

AGREEMENT
ON
SOCIAL SECURITY
BETWEEN
THE CZECH REPUBLIC
AND
THE REPUBLIC OF KOREA

The Czech Republic and the Republic of Korea (hereinafter referred to as "the Contracting States"),

Being desirous of regulating the relationship between their 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) "*national*" means,
as regards the Czech Republic, a national of the Czech Republic, and
as regards the Republic of Korea, a national of the Republic of Korea as defined
in the Nationality Law, as amended;
 - (b) "*legislation*" means the laws and regulations specified in Article 2 of this
Agreement;
 - (c) "*competent authority*" means,
as regards the Czech Republic, the Ministry of Labour and Social Affairs, and
as regards the Republic of Korea, the Minister of Health and Welfare;
 - (d) "*agency*" means,
as regards the Czech Republic, the Czech Social Security Administration, and
as regards the Republic of Korea, the National Pension Service;
 - (e) "*period of coverage*" means any period of contributions that has been completed
under the legislation of a Contracting State, and any other period recognized
as equivalent to a period of contribution under that legislation;
 - (f) "*benefit*" means any benefit in cash provided for in the legislation specified
in Article 2 of this Agreement.
2. Any term not defined in this Article shall have the meaning assigned to it in the
applicable legislation of the respective Contracting State.

Article 2

Material Scope

1. This Agreement shall apply to the following legislation:
 - (a) as regards the Republic of Korea,
 - (i) the National Pension Act;
 - (ii) with regard to Part II only,
 - the Employment Insurance Act;
 - the Act on the Collection of Premiums for Employment Insurance and for Industrial Accident Compensation Insurance (excluding provisions on Premiums for Industrial Accident Compensation Insurance);
 - (b) as regards the Czech Republic,
 - (i) the Pension Insurance Act and related acts;
 - (ii) the Social Security Contributions and State Employment Policy Premium Act.
2. This Agreement shall also apply to future legislation which amends, supplements, consolidates or supersedes the legislation specified in paragraph 1 of this Article.
3. This Agreement shall apply to future legislation which extends the existing legislation of one Contracting State to new categories of beneficiaries, unless the competent authority of that Contracting State notifies in writing the competent authority of the other Contracting State, within three months from the date of the publication of such legislation, that no such extension to the Agreement is intended.

Article 3

Personal Scope

This Agreement shall apply to any person who is or who has been subject to the legislation of either Contracting State and to the dependants and survivors of such a person within the meaning of the applicable legislation of either Contracting State.

Article 4
Equal Treatment

Unless otherwise provided in this Agreement, in applying the legislation of a Contracting State, the persons specified in Article 3 shall receive equal treatment with nationals of that Contracting State.

Article 5
Export of Benefits

1. Unless otherwise provided in this Agreement, a benefit acquired under the legislation of one Contracting State shall not be subject to any reduction, modification, suspension, withdrawal or confiscation only by reason of the fact that the recipient resides or stays in the territory of the other Contracting State, and the benefit shall be paid in the territory of that other Contracting State.

2. Benefits under the legislation of one Contracting State shall be granted to nationals of the other Contracting State who reside outside the territories of the Contracting States under the same conditions as they are granted to nationals of the first Contracting State who reside outside the territories of the Contracting States.

Article 6
Assimilation of Facts

Events that have legal effect on entitlement to, reduction, suspension or amount of benefits, and which occurred in the territory of one Contracting State, shall be taken into account as if they had taken place in the territory of the other Contracting State.

Part II
Provisions on Coverage

Article 7
General Provisions

1. Except as otherwise provided in this Part, an employed person who works in the territory of a Contracting State shall, with respect to that work, be subject only to the legislation of that Contracting State.

2. Paragraph 1 of this Article shall apply analogously to a self-employed person.

Article 8
Detached Workers

1. Where a person in the service of an employer having a registered office in the territory of one Contracting State is sent by that employer to work on that employer's behalf in the territory of the other Contracting State, only the legislation on compulsory coverage of the first Contracting State shall continue to apply with regard to that employment during the first sixty calendar months as though the employee were still employed in the territory of the first Contracting State. For the purpose of applying this Article, an employer and an affiliated or subsidiary company of the employer, as defined under the national legislation of the Contracting State from which the person was sent, shall be considered as one and the same.

2. Paragraph 1 of this Article shall apply analogously to a self-employed person who ordinarily exercises self-employed activities in the territory of one Contracting State when that person exercises temporarily self-employed activities in the other Contracting State.

Article 9
Members of Diplomatic Missions and Civil Servants

1. Nothing in this Agreement shall 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.

2. Civil servants or persons treated as such according to the legislation of one Contracting State to whom paragraph 1 of this Article does not apply and who are sent to work in the territory of the other Contracting State are subject only to the legislation of the first Contracting State.

