

N° 3308.

**ALLEMAGNE
ET TCHÉCOSLOVAQUIE**

Traité concernant les assurances
sociales. Signé à Berlin, le 21
mars 1931.

**GERMANY
AND CZECHOSLOVAKIA**

Treaty regarding Social Insurance.
Signed at Berlin, March 21, 1931.

TEXTE ALLEMAND. — GERMAN TEXT.

N^o 3308. — VERTRAG¹ ZWISCHEN DEM DEUTSCHEN REICH UND DER ČECHOSLOVAKISCHEN REPUBLIK ÜBER SOZIALVERSICHERUNG. GEZEICHNET IN BERLIN, AM 21. MÄRZ 1931.

German and Czechoslovak official texts communicated by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations. The registration of this Treaty took place December 23, 1933.

DER DEUTSCHE REICHSPRÄSIDENT und DER PRÄSIDENT DER ČECHOSLOVAKISCHEN REPUBLIK sind übereingekommen, die wechselseitigen Beziehungen auf dem Gebiete der Sozialversicherung vertraglich zu regeln. Zu diesem Zwecke haben zu ihren Bevollmächtigten ernannt :

DER DEUTSCHE REICHSPRÄSIDENT :

den Ministerialdirektor im Reichsarbeitsministerium Herrn Dr. Andreas GRIESER und den Vortragenden Legationsrat im Auswärtigen Amt Herrn Dr. Adolf SIEDLER,

DER PRÄSIDENT DER ČECHOSLOVAKISCHEN REPUBLIK :

den Sektionschef im Ministerium für soziale Fürsorge Herrn Dr. Jan BRABLEC und den Ministerialrat im Ministerium des Äussern Herrn Dr. Květoslav GREGOR.

Die Bevollmächtigten haben nach Mitteilung ihrer in guter und gehöriger Form befundenen Vollmachten Nachstehendes vereinbart :

A. ALLGEMEINE BESTIMMUNGEN.

Artikel 1.

(1) Dieser Vertrag bezieht sich auf folgende Zweige der Sozialversicherung :

1. die Krankenversicherung der Arbeiter und Angestellten,
2. die Unfallversicherung der Arbeiter und Angestellten,
3. die Invalidenversicherung (Invaliditäts- und Altersversicherung),
4. die Angestelltenversicherung und die knappschaftliche Pensionsversicherung der Angestellten (Pensionsversicherung der Privatangestellten in höheren Diensten),
5. die knappschaftliche Pensionsversicherung der Arbeiter (Bruderladenprovisionsversicherung).

¹ The exchange of ratifications took place at Prague, November 16, 1933.

Artikel 25.

Die obersten Verwaltungsbehörden beider Staaten werden sich darüber verständigen, in welcher Weise

a) Zustellungen und Zahlungen zur Durchführung der Sozialversicherung aus dem Gebiete des einen Staates in das des andern möglichst einfach und mit möglichst geringen Kosten bewirkt werden,

b) Beitragsrückstände oder andere aus einem Versicherungsverhältnis entstandene Forderungen der Versicherungsträger des einen Staates gegen Schuldner in dem anderen Staate beigetrieben werden.

Artikel 26.

Oberste Verwaltungsbehörde im Sinne dieses Vertrages ist auf deutscher Seite der Reichsarbeitsminister, auf tschechoslovakischer Seite der Minister für Soziale Fürsorge.

Artikel 27.

(1) Bei der Durchführung dieses Vertrages verkehren die Träger, Behörden und Gerichte der Sozialversicherung beider Staaten mit einander unmittelbar.

(2) Ist der unmittelbare Verkehr aus besonderen Gründen untunlich, so können die Träger, Behörden und Gerichte der Sozialversicherung des einen Staates die Vermittlung der für ihren Sitz zuständigen Konsularbehörde des anderen Staates in Anspruch nehmen.

Artikel 28.

(1) Für die Anwendung der Artikel 3 bis 12 macht es keinen Unterschied, ob der Versicherungsfall vor oder nach dem Inkrafttreten dieses Vertrags eingetreten ist.

