

**AGREEMENT ON SOCIAL SECURITY
BETWEEN
CANADA
AND
THE REPUBLIC OF HUNGARY**

**CANADA
AND
THE REPUBLIC OF HUNGARY,**

hereinafter referred to as "the Contracting Parties",

RESOLVED to co-operate in the field of social security,

HAVE DECIDED to conclude an agreement for this purpose, and

HAVE AGREED AS FOLLOWS:

PART I GENERAL PROVISIONS

ARTICLE I *Definitions*

1. For the purposes of this Agreement:

“benefit” means, as regards a Contracting Party, any cash benefit for which provision is made in the legislation of that Contracting Party and includes any supplements or increases applicable to such a cash benefit;

“competent authority” means, as regards a Contracting Party, the Minister or Ministers responsible for the legislation of that Contracting Party;

“competent institution” means:

as regards Canada, the competent authority; and,

as regards the Republic of Hungary, the institution or agency responsible for the application of the legislation of the Republic of Hungary;

“creditable period” means:

as regards Canada, a period of contributions or residence used to acquire the right to a benefit under the legislation of Canada, and includes a period during which a disability pension is payable under the *Canada Pension Plan*; and,

as regards the Republic of Hungary, a period of contributions under the legislation of the Republic of Hungary, or a period deemed equivalent to, or considered as, a period of contributions under that legislation;

“gainful activity” means:

as regards Canada, pensionable employment or any activity which results in self-employed earnings, as those terms are defined under the *Canada Pension Plan*; and

as regards the Republic of Hungary, any activity whose objective is to generate income and which comes within the scope of the legislation of the Republic of Hungary;

“government employment” means:

as regards Canada, employment by the Government of Canada, including employment as a member of the Canadian Forces or the Royal Canadian Mounted Police, or employment by the government or municipal corporation of a province or territory of Canada; and

as regards the Republic of Hungary, employment by state or publicly financed institutions, including employment as a civil servant, a public employee, or a career member of the armed forces, of bodies maintaining public order or of civilian national security services, or employment on the basis of a legal relationship in a court of law, in a body of judicial administration or in the office of a public prosecutor;

“legislation” means, as regards a Contracting Party, the legislation specified in Article II(1) with respect to that Contracting Party.

2. Any term not defined in this Article has the meaning assigned to it in the applicable legislation.

ARTICLE II

Legislation to Which the Agreement Applies

1. This Agreement shall apply to the following legislation:
 - (a) with respect to Canada:
 - (i) the *Old Age Security Act* and the regulations made thereunder; and
 - (ii) the *Canada Pension Plan* and the regulations made thereunder;
 - (b) with respect to the Republic of Hungary:
 - (i) the legislation concerning the payment of social insurance contributions; and
 - (ii) the legislation concerning social insurance pensions.
2. Subject to paragraph 3, this Agreement shall also apply to laws and regulations which amend, supplement, consolidate or supersede the legislation specified in paragraph 1.

3. This Agreement shall further apply to laws and regulations which extend the legislation of a Contracting Party to new categories of beneficiaries or to new benefits unless an objection on the part of that Contracting Party has been communicated to the other Contracting Party not later than 3 months following the entry into force of such laws and regulations.

ARTICLE III

Persons to Whom the Agreement Applies

This Agreement shall apply to:

- (a) any person who is or who has been subject to the legislation of one or both of the Contracting Parties, and
- (b) other persons to the extent they derive rights under the applicable legislation from persons described in sub-paragraph (a).

ARTICLE IV

Equality of Treatment

In the application of the legislation of a Contracting Party, any person described in Article III shall have the same rights and obligations under that legislation as the citizens of that Contracting Party.

ARTICLE V

Export of Benefits

1. Unless otherwise provided in this Agreement, benefits payable under the legislation of a Contracting Party to any person described in Article III, including benefits acquired by virtue of this Agreement, shall not be subject to any reduction, modification, suspension, cancellation or confiscation by reason only of the fact that the person resides in the territory of the other Contracting Party, and these benefits shall be paid when that person is in the territory of the other Contracting Party.
2. Benefits payable under this Agreement to a person described in Article III shall be paid when that person is in the territory of a third State.

3. As regards the Republic of Hungary, this Article shall not apply to benefits payable by virtue of agreements concluded between the Republic of Hungary and third States that are based on the territorial principle.

PART II

PROVISIONS CONCERNING THE APPLICABLE LEGISLATION

ARTICLE VI

General Rule

Subject to Articles VII to X, a person who is engaged in a gainful activity in the territory of a Contracting Party shall, in respect of that activity, be subject only to the legislation of that Contracting Party.