Article 10
Exceptions

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

PART III
Provisions on Benefits

Article 11
Totalization of Periods of Coverage

1. When periods of coverage have been completed under the legislation of the two Contracting States, the agency of each Contracting State shall, in determining eligibility for benefits under the legislation which it applies, take into account, if necessary, periods of coverage under the legislation of the other Contracting State, provided that such periods of coverage do not overlap with periods creditable under its legislation.

2. If a person is not eligible for a benefit on the basis of the periods of coverage under the legislation of the Contracting States, totalized as provided in previous paragraph of this Article, the eligibility of that person for that benefit shall be determined by totalizing these periods and periods of coverage accumulated under the legislation of a third State with which both Contracting States are bound by social security instruments which provide for the totalization of periods.

Article 12
Calculation of Benefits

1. If, under the legislation of one Contracting State, the conditions for entitlement to benefits are satisfied without taking into account periods of coverage completed under the legislation of the other Contracting State, the agency of the first Contracting State shall determine the benefits:

(a) on the basis of the periods of coverage completed exclusively under its legislation; and

(b) according to the rules provided by paragraph 2, with the exception when the result of this calculation is equal to or lower than the result of the calculation under subparagraph (a).

2. If, under the legislation of one Contracting State, the right to benefits can be acquired only with regard to periods of coverage completed under the legislation of the other Contracting State, then the agency of the first Contracting State shall take into account periods of coverage completed according to the legislation of the other Contracting State and:

- (a) calculate the theoretical amount of the benefit which could have been claimed provided that all periods of coverage had been completed under its legislation; and
- (b) then - on the basis of the theoretical amount calculated in accordance with subparagraph (a) - determine the amount of the benefit payable by applying the ratio of the duration of the periods of coverage completed under its legislation to the total periods of coverage.

In order to determine the basis for calculation of the benefit, the agency shall take into account only income earned during the periods of coverage completed under the legislation which it applies. The agency of the Czech Republic shall consider this income – indexed and averaged according to the Czech legislation – as gained during the periods of coverage that are taken into account for the calculation of the theoretical amount of the benefit.

3. The person concerned shall be entitled to the highest amount calculated in accordance with paragraphs 1 and 2.

Article 13

Special Provisions relating to the Republic of Korea

1. To obtain a disability or survivors benefit, the requirement of the legislation of the Republic of Korea that a person be covered when the insured event occurs shall be considered to have been met if the person is covered for a benefit under the legislation of the Czech Republic during a period in which the insured event occurs according to the legislation of the Republic of Korea.

2. Lump-sum refunds of contributions shall be granted to nationals of the Czech Republic under the same conditions as they are granted to nationals of the Republic of Korea. However, lump-sum refunds shall be paid to nationals of a third State in accordance with the legislation of the Republic of Korea.

Article 14

Special Provisions relating to the Czech Republic

1. A person whose invalidity began before he or she reached age 18 and who has not participated in the insurance scheme of the Czech Republic for the necessary period shall acquire the right to a full invalidity pension only if that person is a permanent resident of the Czech Republic.

2. The Czech competent authority may, in the interest of categories of beneficiaries, limit the application of the provision of Article 6.

PART IV
Miscellaneous Provisions

Article 15
Administrative Arrangement

1. The competent authorities of the Contracting States shall conclude an Administrative Arrangement that sets out the measures necessary for the implementation of this Agreement.

2. The liaison agencies of each Contracting State shall be designated in the Administrative Arrangement.

Article 16
Exchange of Information and Mutual Assistance

1. The competent authorities and agencies of the Contracting States shall, within the scope of their respective authorities:

- (a) communicate to each other, to the extent permitted by their respective legislations, any information necessary for the application of this Agreement;
- (b) assist each other with regard to the determination of entitlement to, or payment of, any benefit under this Agreement, or the legislation to which this Agreement applies; and
- (c) communicate to each other, as soon as possible, information concerning the measures taken by them for the application of this Agreement and of any changes in their respective legislations which may affect the application of this Agreement.

2. The assistance referred to in sub-paragraph 1 (b) of this Article shall be provided free of charge, subject to any exceptions to be agreed upon by the competent authorities of the Contracting States in the Administrative Arrangement concluded pursuant to paragraph 1 of Article 15.

Article 17
Confidentiality of Exchanged Information

Information about an individual which is transmitted in accordance with this Agreement to that Contracting State by the other Contracting State shall be used exclusively for purposes of implementing this Agreement. Without prejudice to previous sentence such information received by a Contracting State shall be governed by the national laws and regulations of that Contracting State for the protection of privacy and confidentiality of personal data.