(2) Ist der Antrag auf Hinterbliebenenrente aus der Unfallversicherung vor dem Inkrafttreten dieses Vertrags rechtskräftig abgelehnt worden, so ist auf Antrag ein neuer Bescheid zu erteilen. Der Antrag kann nur bis zum Ablauf eines Jahres nach dem Inkrafttreten dieses Vertrags gestellt werden.

Artikel 29.

Bei der Anwendung dieses Vertrags sind auch die Beitragszeiten zu berücksichtigen, die vor dem Inkrafttreten des Vertrags zurückgelegt sind.

Artikel 30.

Die obersten Verwaltungsbehörden beider Staaten (Artikel 26) entscheiden im beiderseitigen Einvernehmen über Streitigkeiten, die sich bei der Auslegung und bei der Anwendung des vorliegenden Vertrags ergeben. Kommt es nicht zu einer Einigung, so richtet sich das weitere Verfahren nach dem Schiedsvertrage zwischen dem Deutschen Reiche und der Tschechoslovakischen Republik vom 16. Oktober 1925¹.

Artikel 31.

(1) Dieser Vertrag soll ratifiziert werden. Die Ratifikationsurkunden sollen so bald wie möglich in Prag ausgetauscht werden. Der Vertrag tritt mit dem ersten Tage des Monats in Kraft, der auf den Austausch der Ratifikationsurkunden folgt.

¹ Vol. LIV, page 341, of this Series.

¹ TRANSLATION.

No. 3308. — TREATY BETWEEN THE GERMAN REICH AND THE CZECHOSLOVAK REPUBLIC REGARDING SOCIAL INSURANCE. SIGNED AT BERLIN, MARCH 21, 1931.

THE PRESIDENT OF THE GERMAN REICH and THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC have agreed to settle by treaty the relations between the two countries in the field of social insurance. For this purpose they have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE GERMAN REICH :

Dr. Andreas GRIESER, Ministerial Director at the Reich Ministry of Labour ;
Dr. Adolf SIEDLER, Counsellor of Legation at the Reich Ministry of Foreign Affairs.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

Dr. Jan BRABLEC, Chief of Section at the Ministry of Social Welfare ;
Dr. Květoslav GREGOR, Ministerial Counsellor at the Ministry of Foreign Affairs.

The Plenipotentiaries, having exchanged their full powers, found in good and due form, have agreed as follows :

A. GENERAL PROVISIONS.

Article I.

1. This Treaty shall cover the following branches of social insurance :

- (1) Sickness insurance of wage-earning and salaried employees ;
- (2) Accident insurance of wage-earning and salaried employees ;
- (3) Invalidity insurance (invalidity and old-age insurance) ;
- (4) Salaried employees' insurance and pension insurance for salaried employees in the mining industry (pension insurance for higher-grade salaried employees in private employment) ;
- (5) Pension insurance for wage-earning employees in the mining industry (pension insurance with miners' benefit societies).

2. The Treaty shall not cover the insurance of crews of vessels (tugs, etc.) plying on the Danube or other persons permanently employed on board such vessels, or of the crews of aircraft ; this shall be without prejudice to the advantages accruing to claimants in pursuance of Articles 3, 4, 13 and 14.

¹ Translation of the International Labour Office.

Article 2.

1. The legislative provisions of the State in whose territory the employment on which insurance is based is carried on shall apply as a rule with respect to the administration of the branches of social insurance specified in Article 1. The following cases shall be exceptions to this rule :

(a) If an employee is 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, the legislative provisions of the State in which the establishment by which he is sent has its head office (in default of an establishment, the State in which the employer is domiciled) shall apply for a period of one year. The legislative provisions of this State shall also apply to employment which, owing to its nature, necessitates repeated sojourn in the territory of the other State for periods not exceeding one year on each occasion.

