

No. 482

**POLAND
and
CZECHOSLOVAKIA**

**Agreement regarding social insurance (with final protocol).
Signed at Warsaw, on 5 April 1948**

Polish and Czech official texts communicated by the Permanent Representative of Poland to the United Nations. The registration took place on 8 June 1949.

**POLOGNE
et
TCHECOSLOVAQUIE**

**Convention relative aux assurances sociales (avec protocole
final). Signée à Varsovie, le 5 avril 1948**

Textes officiels polonais et tchèque communiqués par le représentant permanent de la Pologne auprès de l'Organisation des Nations Unies. L'enregistrement a eu lieu le 8 juin 1949.

TRANSLATION — TRADUCTION

No. 482. AGREEMENT¹ BETWEEN THE REPUBLIC OF POLAND AND THE CZECHOSLOVAK REPUBLIC, REGARDING SOCIAL INSURANCE. SIGNED AT WARSAW, ON 5 APRIL 1948

The President of the Republic of Poland, on the one hand, and the President of the Czechoslovak Republic, on the other hand, desirous of regulating their mutual relations in regard to social insurance in the spirit of the Treaty of Friendship and Mutual Aid between the Republic of Poland and the Czechoslovak Republic, have decided to conclude an agreement for this purpose and have appointed their plenipotentiaries, who having exchanged their full powers, found in good and due form, have agreed on the following provisions:

A. GENERAL PROVISIONS

Article 1

(1) The principle, hitherto applied by both States, of treating the nationals of the other State on a basis of equality with their own nationals in regard to the right to social insurance, is confirmed by the present agreement and shall be applied henceforth in all existing branches of social insurance and in those which may be instituted in either State in the future. The above principle should also apply to unemployment insurance.

(2) The legislative provisions of the State in whose territory the employment on which insurance is based is carried on shall apply, subject to the provisions of paragraphs 3 to 6, with respect to the administration of all branches of social insurance.

(3) In respect of employees in the diplomatic and consular services or in other public administration departments (customs offices, passport offices, etc.) of one State which have their head offices in the other State, the legislative provisions of the State by which they are employed shall apply, provided that the employees in question are nationals of that State. The same rule shall apply to the insurance of persons employed by officials in the above-mentioned departments. Nevertheless, if the employer so requests, the legislative

¹ Came into force on 1 October 1948, in accordance with article 24, the exchange of the instruments of ratification having taken place at Prague on 15 September 1948.

provisions of the State in which they are employed shall apply in regard to sickness and maternity insurance and, should the occasion arise, to other branches of insurance.

(4) The insurance of:

- (a) Employees sent by an establishment (employer) which (who) has its head office (his domicile) in one State to undertake temporary employment in the territory of the other State for an uninterrupted period of not more than six months,
- (b) Employees in agricultural or forestry undertakings which are intersected by the frontier and have their head offices in one of the two States, if these persons are employed in the part of the undertaking situated in the other State,
- (c) Employees of the land, sea or air public transport undertakings of one State, either temporarily or permanently employed in the frontier district (article 2) of the other State (on junction lines, transit lines, frontier or transit stations, landing-places, in the service of air lines),

shall be governed by the legislative provisions of the State in which is situated the branch of the establishment to which such employees are subordinated in respect of matters affecting them personally.

(5) The insurance of employees of public transport undertakings (paragraph 4) the head offices of which are situated in the territory of one of the two States, who are uninterruptedly employed for more than six months in the territory of the other State beyond the frontier district, shall be governed by the legislative provisions of the State in whose territory their domicile is situated.

(6) The supreme administrative authorities of the two States may by mutual agreement establish other exceptions or may decide that the exceptions provided for in paragraphs 3 to 5 shall not be applicable either in general or in individual cases.

(7) The application of the legislative provisions of one State in pursuance of paragraphs 2 to 6 shall also entail the competence of the social insurance carriers and tribunals and the administrative authorities of that State in connexion with the administration of social insurance.

(8) If any of the persons referred to in paragraphs 4 to 6 require medical assistance while sejourning in the territory of the other State, the State sickness insurance carrier which is competent for the insured person's place of sojourn shall grant medical assistance to such persons and the expenditure incurred shall be refunded by the debtor sickness insurance carrier of the former State.

Article 2

The supreme administrative authorities of the two States shall by mutual agreement define the limits of the frontier districts, basing themselves on the principle that especially those adjacent districts to which persons domiciled in the other State habitually go in order to work shall be deemed to be frontier districts.