Article 18
Exemption of Fees and Certification of Documents

1. Where the legislation of one Contracting State provides that any document which is submitted to the competent authority or agency of that Contracting State shall be exempted, wholly or partly, from fees or charges, including consular and administrative fees, the exemption shall also apply to corresponding documents which are submitted to the competent authority or agency of the other Contracting State in the application of this Agreement.
2. Documents and certificates which are presented for purposes of this Agreement shall be exempted from requirements for authentication by diplomatic or consular authorities.
3. Copies of documents which are certified as true and exact copies by an agency of one Contracting State shall be accepted as true and exact copies by an agency of the other Contracting State, without further certification.

Article 19
Language of Communication

1. An application or document may not be rejected by a competent authority or agency of one Contracting State solely because it is in an official language of the other Contracting State or in English.
2. The competent authorities and agencies of the Contracting States may correspond directly with one another as well as with any person, wherever that person may reside, whenever it is necessary to do so for the application of this Agreement or the legislation to which this Agreement applies. The correspondence may be made in any official language of either Contracting State or in English.

Article 20
Application for Benefits

1. A written application for benefits filed with an agency of one Contracting State shall be considered as an application under the legislation of the other Contracting State if the applicant:
 - (a) requests that it be considered as an application under the legislation of the other Contracting State; or
 - (b) provides information indicating that periods of coverage have been completed under the legislation of the other Contracting State.
2. An applicant may request that an application filed with an agency of one Contracting State not be considered an application for benefits under the legislation of the other Contracting State or that it be effective on a different date in the other Contracting State within the limitations of and in conformity with the legislation of the other Contracting State.
3. The provisions of Part III of this Agreement shall apply only to an application for benefits which is filed on or after the date this Agreement enters into force.

Article 21
Appeals

A written appeal of a determination made by an agency of one Contracting State may be validly filed with an agency of either Contracting State. The appeal shall be decided according to the procedure and legislation of the Contracting State whose decision is being appealed.

Article 22
Transmission of Claims, Notices or Written Appeals

1. In any case to which the provisions of Articles 20 and 21 of this Agreement apply, the agency to which the claim, notice, or written appeal has been submitted shall indicate the date of receipt on the document and transmit it without delay to the liaison agency of the other Contracting State.
2. Any claim, notice, or written appeal which, under the laws of one Contracting State, must have been filed within a prescribed period with an agency of that

Contracting State, but which is instead filed within the same period with an agency of the other Contracting State, shall be considered to have been filed on time.

Article 23
Payment of Benefits

1. Payments into the other Contracting State arising from this Agreement shall be effected in freely convertible currency.
2. In the event that a Contracting State imposes currency controls or other similar measures that restrict payments, remittance or transfers of funds or financial instruments to persons who are outside the Contracting State, it shall, without delay, take appropriate measures to ensure the payment of any amount that must be paid in accordance with this Agreement.

Article 24
Resolution of Disagreements

1. Differences and disputes which may arise in implementing this Agreement shall be settled by agreement of the competent authorities of the Contracting States.
2. If agreement cannot be reached in accordance with the preceding paragraph, the dispute shall be settled by negotiations between the Contracting States.

Part V
Transitional and Final Provisions

Article 25
Transitional Provisions

1. This Agreement shall not establish any right to a benefit for any period before the date of the entry into force of this Agreement.
2. Subject to paragraph 1 of this Article, in determining the right to a benefit under this Agreement any period of coverage completed before the date of entry into force of this Agreement, and any other relevant events that occurred before that date, shall be taken into consideration.

3. Determinations concerning entitlement to benefits which were made before the entry into force of this Agreement shall not affect rights arising under it.

4. Benefits determined before the entry into force of this Agreement may be newly determined upon application if a change in such benefits results solely from the provisions of this Agreement.

5. In applying Article 8 in case of persons who were detached to a Contracting State prior to the date of entry into force of this Agreement, the periods of employment referred to in that Article shall be considered to begin on the date of entry into force of this Agreement.

Article 26

Time limits

For rights which have been applied on the grounds of previous occurrences according to Article 25, the time limits for application as well as the limitation periods according to the legislation of each Contracting State start, at the earliest, from the date on which this Agreement enters into force.

Article 27

Ratification and Entry into Force

1. This Agreement is subject to ratification.

2. This Agreement shall enter into force on the first day of the month following the month in which the Contracting States inform each other by written notification that all necessary statutory and constitutional requirements for the entry into force of this Agreement have been fulfilled.

Article 28

Duration and Termination of the Agreement

1. This Agreement shall remain in force without any limitation on its duration.

2. This Agreement may be terminated by either Contracting State giving written notice of its termination to the other Contracting State. In the event that the

Agreement is terminated, it shall remain in force until the expiration of one calendar year following the year in which written notice of its termination is delivered by one of the Contracting States 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. The Contracting States shall make arrangements to deal with rights in the process of being acquired.

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

Done at *Prague* on *December 14 2007*, in duplicate, in the Czech, Korean and English languages, all texts being equally authentic.

In case of any divergence of interpretation, the English text shall prevail.

For the Czech Republic

Petr Nečas

For the Republic of Korea

Cho Seong-yong