(b) The insurance of employees :

(1) Of public transport undertakings of one State who are employed in the territory of the other State either permanently on junction or transit lines or at frontier or transfer stations or temporarily ;

(2) Of establishments belonging to the German Federation, the German States, communes or federations of communes, or of establishments belonging to the Czechoslovak Republic or the Czechoslovak provinces, districts or communes, who are employed in the territory of the other State,

shall be governed by the legislative provisions of the State in which is situated the branch of the establishment to which the employee in question is subordinated in respect of questions of employment. In the case of the German Federal Railway Company, the Czechoslovak State Railways and the Post Office departments of both States, the situation of their superior administrative department shall be the decisive factor.

A branch office or other permanent organisation set up in one State by an establishment which has its head office in the other State shall also be deemed to be an establishment for the purposes of the provisions under (a) and (b).

(c) In respect of the insurance of employees of the diplomatic service, the regular consular service and other official 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 employees of the heads and members or other officials of the departments mentioned above. Nevertheless, as regards sickness insurance, the legislative provisions of the State in which they are employed shall apply if the employer requests this.

(d) In the case of undertakings in agriculture and forestry which have their head office in the territory of one of the two States but extend into the territory of the other State, only the legislative provisions of the State in which the head office of the undertaking is situated shall apply to the insurance of persons employed in the part of the undertaking situated in the other State.

(e) The legislative provisions of the State in which the employee is resident shall apply to the insurance of employees engaged on vessels or rafts belonging to shipping and rafting undertakings on the Elbe. The same rule shall apply to shipping and rafting undertakings on the Oder.

2. If in the case of an establishment which has its head office in one State the legislation of the other State is applicable under No. (1) to an employment in that State, the employment shall be placed on the same footing as an establishment for the purposes of the said legislation.

3. If an accident occurring in one State is covered by the accident insurance laws of the other State, the provisions of the said laws shall also apply in so far as relates to other claims for compensation which may be made on account of the accident in conformity with the laws of the first State; this provision shall also apply when an establishment is covered by the accident insurance legislation of only one of the two States. If a railway employee meets with an accident on a foreign railway in the course of an employment covered by No. (1) (b), item 1, the said foreign railway shall be placed on the same footing as the railway employing the person in question for the purpose of the application of the provisions of this number.

4. The application of the legislative provisions of one State in pursuance of No. (1) shall also entail the competence of the social insurance carriers, authorities and courts of that State in connection with the administration of social insurance.

5. Accident relief which replaces public accident insurance shall be deemed to be equivalent to accident insurance for the purposes of this Treaty.

Article 3.

Each of the two contracting States shall place the nationals of the other State and their surviving dependants on the same footing as its own nationals and their surviving dependants for the purpose of benefits under the branches of social insurance specified in Article 1, Nos. 2-5. Under the agricultural accident insurance system, this rule shall apply to migrant agricultural workers and their surviving dependants in general, but not to other cases, except in so far as undertakings in agriculture or the persons of the same category employed therein are subject to accident insurance in conformity with the legislation of both States.

Article 4.

For the purpose of the administration of the legislative provisions of each State respecting the commutation of claims under the branches of social insurance specified in Article 1, Nos. 2-5, the residence in the other State of a claimant belonging to either of the two States shall not be deemed to be residence abroad.

Article 5.

The carriers of the branches of social insurance specified in Article 1 in each State shall on request verify the continuance of the right to benefit of persons who receive compensation from an insurance carrier of the other State, and shall make provision for medical examinations, in the same manner as in connection with the administration of the social insurance system of their own State. Any expenses incurred shall be defrayed by the insurance carrier which makes the request.

Article 6.

1. In connection with the administration of the branches of social insurance specified in Article 1, the social insurance carriers, authorities and courts of each State shall give the social insurance carriers, authorities and courts of the other State administrative assistance to the same extent as in connection with the administration of the social insurance system of their own State.

2. The provisions of Article 5 and of the preceding number of this Article shall apply to the administration of the Czechoslovak sickness insurance system for salaried employees in public employment, *mutatis mutandis*.