ARTICLE VII

Detachments

1. If a person who is subject to the legislation of a Contracting Party and who is employed by an employer having a place of business in the territory of that Contracting Party is sent, in the course of that employment, to work in the territory of the other Contracting Party, that person shall, in respect of that work, be subject only to the legislation of the first Contracting Party as though that work was performed in its territory.
2. Paragraph 1 shall not apply to a detachment of more than 60 months without the prior consent of the competent authorities of both Contracting Parties or their delegated institutions or agencies.

ARTICLE VIII

Self-employment

1. Article VII(1) shall apply, by analogy, to a self-employed person who ordinarily resides in the territory of a Contracting Party and who carries out self-employed activities in the territory of the other Contracting Party.

2. Where, through the application of paragraph 1, a self-employed person would not be required to contribute under the legislation of either of the Contracting Parties in respect of his or her self-employed activities, the competent authorities of the Contracting Parties or their delegated institutions or agencies shall, by common agreement, determine to which legislation that person will be subject.

ARTICLE IX

Government Employment

1. Notwithstanding any provision of this Agreement, the provisions regarding social security of the *Vienna Convention on Diplomatic Relations* of 18 April 1961 and the *Vienna Convention on Consular Relations* of 24 April 1963 shall continue to apply.
2. A person engaged in government employment for a Contracting Party who is posted to work in the territory of the other Contracting Party shall, in respect of that employment, be subject only to the legislation of the first Contracting Party.
3. Except as provided in paragraphs 1 and 2, a person who resides in the territory of a Contracting Party and who is engaged therein in government employment for the other Contracting Party shall, in respect of that employment, be subject only to the legislation of the first Contracting Party. However, if that person has, prior to the start of that employment, made contributions under the legislation of the employing Contracting Party, he or she may, within 6 months of the start of that employment or the entry into force of this Agreement, whichever is later, elect to be subject only to the legislation of the latter Contracting Party.

ARTICLE X

Exceptions

The competent authorities of the Contracting Parties or their delegated institutions or agencies may, by common agreement, make exceptions to the provisions of Articles VI through IX:

- (a) on the joint request of an employed person and his or her employer, or on the request of a self-employed person, with respect to that person, or
- (b) with respect to any category of persons.

ARTICLE XI

Definition of Certain Periods of Residence with Respect to the Legislation of Canada

1. For the purpose of calculating the amount of benefits under the *Old Age Security Act*:
 - (a) if a person is subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada during any period of presence or residence in the Republic of Hungary, that period shall be considered as a period of residence in Canada for that person as well as for that person's spouse or common-law partner and dependants who reside with him or her and who are not subject to the legislation of the Republic of Hungary by reason of employment or self-employment;
 - (b) if a person is subject to the legislation of the Republic of Hungary during any period of presence or residence in Canada, that period shall not be considered as a period of residence in Canada for that person and for that person's spouse or common-law partner and dependants who reside with him or her and who are not subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada by reason of employment or self-employment.

2. In the application of paragraph 1:
 - (a) a person shall be considered to be subject to the *Canada Pension Plan* or to the comprehensive pension plan of a province of Canada during a period of presence or residence in the Republic of Hungary only if that person makes contributions pursuant to the plan concerned during that period by reason of employment or self-employment;
 - (b) a person shall be considered to be subject to the legislation of the Republic of Hungary during a period of presence or residence in Canada only if that person makes compulsory contributions pursuant to that legislation during that period by reason of employment or self-employment.

**PART III
PROVISIONS CONCERNING BENEFITS**

**CHAPTER 1
TOTALIZING**

**ARTICLE XII
*Periods under the Legislation of
Canada and the Republic of Hungary***

1. Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of eligibility for a benefit conditional upon the accumulation of creditable periods, and where a person is not eligible for a benefit because he or she has not accumulated sufficient creditable periods under that legislation to be eligible for that benefit, the competent institution of that Contracting Party, in determining the eligibility of that person for that benefit, shall take into account creditable periods accumulated under the legislation of the other Contracting Party as specified in paragraphs 2 through 5, provided that the periods do not overlap.
2. (a) For purposes of determining eligibility for a benefit under the *Old Age Security Act* of Canada, a creditable period under the legislation of the Republic of Hungary shall be considered as a period of residence in the territory of Canada;