Article 3

(1) If a dispute arises between social insurance carriers or tribunals or between the administrative authorities of the two States as to whether the legislation of one or the other State is applicable, suitable provisional relief shall be granted pending a decision in accordance with article 23.

(2) Relief shall be granted by the following bodies in the order given:

(a) By the insurance carrier with which the claimant was actually insured at the time when the insurance case occurred,

(b) By the insurance carrier which was first notified of a claim based on the insurance relationship in dispute.

(3) If provisional relief is refused or is not granted to the requisite extent, the supervising authority on receipt of a complaint shall require the insurance carrier to grant provisional relief and shall fix the amount of the benefit.

(4) The insurance carrier which is ultimately liable shall refund to the insurance carrier which granted provisional relief any expenditure incurred in connexion therewith, up to the amount (value of benefits) which it is liable to pay under its obligations, and shall deduct the pecuniary benefit granted to the insured person as provisional relief from the benefit for which it is liable.

Article 4

(1) Nationals of one State shall enjoy the same social insurance benefits as the nationals of the other State, unless otherwise determined in the present agreement or by joint decision of the supreme administrative authorities.

(2) If sojourn in the territory of one of the two States is a condition of the granting of pecuniary or medical benefits (including therapeutic, orthopaedic and other treatment) under the insurance system of that State, sojourn in the territory of the other State shall be deemed, unless otherwise determined in the

present agreement, to be sojourn in the territory of the State whose insurance carrier is liable to grant the benefits.

(3) Nationals of one of the two States who are resident in the territory of a third State shall enjoy the same benefits as the nationals of the State whose insurance carrier is liable to grant the benefits.

(4) Qualifications for benefit under the social insurance system of one State which are acquired by nationals of that State on the grounds of periods of employment, or of periods considered as such, in the territory of a third State or on the grounds of industrial accidents or occupational diseases sustained or contracted in the territory of a third State shall not be applicable in regard to nationals of the other State.

Article 5

The legislative provisions of one State whereby the benefit is to be reduced or deducted when the person receiving the benefit is entitled to another social insurance benefit or is employed on work liable to compulsory insurance, shall also apply in regard to the social insurance benefits of the other State or employment in the territory of the other State.

Article 6

(1) The insurance carriers of the two States shall discharge their pecuniary obligations in the currency of their own State.

(2) The supreme administrative authorities of the two States may establish, by special agreement within the framework of the general provisions regarding reciprocal payments, the method of payment of the benefits due from one State to insured persons resident in the other State.

(3) The supreme administrative authorities of the two States may establish by mutual agreement that an insurance carrier of one State is entitled, with the consent of the insurance carrier of the other State, to take over the obligation of that carrier in regard to the payment of benefits, provided that a corresponding capital sum is transferred by the insurance carrier that is liable. The benefits shall thenceforth be paid in accordance with the provisions binding upon the insurance carrier taking over the obligation, to the extent that corresponds to its accounts and the capital sum transferred.

Article 7

The consuls of the two States shall have power to represent (either in person or by their deputies) nationals of their States in social insurance matters before the social insurance carriers and tribunals and also before the

administrative authorities of the other States. This shall not infringe national provisions which require representation by counsel or by another person acquainted with law.

Article 8

(1) Applications, complaints and other documents submitted in connexion with social insurance matters by nationals of one State to the social insurance carriers or tribunals or to the administrative authorities of the other State shall not be disallowed because they are written in the official language of the former State.

(2) Applications, complaints and legal instruments which have to be submitted within a specified time-limit to the social insurance carriers or tribunals or to the administrative authority of one of the two States shall be deemed to have been submitted within the time-limit if they are received within the prescribed time-limit by the social insurance carrier or tribunal or by the administrative authority of the other State. In such cases, the documents in question shall be transmitted immediately either to the supreme administrative authority or direct to the competent social insurance carrier or tribunal or to the administrative authority of the other State.

(3) Records, documents and other evidence submitted under the present agreement shall not require to be certified by diplomatic or consular authorities.

(4) Provisions concerning exemptions or reductions in respect of fees and stamp duties in connexion with the administration of the national social insurance system of one State shall also apply to the administration of the social insurance system of the other State.

Article 9

(1) The social insurance carriers and tribunals and the administrative authorities of the two States shall communicate with one another directly in connexion with the carrying out of this agreement.