3. The social insurance carriers, authorities and courts shall make the inquiries necessary for the elucidation of the facts to the same extent as in connection with the administration of the

social insurance system of their own State, even acting *ex officio* in urgent cases, in so far as they are authorised to do so under their own provision.

4. Expenses incurred in connection with administrative assurance shall be refunded only to the same extent as in connection with the social insurance system of the body concerned.

5. In connection with the administration of the branches of social insurance specified in Article 1, the ordinary law courts shall give legal assistance in conformity with the provisions in force for civil and commercial cases.

Article 7.

Claims under Articles 5 and 6 shall mature at the date of the termination of the official proceedings which have given rise to the expenditure, unless an agreement to the contrary has been concluded by the authorities concerned in the two States. The claims shall be paid within a month of their notification, in the currency in which they were incurred. In case of delay, interest at 4 per cent shall be paid from the date of maturity.

Article 8.

1. The Consuls of both States shall have power to represent employees belonging to their State before all social insurance carriers, authorities and courts of the other State ; provisions in the legislation of either State which require representation by a special legal representative shall remain unaffected.

2. The results of accident inquiries carried out in either State and involving nationals of the other State shall be communicated forthwith to the competent consular authority of the latter State.

Article 9.

The supreme administrative authorities of the two States shall come to an agreement respecting the manner in which direct communication with respect to applications by nationals of either State to the social insurance carriers, authorities and courts of the other State can be most conveniently arranged.

Article 10.

In matters connected with the branches of social insurance specified in Article 1, the statutory time-limits for the lodgment of appeals shall be deemed to have been observed if the appeal has been lodged in due time with a social insurance carrier, authority or court of the other State. In such cases, the document embodying the appeal shall be transmitted at once to the Federal Insurance Office in Berlin if a German authority is competent to decide respecting the appeal, and to the Ministry of Social Welfare in Prague if a Czechoslovak authority is competent to decide.

Article 11.

The provisions in force in each State for the administration of its own social insurance system in respect of exemptions or reductions in connection with stamp duty or other fees shall apply in the same manner to the administration of the social insurance system of the other State.

Article 12.

1. If a dispute arises in an individual case between social insurance carriers, authorities or courts of the two States as to whether the legislation of one or the other State is applicable, the

insurance carrier which was first notified of a claim based on the employment in dispute may grant provisional relief pending a decision in accordance with Article 30. The pension insurance carrier may delegate the administration of the relief to a sick fund. The relief shall consist of the benefits for which the insurance carrier would be liable in accordance with the legislation applicable to it.

2. If provisional relief is refused or is not granted to the requisite extent, the supervising authority on receipt of a complaint may require the insurance carrier to grant provisional relief and may fix the amount of the benefit. In case of a dispute between insurance carriers which are not under the same supervising authority, the supreme administrative authority (if necessary in agreement with the Ministries concerned) or an authority designated by it shall decide.

3. The insurance carrier which is ultimately liable shall refund to the insurance carrier which granted provisional relief the expenditure incurred in connection therewith. Article 7 shall apply, *mutatis mutandis*.

B. SPECIAL PROVISIONS.

I. SICKNESS INSURANCE.

Article 13.

1. Benefit under the sickness insurance system shall be suspended if the beneficiary voluntarily removes to the territory of the other State after the occurrence of the event giving rise to benefit and without the consent of the insurance carrier. Such consent shall not be necessary if the beneficiary removes to a frontier district of the other State adjacent to the district (area of jurisdiction) of his own sick fund, so long as he continues to reside there. Further, if the beneficiary has hitherto been resident in such a district, the claim to benefit shall not be suspended so long as he continues to reside there.

2. For the purposes of this Article, the area of the sick fund of the other State which has a common frontier with the area of the sick fund competent for the payment of benefit shall be deemed to be an adjacent frontier district.

3. In addition, the supreme administrative authorities of the two States shall come to an agreement respecting any other territory which must be deemed to be a frontier district for the purposes of this Article. As a rule, adjacent districts between which there is a constant movement of labour shall be declared to be frontier districts.