- (b) For purposes of determining eligibility for a benefit under the *Canada Pension Plan*, a calendar year including at least 90 days which are creditable periods under the legislation of the Republic of Hungary shall be considered as a year which is creditable under the *Canada Pension Plan*.
- 3. For purposes of determining eligibility for an old age benefit under the legislation of the Republic of Hungary:
 - (a) a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as a creditable period of 365 days under the legislation of the Republic of Hungary;
 - (b) if the periods described in sub-paragraph (a) are not sufficient to establish eligibility for a benefit, a day which is a creditable period under the *Old Age Security Act* of Canada and which does not overlap with a creditable period under the *Canada Pension Plan* shall be considered as a day which is a creditable period under the legislation of the Republic of Hungary.
- 4. For purposes of determining eligibility for a disability benefit under the legislation of the Republic of Hungary, a calendar year which is a creditable period under the *Canada Pension Plan* shall be considered as a creditable period of 365 days under the legislation of the Republic of Hungary.
- 5. For purposes of determining eligibility for a benefit under the legislation of the Republic of Hungary for a person described in Article III(b), paragraph 3 or 4, as appropriate, shall apply.

ARTICLE XIII

Periods under the Legislation of a Third State

- 1. If a person is not eligible for a benefit on the basis of the creditable periods under the legislation of the Contracting Parties, totalized as provided in Article XII, the eligibility of that person for that benefit shall be determined by totalizing these periods and creditable periods accumulated under the legislation of a third State with which both Contracting Parties are bound by social security instruments which provide for the totalizing of periods.
- 2. Paragraph 1 shall not apply to creditable periods accumulated under the legislation of a third State with which the Republic of Hungary has concluded an agreement based on the territorial principle.

ARTICLE XIV
Minimum Period to be Totalized

Notwithstanding any other provision of this Agreement, if the total duration of the creditable periods accumulated by a person under the legislation of a Contracting Party is less than one year and if, taking into account only those periods, no right to a benefit exists under the legislation of that Contracting Party, the competent institution of that Contracting Party shall not be required to pay a benefit to that person in respect of those periods by virtue of this Agreement.

CHAPTER 2
BENEFITS UNDER THE LEGISLATION OF CANADA

ARTICLE XV
Benefits under the Old Age Security Act

1. If a person is eligible for an Old Age Security pension or an allowance solely through the application of the totalizing provisions of Chapter 1, the competent institution of Canada shall calculate the amount of the pension or allowance payable to that person in conformity with the provisions of the *Old Age Security Act* governing the payment of a partial pension or an allowance, exclusively on the basis of the periods of residence in Canada which may be considered under that Act.
2. Paragraph 1 shall also apply to a person outside Canada who would be eligible for a full pension in Canada but who has not resided in Canada for the minimum period required by the *Old Age Security Act* for the payment of a pension outside Canada.
3. Notwithstanding any other provision of this Agreement:
 - (a) an Old Age Security pension shall be paid to a person who is outside Canada only if that person's periods of residence, when totalized as provided in Chapter 1, are at least equal to the minimum period of residence in Canada required by the *Old Age Security Act* for the payment of a pension outside Canada;
 - (b) an allowance and a guaranteed income supplement shall be paid to a person who is outside Canada only to the extent permitted by the *Old Age Security Act*.

ARTICLE XVI
Benefits under the Canada Pension Plan

If a person is eligible for a benefit solely through the application of the totalizing provisions of Chapter 1, the competent institution of Canada shall calculate the amount of benefit payable to that person in the following manner:

- (a) the earnings-related portion of the benefit shall be determined in conformity with the provisions of the *Canada Pension Plan*, exclusively on the basis of the pensionable earnings under that Plan;
- (b) the flat-rate portion of the benefit shall be determined by multiplying:
 - (i) the amount of the flat-rate portion of the benefit determined in conformity with the provisions of the *Canada Pension Plan*
 - by
 - (ii) the fraction which represents the ratio of the periods of contributions to the *Canada Pension Plan* in relation to the minimum qualifying period required under that Plan to establish eligibility for that benefit, but in no case shall that fraction exceed the value of one.

CHAPTER 3
BENEFITS UNDER THE LEGISLATION
OF THE REPUBLIC OF HUNGARY

ARTICLE XVII
Calculating the Amount of Benefit Payable

1. If, under the legislation of the Republic of Hungary, eligibility for a benefit can be established solely through the application of the totalizing provisions of Chapter 1, the competent institution of the Republic of Hungary:
 - (a) shall calculate the theoretical amount of the benefit which would be paid if the totalized creditable periods accumulated under the legislation of both Contracting Parties had been accumulated under the legislation of the Republic of Hungary alone; and

- (b) on the basis of the theoretical amount calculated in accordance with sub-paragraph (a), shall determine the actual amount of benefit payable by applying the ratio of the length of the creditable periods accumulated under the legislation of the Republic of Hungary to the total creditable periods accumulated under the legislation of both Contracting Parties.
2. For purposes of calculating the amount of a benefit through the application of paragraph 1, only income earned under the legislation of the Republic of Hungary and contributions paid under that legislation shall be taken into account.