(2) The social insurance carriers and tribunals and the administrative authorities of the two States shall give one another mutual assistance in respect of social insurance to the same extent as in connexion with the administration of their own social insurance.

(3) The claims of the insurance carriers of one State in respect of outstanding insurance contributions shall enjoy the same legal rights in the other State in executive, bankruptcy and contractual proceedings, as the corresponding claims of the insurance carriers of the other State.

Article 10

Contributions paid to an insurance carrier of one State which should have been paid to an insurance carrier of the other State shall be transmitted to the competent insurance carrier. The contributions shall be deemed to have been paid to the competent insurance carrier of the other State on the date on which they were paid to the insurance carrier of the former State. Contributions paid in respect of voluntary continued insurance shall be apportioned to the individual classes in the manner which is most favourable to the insured person.

B. SPECIAL PROVISIONS**I. SICKNESS AND MATERNITY INSURANCE***Article 11*

(1) If an insured person is transferred from the sickness and maternity insurance system of one State to the equivalent insurance system of the other State, the insurance carrier of the other State shall include the period of insurance completed with the insurance carrier of the former State in the qualifying period for benefit.

(2) The insurance carrier of one State which is liable to grant benefits to entitled persons staying in the territory of the other State shall grant such benefits (in cash and in kind) through the insurance carrier of the other State which it requests and which is competent for the insured person's place of sojourn. That insurance carrier shall grant benefits in kind in accordance with its regulations unless it is otherwise stated in the request. The competent insurance carrier of the other State shall grant the necessary medical assistance even without a request. All actual expenditure shall be refunded to the insurance carrier granting sickness benefits by request; when expenditure on benefit in kind is refunded, the scales employed shall be those which the insurance carrier granting the benefits by request employs with regard to its own insured persons and their entitled dependants.

(3) The insurance carrier which is liable in one State may, however, grant benefits directly to those entitled persons staying in the adjacent frontier districts (article 2) of the other State.

(4) With the consent of the supreme administrative authorities, the sickness insurance carriers may, by mutual agreement, establish a detailed method of procedure and may, if necessary, lay down that expenditure on benefit for dependants shall be refunded in accordance with a lump sum scale.

Article 12

(1) The provisions of article 11, paragraphs 2 to 4, shall also apply to the granting of medical assistance to persons in receipt of pensions under the accident insurance or the pension insurance system of one State, who are staying in the territory of the other State, if medical assistance is granted to such pensioners and their dependants under the legislation of the former State. With the consent of the supreme administrative authorities, the insurance carriers may, by mutual agreement, establish a detailed method of procedure and may, if necessary, lay down that expenditure on medical assistance shall be refunded in accordance with a lump sum scale.

(2) If the insurance carriers of the two States grant pensions in accordance with the provisions of article 14, paragraph 2 (partial pensions), the cost of medical assistance to pensioners and their dependants shall be borne by the competent insurance carrier of the State in whose territory the insured person is staying.

II. ACCIDENT INSURANCE

Article 13

The provisions of article 11, paragraphs 2 to 4, shall also apply to medical treatment and the granting of therapeutic and orthopaedic assistance in cases of industrial accidents and occupational diseases.

III. PENSION INSURANCE

Article 14

(1) In respect of persons who have been successively insured in both States under the pension insurance system, or with substitute institutions, insurance periods and substitute periods shall be added together for the completion of the qualifying period, for the maintenance or revival of the qualification for benefit, for admission to voluntary continued insurance and for establishing insurance liability. If the granting of the pension is conditional upon the length of time spent in a specific employment, the periods spent in such employment in the two States shall be added together.

(2) On the occurrence of an event giving rise to benefit, the insurance carriers of both States shall grant the pension to which the person concerned is entitled under their respective national provisions, taking into account the provisions of paragraph 1 of the present article. The national periods of insurance shall be taken as a basis for fixing the amount of the pension.

Nevertheless, only the fraction of the basic amount corresponding to the ratio between the national periods of insurance and the total periods of insurance in the two States shall be paid. If the amount of the pension depends upon the length of the period of insurance and is without a basic amount, the basic amount shall be deemed to be the disability pension which would apply if the qualifying period only had been completed. Other parts of the pension, which in respect of their amount do not depend on the length of the period of insurance shall be apportioned in the same way as the basic amount. If the benefits are granted in a definite amount, irrespective of the length of the period of insurance, they shall be deemed to be two-thirds of the pension without any increment for the basic amount. The provisions concerning the minimum amount of pension shall not apply to partial pensions under the present agreement.