4. In case of residence in a frontier district, the fund liable for benefit may either pay the benefit itself or request a fund of the other State to pay the benefit. The fund to which the request is made shall pay the benefit in accordance with the rules applicable to the fund making the request. The moneys actually expended by the fund to which the request was made shall be refunded to it; expenditure on benefit in kind shall be refunded in conformity with the scales employed with regard to its own claimants by the fund to which the request was made. Article 7 shall apply, *mutatis mutandis*.

Article 14.

1. The sick funds concerned or federations thereof may come to an agreement respecting mutual assistance and the payment of family benefit in frontier districts and to the crews of vessels engaged in inland navigation and rafting.

2. Subject to the consent of the supreme administrative authorities within the meaning of this Treaty, the sick funds concerned and federations thereof may come to an agreement to provide that membership periods completed in the territory of one State shall be credited in the other State, in so far as claims are conditional on a minimum period of membership.

II. ACCIDENT INSURANCE.

Article 15.

Occupiers of undertakings shall not be required to pay higher insurance contributions to the accident insurance system of either State on the ground that their undertaking has its head office in the other State.

III. INVALIDITY INSURANCE (INVALIDITY AND OLD-AGE INSURANCE), SALARIED EMPLOYEES' INSURANCE AND PENSION INSURANCE FOR SALARIED EMPLOYEES IN THE MINING INDUSTRY (PENSION INSURANCE FOR HIGHER-GRADE SALARIED EMPLOYEES IN PRIVATE EMPLOYMENT) AND PENSION INSURANCE FOR WAGE-EARNING EMPLOYEES IN THE MINING INDUSTRY (PENSION INSURANCE WITH MINERS' BENEFIT SOCIETIES).

Article 16.

1. If contributions have been paid in respect of an insured person under the German invalidity insurance system and under the Czechoslovak invalidity and old-age insurance system, the contribution periods (in so far as they are not concurrent) shall be added together for the purposes of the maintenance of qualifications for benefit (claims) and for the completion of the qualifying period. The question whether other periods may also be credited shall be decided for the insurance carriers of each State in conformity with the legislation of that State.

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 No. (1) of this Article. The pension shall be assessed on the basis of the contribution periods in each State. Nevertheless, only that fraction of the German basic amount and children's bonus and of the Czechoslovak basic amount shall be paid which corresponds to the ratio between the contribution period in the State in question and the total duration of the contribution periods completed in the two States. This reduction shall not be made if the number of contribution weeks completed in one of the two States does not exceed twenty-six ; in this case a claim to a pension shall not lie against the insurance carrier of the State in which not more than twenty-six weeks have been completed.

3. Reduced pensions (No. (2)) which do not exceed 5 Reichsmarks or 40 kronen a month may be commuted for their capital value.

4. Receipt of a pension in one State shall serve to maintain a qualification for benefit (claim) in the other State also.

5. The provisions of this Article shall not apply to lump-sum benefit.

Article 17.

Article 16 shall apply, *mutatis mutandis*, to cases where contributions have been paid in respect of an insured person under the German salaried employees' insurance system or the pension-insurance system for salaried employees in the mining industry and under the Czechoslovak pension-insurance system for higher-grade salaried employees in private employment, provided that twelve contribution months shall be substituted for the twenty-six contribution weeks under Article 16, No. (2). In this connection, the provisions respecting the basic amount shall also apply to minimum pensions under the Czechoslovak legislative provisions.

Article 18.

Article 16 shall apply, *mutatis mutandis*, to cases where contributions have been paid in respect of an insured person under the German miners' pension insurance system for wage-earning employees and under the Czechoslovak miners' pension insurance system.

Article 19.

For the purpose of deciding as to the existence of a claim to a pension under one of the branches of insurance specified in Article 1, Nos. (3)-(5), the contribution periods completed in the territory of either State shall be credited in the other State to the same extent as if they had been completed under the corresponding insurance system of the said other State.

Article 20.

The Federal or State subsidy to pensions under the invalidity insurance (invalidity and old-age insurance) system for which insurance carriers of both States are liable shall be paid by the State in which the beneficiary is resident otherwise than merely temporarily.

