

AGREEMENT ON SOCIAL SECURITY

BETWEEN

THE CZECH REPUBLIC

AND

MONGOLIA

**The Czech Republic
and
Mongolia**

(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) "*legislation*" means the laws and regulations specified in Article 2 of this Agreement;
 - (b) "*competent authority*" means,
the Ministry or other corresponding authority responsible for the area regulated by the legislation specified in Article 2 of this Agreement;
 - (c) "*institution*" means,
as regards the Czech Republic, the Czech Social Security Administration, and
as regards Mongolia, General Authority for Health and Social Insurance;
 - (d) "*period of insurance*" 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;
 - (e) "*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 Czech Republic, on
 - (i) pensions provided from pension insurance;
 - (ii) liability for payment of contributions on social security, state employment policy and the public health insurance contribution;

(b) as regards Mongolia, on

- (i) pensions provided from the Pension Insurance Fund and from the Industrial Injuries and Occupational Diseases Insurance Fund;
- (ii) liability for payment of social insurance contributions

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 person who derives its right from the person mentioned above.

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**

1. 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.

2. The competent authority of the Contracting state may, in the interest of categories of beneficiaries, limit the application of the provision of paragraph 1 of this Article.

Part II Provisions on Insurance

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 insurance of the first Contracting State shall continue to apply with regard to that employment as though the employee were still employed in the territory of the first Contracting State provided that the anticipated duration of posting does not exceed 5 years. 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 Persons in International Transport and on Board a Vessel

1. A person employed by a transport company controlling international transport on the territory of both Contracting States shall be subject to the legislation of the Contracting State on the territory of which such company has a registered office.
2. A person employed not only occasionally on board a vessel shall be subject to the legislation of the Contracting State under which flag the vessel flies.

Article 10
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 11
Exceptions

At the joint request of an employee and his employer or a self-employed person, the competent authorities or the institutions designated by them 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 12
Aggregation of Periods of Insurance

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

2. In relations between the Contracting States the liabilities arising from social security instruments with third states will be taken into account in so far as these instruments determine aggregation of periods of insurance for entitlement to pension.

Article 13
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 insurance completed under the legislation of the other Contracting State, the institution of the first Contracting State shall determine the benefits:

- (a) on the basis of the periods of insurance 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 insurance completed under the legislation of the other Contracting State or the third state within the meaning of Article 12, then the institution of the first Contracting State:

- (a) shall calculate the theoretical amount of the benefit which could have been claimed provided that all periods of insurance 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 insurance completed under its legislation to the total periods of insurance.

In order to determine the basis for calculation of the benefit, the institution shall take into account only income earned during the periods of insurance completed under the legislation which it applies. The institution shall consider this income – indexed and averaged according to the legislation which it applies – as gained during the periods of insurance 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 14 **Periods less than 12 month**

If the period of insurance completed under the legislation of one Contracting State is less than twelve months and does not result in any right to benefits, then the institution of this Contracting State will not award the benefit. These periods will be taken into account by the institution of the other Contracting State as if these periods of insurance were completed under its legislation.

Article 15 **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 an invalidity pension only if that person is a permanent resident of the Czech Republic.

2. Notwithstanding Article 12 of this Agreement, the only Czech periods of insurance shall be taken into consideration for the purpose of meeting the condition of minimum period of insurance required by the Czech legislation in order to take account of substitute periods of insurance.

PART IV Miscellaneous Provisions

Article 16 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 bodies of each Contracting State shall be designated in the Administrative Arrangement.

Article 17 Exchange of Information and Mutual Assistance

1. The competent authorities, institutions and liaison bodies of the Contracting States shall, within the scope of their respective authorities, exchange of information and assist each other in implementing this Agreement as though they would apply their legislation.
2. The institutions shall mutually recognize each other's documents issued by the competent bodies of the other Contracting State; however, as regards the assessment of health conditions or degrees of invalidity decisions may be taken exclusively by the institution of that Contracting State which is liable to provide benefits. In doing so account may be taken of reports and medical opinions submitted by the institution of the other Contracting State.
3. Medical examinations required under the legislation of one Contracting State in respect of a person residing in the territory of the other Contracting State will be carried out at the request of the competent institution by a doctor, a medical institution or institution of the place of residence of the above person in the territory of the other Contracting State.
4. The assistance referred to in this Article shall be provided without mutual reimbursement of costs.

Article 18 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 19

Exemption of Fees and Certification of Documents

1. Where the legislation of one Contracting State provides that issue of any document which is submitted to the competent authority or institution 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 issue of corresponding documents which are submitted to the competent authority or institution 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 institution of one Contracting State shall be accepted as true and exact copies by an institution of the other Contracting State, without further certification.

Article 20

Language and Communication

1. An application or document may not be rejected by a competent authority or institution of one Contracting State solely because it is in an official language of the other Contracting State or in English.
2. The competent authorities, institutions and liaison bodies 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 21

Application for Benefits

1. A written application for benefits filed with an institution 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 insurance have been completed under the legislation of the other Contracting State.

2. An applicant may request that an application filed with an institution 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.

Article 22

Appeals

A written appeal of a determination made by an institution of one Contracting State may be validly filed with an institution 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 23

Transmission of Claims, Notices or Written Appeals

1. In any case to which the provisions of Articles 21 and 22 of this Agreement apply, the institution 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 body 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 institution of that Contracting State, but which is instead filed within the same period with an institution of the other Contracting State, shall be considered to have been filed on time.

Article 24

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 25

Overpayments

The institutions of the Contracting States shall try, by mutual agreement, to settle possible overpayments afforded to entitled persons.

Article 26
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 27
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 insurance 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. In doing so periods completed in the Czech Republic until 31. 12. 1995 on the basis of previously negotiated agreements between the governments of both states and concerning the preparation of Mongolian nationals for a future career in the form of teaching in secondary vocational schools, studying at the Czech secondary schools and universities based on scholarships granted within the development assistance to Mongolia as well as a temporary employment aimed to improvement of skills of Mongolian nationals in the Czechoslovak organizations shall be considered as periods of insurance under the legislation of Mongolia except cases where such periods would - along with other periods of the Czech insurance - allow to grant the Czech benefit under Article 13 paragraph 1 letter a) on the basis of periods of insurance completed exclusively under the legislation of the Czech Republic.
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 28
Time limits

For rights which have been applied on the grounds of previous occurrences according to Article 27, 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 29
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 30
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 atPrague.....on20 May..... 2019., in duplicate, in the Czech, Mongolian and English languages, all texts being equally authentic.

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

For the Czech Republic

Jana Maláčová
Minister of Labour and Social Affairs

For Mongolia

Damdin Tsogtbaatar
Minister of Foreign Affairs