(3) The above provisions concerning the apportionment of pensions shall not apply if contributions have not been paid for at least twelve contribution months (fifty-two contribution weeks) in one of the two States; in that case, no benefit can be claimed from the insurance organization of that State.

(4) If the person who sustains an industrial accident or contracts an occupational disease has not completed the qualifying period in one of the two States, even in accordance with the provisions of paragraph 1, the pension liability shall apply only to the insurance carrier with which that person was insured at the time when the insurance accident occurred.

(5) In regard to allowances in respect of death (funeral), the provisions of paragraph 1 shall be applicable, but the liability to grant the allowance shall apply only to the insurance carrier with which the person concerned was last insured for at least twelve contribution months (fifty-two contribution weeks). The provisions of the present article shall not apply to other lump sum benefits.

(6) The decision of the insurance carrier of one State establishing the existence of total or occupational disability shall be binding upon the insurance carrier of the other State, if the concepts regarding disability in both States are substantially in agreement.

(7) If necessary, the supreme administrative authorities of both States shall reach agreement as regards the method of applying the provisions of the present article.

Article 15

(1) If the qualifications for insurance acquired in one State are maintained when there is liability to insurance in the other State, the qualifications acquired

in both States shall be maintained as long as such qualifications are maintained at least in one State in conformity with the provisions of article 14, paragraph 1.

(2) The qualifications for insurance acquired in one State shall be maintained when a disability (old age) pension is received under the pension insurance system of the other State. The legislative provisions of one State concerning the maintenance of qualifications for pension insurance when a pension is received on account of an industrial accident shall also apply to receipt of a pension under the accident insurance system of the other State.

(3) A person insured in one State may, in the event of his emigration to the territory of the other State, continue his insurance voluntarily, unless he is liable to insurance, either in his last type of insurance or in the appropriate type of insurance in the other State. The legislative provisions of the State whose insurance carrier received the application for voluntary continued insurance shall apply in regard to the admissibility and the administration of voluntary continued insurance.

Article 16

If the conditions governing qualifications for benefit are fulfilled only in one State, pensions shall be granted:

- (a) In accordance with the national provisions, if these conditions are fulfilled without regard to the provisions of article 14, paragraph 1, and article 15,
- (b) At lower rates, in accordance with the provisions of article 14, paragraph 2, if these conditions are fulfilled only in regard to the provisions of article 14, paragraph 1, and article 15.

Article 17

A claim for benefit under the present agreement may be submitted to any insurance carrier with which the person concerned was insured. The insurance carrier to which the claim is submitted shall inform the insurance carriers mentioned in the claim. Disability shall be determined, in accordance with the provisions of article 14, paragraph 6, by the insurance carrier which is competent in respect of the insured person's domicile on the day that the claim was submitted.

Article 18

(1) The provisions of any agreement concluded by one of the two States with a third State in respect of the matters contained in article 14 of the present agreement shall be taken into consideration in the application of the provisions of article 14 in the same way as the national provisions of the former State, if the nationals of the other State are placed on the same footing as the nationals of the former State in the aforementioned provisions of the agreement.

(2) If one of the two Contracting States, in accordance with its national provisions, credits insurance periods (substitute periods) completed by its nationals in the territory of a third State as periods completed in its own territory, the other Contracting State, in the application of the provisions of article 14, shall credit such periods in the same way as periods completed in the territory of the former State.

IV. UNEMPLOYMENT INSURANCE

Article 19

Benefit under the unemployment insurance system of one State shall be granted to nationals of the other State only so long as they stay in the territory of the former State.

C. TRANSITIONAL AND FINAL PROVISIONS

Article 20

(1) The provisions of the present agreement shall be applicable as from the date of its entry into force and shall apply to insurance cases which occurred previously. Proceedings may be instituted officially, but they must be initiated at the request of the entitled person or of the appropriate insurance carrier of the other State. The provisions of article 5 and articles 14 to 18 shall not apply if the pension was acknowledged to be legally valid in both States before the agreement came into force.

(2) The benefits to which insured persons are entitled under the present agreement shall not be granted for the period prior to its entry into force. If the pension previously paid was higher than the pension that is due under the present agreement, the beneficiary shall not be obliged to refund the difference. If lump sum benefits have been paid, owing to the non-fulfilment of the qualifying period, these shall be deducted from the amounts payable, unless the insurance case occurred before 1 January 1939.