Article 21.

If the total amount of the pensions assessed in conformity with the preceding provisions (including the Federal or State subsidy) is less than the pension which would be payable by the insurance carrier of one of the two States alone under its national provisions on the basis of the contribution period completed in that State, the said insurance carrier shall increase its share of the pension by the amount of the difference. The comparison shall be based on the gold ratio of the two currencies.

Article 22.

The insurance carriers of the two States shall assess the benefits to be granted by them and shall issue an award in the matter. If contributions have been paid in both States, the competent insurance carrier of the other State shall previously be given an opportunity of expressing its opinion. If a claim is justified under the legislation of either State independently of the provisions of this Treaty, provisional benefit shall be granted; provisional benefit may also be granted in other cases.

Article 23.

The insurance carriers of the two States may agree that the part pensions to be granted under the preceding provisions shall be paid in full by one of the insurance carriers; the other insurance carrier shall then refund the amounts payable by it as they fall due.

C. FINAL PROVISIONS.

Article 24.

1. Regulations for the carrying out of this Treaty shall be issued by each of the two States independently in so far as is necessary for its territory.

2. The regulations thus issued by each State shall be communicated to the supreme administrative authority of the other State.

Article 25.

The supreme administrative authorities of the two States shall come to an agreement respecting the manner in which :

(a) Communications and payments in connection with the administration of the social insurance system of each State may be effected in the territory of the other State as simply as possible and with the least possible expense ;

(b) Arrears of contributions or other claims arising out of insurance which are brought by an insurance carrier of one State against a debtor in the other State may be recovered.

Article 26.

The supreme administrative authority for the purpose of this Treaty shall be in Germany the Federal Minister of Labour and in the Czechoslovak Republic the Minister of Social Welfare.

Article 27.

1. The social insurance carriers, authorities and courts of the two States shall communicate with one another directly in connection with the carrying out of this Treaty.

2. If direct communication is impracticable for special reasons, the social insurance carriers, authorities and courts of each State may avail themselves of the services of the consular authorities of the other State which are competent for the places where their respective offices are situated.

Article 28.

1. For the purposes of Articles 3-12, it shall make no difference whether the event giving rise to benefit occurred before or after the coming into operation of this Treaty.

2. If an application for a surviving dependant's pension under the accident insurance system was disallowed by an enforceable decision before the coming into operation of this Treaty, a new award shall be issued on application. The application must be made within a year after the coming into operation of this Treaty.

Article 29.

For the purposes of this Treaty, contribution periods completed before the coming into operation of the Treaty shall also be credited.

Article 30.

The supreme administrative authorities of the two States (Article 26) shall give decisions by mutual agreement in disputes which arise in connection with the interpretation and application of this Treaty. In the event of failure to come to an agreement, the further procedure shall be governed by the Arbitration Treaty concluded between the German Federation and the Czechoslovak Republic on October 16, 1925.

Article 31.

1. This Treaty shall be ratified. The instruments of ratification shall be exchanged as soon as possible in Prague. The Treaty shall come into operation on the first day of the month following the exchange of the instruments of ratification.

2. Either of the two States may denounce the Treaty by giving not less than one year's notice to take effect at the end of a calendar year. Nevertheless, liabilities in connection with events giving rise to benefit which have occurred during the period of operation of the Treaty shall continue to be discharged in all cases by the insurance carriers which are liable under this Treaty. A qualification for benefit which has been maintained in conformity with the provisions of this Treaty shall not lapse on account of the denunciation of the Treaty; the further maintenance of such qualifications shall be based on the legislation of the State concerned in respect of the period after the Treaty has ceased to be operative.

In faith whereof, the Plenipotentiaries have signed the present Treaty.

Done in duplicate, in the German and Czechoslovak languages.

BERLIN, *March 21*, 1931.

Dr. Jan BRABLEC.

Dr. K. GREGOR.

Dr. A. GRIESER.

Dr. Adolf SIEDLER.