.
2. The amount, duration and payment procedure are determined according to the legislation applied by the Competent Institution qualifying the benefits.

SECTION VI

FAMILY ALLOWANCES

Article 27

Aggregation of periods of insurance

Where the legislation of either Contracting Party makes entitlement to family allowances conditional upon the completion of periods of insurance,

the competent institution of that Contracting Party shall take into account periods of insurance completed under the legislation of the other Contracting Party, in so far as they do not coincide, as if they were periods of insurance completed under the legislation of the first Contracting Party.

Article 28

Provision of family allowances

1. The provision of family allowances is governed exclusively by the respective legislation of each Contracting Party.
2. Where in the application of this Agreement a right to family allowances under the legislation of both Contracting Parties exists, the allowance shall be paid only under the legislation of the Contracting Party in the territory of which a person has the residence.

PART IV

MISCELLANEOUS PROVISIONS

Article 29

Administration and co-operation

1. The competent authorities of both Contracting Parties shall:
 - (a) determine the administrative measures necessary for the application of this Agreement;
 - (b) communicate to each other as soon as possible, all information about the measures taken by them for the application of this Agreement and about changes in their national legislation in so far as these changes affect the application of this Agreement;
 - (c) establish liaison bodies for the purpose of facilitating the implementation of this Agreement.
2. The competent authorities and institutions of both Contracting Parties shall assist each other 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.
3. The medical examinations to determine the degree of capacity for work of those who reside or stay in the territory of a Contracting Party prescribed

under the legislation of either Contracting Party, shall be carried out by the institution of the place of residence or stay upon the request of the competent institution without mutual reimbursement of cost.

4. Any information about an individual which is communicated to that Contracting Party by the other Contracting Party in accordance with, and for the purposes of, this Agreement shall be deemed confidential and be used only for the purpose of implementing this Agreement and the legislation to which this Agreement applies.

Article 30

Use of official languages

1. For the purposes of the application of this Agreement, the authorities and the institutions of the two Contracting Parties may communicate with each other in their official languages or 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 Party or in English.

Article 31

Exemption from charges and authentication

1. Where according to the legislation of one Contracting Party any certificate or other document which is submitted under the legislation of that Contracting Party is exempted, either wholly or partly, from any taxes, legal dues, consular fees or administrative charges, such exemption shall apply to any certificate or other document which is submitted under the legislation of the other Contracting Party or in accordance with this Agreement.
2. All statements, documents and certificates of any kind required to be produced for the purposes of this Agreement shall be exempt from authentication by diplomatic or consular authorities.

Article 32

Submission of a claim or appeal

1. Any claim or appeal which should, for the purposes of the legislation of either Contracting Party, have been submitted within a prescribed period to an institution of that Contracting Party shall be treated as if it had been submitted to that institution if it is submitted within the same period to a corresponding institution of the other Contracting Party.

2. A claim for benefits submitted under the legislation of one Contracting Party shall be 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 the award of old-age benefits under the legislation of one of the Contracting Party to be postponed.

Article 33

Liability of a third party

Where a person is receiving benefits under the legislation of either Contracting Party on account of an injury caused or sustained in the territory of the other Contracting Party, the rights of the institution liable to pay benefits against the third party liable to pay damages shall be regulated in the following manner:

- (a) the institution liable to pay benefits according to the legislation applicable to it substitutes the beneficiary with respect to rights against a third party; the other Contracting Party shall recognise this substitution;
- (b) where the said institution has a direct right against the third party, such right shall be recognized by the other Contracting Party.

Article 34

Recovery of undue payments

The institutions of the Contracting Parties shall, by mutual agreement, settle possible overpayments in accordance with the applicable legislation.

Article 35

Currency of payments

Payments to the other Contracting Party arising from this Agreement are made in freely convertible currencies.

Article 36
Resolution of disputes

1. Any dispute that may arise in connection with the application of this Agreement shall be resolved by negotiations between the competent authorities of two Contracting Parties.
2. If any dispute cannot be resolved as is specified in paragraph 1 of this Article within six months, it shall be solved by negotiations of the Contracting Parties.

PART V
TRANSITIONAL AND FINAL PROVISIONS

Article 37
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 Parties 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 shall arise under this Agreement even in respect of a contingency which arose before its entry into force.
4. Any benefits due only by virtue of this Agreement shall be determined, at the request of the person concerned and in accordance with the provisions of this Agreement, with effect from the entry into force of this Agreement, unless the rights previously determined have given rise to a lump-sum payment.
5. Where the request referred to in paragraph 4 of this Article is submitted within two years of the entry into force of this Agreement, the rights arising in accordance with the provisions of this Agreement shall be acquired as of that date, and those provisions of the legislation of either Contracting Party concerning the forfeiture or limitation of rights shall not be invoked against the person concerned. If the request is submitted after two years of the entry into force of this Agreement, the rights shall be acquired in accordance with the provisions of the legislation of either Contracting Party.

Article 38

Ratification and entry into force

1. This Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible.
2. The Agreement shall enter into force on the first day of the third month following the month in which the instruments of ratification have been exchanged.

Article 39

Duration of the Agreement

This Agreement shall remain in force indefinitely. Each of the Contracting Parties may, however, denounce it in writing. In such a case the validity of the Agreement expires three calendar months after the date of the delivery of the notice on denunciation to the other Contracting Party.

Article 40

Maintaining of rights

1. In the event of denunciation of this Agreement, all rights acquired under its provisions shall be maintained.
2. Rights in process of acquisition in respect of periods completed before the date on which the denunciation takes effect shall be solved by mutual agreement of the Contracting Parties.

Done at Ankara this day of 02 October 2003, in two originals, each in Czech, Turkish and English languages, all versions being equally authentic. In case of any disputes the English version will be decisive.

FOR THE CZECH REPUBLIC

Špidla.

Vladimír ŠPIDLA
Prime Minister

FOR THE REPUBLIC OF TURKEY

Ergodan

Recep Tayyip ERDOGAN
Prime Minister