(3) In carrying out the provisions of the present agreement, the insurance periods (substitute periods) completed before the date of its entry into force shall also be taken into account.

(4) The qualifications acquired with respect to pension insurance in one State by nationals of the other State which were maintained in accordance with the provisions of article 14, paragraph 1, and article 15, paragraphs 1 and 2, on 30 September 1938 shall be considered to have been maintained up to the date of the signing of the present agreement.

Article 21

(1) Regulations for the carrying out of the present agreement shall be issued independently in each of the two States. Such regulations shall be communicated to the supreme administrative authority of the other State.

(2) The supreme administrative authorities of the two States shall communicate to each other without delay any changes that may occur in their national legislation with respect to social insurance.

Article 22

In the present agreement, the supreme administrative authorities shall be deemed to be: in the Republic of Poland, the Ministry of Labour and Social Welfare, and in the Czechoslovak Republic, the Ministry of Social Welfare.

Article 23

(1) If any difficulties arise with regard to the carrying out of the present agreement owing to unforeseen circumstances or as a result of changes in legal provisions, the supreme administrative authorities shall reach agreement in regard to the method of applying the provisions of the present agreement.

(2) Any disputes that may arise in connexion with the carrying out of the present agreement or of any supplementary agreements that may be reached in accordance with the preceding paragraph shall be settled by mutual agreement between the supreme administrative authorities of the two States.

Article 24

(1) The agreement shall be ratified as soon as possible. The instruments of ratification shall be exchanged at Prague immediately after ratification. The agreement shall come into force on the first day of the month following the exchange of the instruments of ratification.

(2) Either of the two States may denounce the present agreement by giving at least six months' notice to take effect at the end of the calendar year.

(3) In case of denunciation of the present agreement, the insurance carriers which are liable shall continue to pay pensions granted on the basis of this agreement in connexion with events giving rise to benefit which occur

while the agreement is operative. Qualifications which have been maintained on the basis of the present agreement up to the date when it ceases to be operative may be further maintained only in accordance with national legislative provisions.

DONE in two copies, in Polish and Czech; both texts shall be equally authentic.

IN FAITH WHEREOF the plenipotentiaries have signed the present agreement and have set thereto their seals.

Warsaw, 5 April 1948.

[L. S.]

(Signed) K. RUSINEK

(Signed) E. ERBAN

FINAL PROTOCOL

On the signature of the agreement between the Republic of Poland and the Czechoslovak Republic regarding social insurance, the two Contracting Parties have agreed as follows:

I

Note to article 1, paragraph 5

If a public transport undertaking of one State sends an employee who is a national of that State to undertake work in the territory of the other State, his sojourn in the territory of the other State shall not be deemed to be permanent residence, even when he stays for more than six months. In such cases, it is recommended that a special arrangement be concluded on the basis of the provisions of article 1, paragraph 6, concerning sickness and maternity insurance.

II

Note to article 4, paragraphs 2 to 4

The territory of one of the two States shall be deemed to be the territory in which, on the date of the signing of the present agreement, the provisions regarding social insurance of each State are operative. Periods completed by nationals of either State before 1 May 1945 in territory ceded by one State to the Union of Soviet Socialist Republics shall be deemed to be periods completed in the territory of that State.

III

Note to articles 14 and 20

The provisions of article 14 and article 20 of the agreement shall not apply:

- (a) to nationals of the German State;
- (b) to nationals of the Austrian Republic who were not Austrian nationals on 12 March 1938;
- (c) to persons of German nationality who have forfeited their Polish or Czechoslovak nationality and are not staying in the territory of one of the two States on the date of the signature of the agreement.

IV

(1) The provisions of the agreement and of this protocol regarding accident insurance shall also apply to benefit in respect of accidents taking the place of accident insurance under public law.

(2) In the carrying out of this agreement, the granting of family allowances (family insurance) shall not be considered to be part of the social insurance system.

The present final protocol shall constitute an integral part of the agreement between the Republic of Poland and the Czechoslovak Republic regarding social insurance and is done in duplicate in Polish and Czech; both texts shall be equally authentic.

Warsaw, 5 April 1948.

[L. S.]

(Signed) K. RUSINEK

(Signed) E. ERBAN