PART IV ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

ARTICLE XVIII *Administrative Arrangement*

1. The competent authorities of the Contracting Parties shall establish, by means of an administrative arrangement, the measures necessary for the application of this Agreement.
2. The liaison agencies of the Contracting Parties shall be designated in that arrangement.

ARTICLE XIX *Mutual Assistance*

1. The competent authorities and institutions responsible for the application of this Agreement:
 - (a) shall lend their good offices and furnish assistance to one another for the purpose of determining eligibility for, or the amount of, any benefit under this Agreement, or under the legislation to which this Agreement applies, as if the matter involved the application of their own legislation;
 - (b) shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their respective legislation in so far as these changes affect the application of this Agreement.

2. Subject to paragraph 3 and to any provision contained in an administrative arrangement concluded pursuant to Article XVIII for the reimbursement of certain types of expenses, the assistance referred to in sub-paragraph 1(a) shall be provided free of charge.
3. If the competent institution of a Contracting Party requires that a claimant or a beneficiary who resides in the territory of the other Contracting Party undergo a medical examination, the competent institution of the latter Contracting Party, at the request of the competent institution of the first Contracting Party, shall make arrangements for carrying out this examination. If the medical examination is exclusively for the use of the institution which requests it, that competent institution shall reimburse the competent institution of the other Contracting Party for the costs of the examination. However, if the medical examination is for the use of both competent institutions, there shall be no reimbursement of costs.

ARTICLE XX

Transmission and Protection of Personal Information

1. The competent authorities and institutions of a Contracting Party shall, in accordance with:
 - (a) the legislation of that Contracting Party, and
 - (b) this Agreement or any arrangement concluded pursuant to Article XVIII for the implementation of this Agreement,transmit to the competent authorities and institutions of the other Contracting Party any information in their possession about an individual required for the application of this Agreement or of the legislation to which this Agreement applies.
2. Any information about an individual transmitted under paragraph 1 by a competent authority or institution of a Contracting Party to a competent authority or institution of the other Contracting Party shall be protected in each Contracting Party in accordance with its legislation and the following provisions:
 - (a) The competent authority or institution of the Contracting Party to which the information is transmitted shall treat that information as confidential and shall effectively protect it against unauthorized access, unauthorized alterations and unauthorized disclosure in accordance with the legislation of that Contracting Party.

- (b) The competent authority or institution of the Contracting Party to which the information is transmitted may use that information, and may disclose it to other institutions and agencies in that Contracting Party, for the purposes of implementing this Agreement or the legislation of that Contracting Party. The information may be put to other uses and may be disclosed to other bodies only to the extent specifically permitted under the legislation of that Contracting Party. The competent authorities of the Contracting Parties shall inform each other about all amendments to their legislation regarding the protection of personal information and, in particular, additional purposes for which such information may be used or disclosed to other bodies. The Contracting Party whose legislation has been amended shall, at the request of the other Contracting Party, enter into negotiations to amend or supplement this Agreement, as may be required.
- (c) In individual cases, the competent authority or institution to which the information is transmitted shall, at the request of the competent authority or institution which has transmitted that information, inform the latter of the use to which that information has been put and the outcome thereof.
- (d) The individual concerned shall, on request to the authority or institution of either Contracting Party, have the right to be informed of the information which has been transmitted, and the purpose for which that information has been requested or transmitted, as the case may be.
- (e) The competent authority or institution which transmits the information shall take all reasonable steps to ensure that the information is accurate and is strictly limited to that absolutely necessary for the purpose of the transmission. If it becomes evident that incorrect information or information whose transmission is prohibited under the legislation of the transmitting Party was transmitted, the competent authority or institution which has received the information must be immediately notified of this fact and it shall immediately correct incorrect information. It shall also delete any transmitted information whose transmission is prohibited unless that information is required to combat abuse or to prosecute fraud in the context of the legislation which it administers or other similar offences.
- (f) The competent authority or institution of the Contracting Party to which the information is transmitted shall delete that information in accordance with the legislation of that Contracting Party.

ARTICLE XXI

Exemption or Reduction of Taxes, Dues, Fees and Charges

1. Any exemption from or reduction of taxes, legal dues, consular fees and administrative charges for which provision is made in the legislation of a Contracting Party in connection with the issuing of any certificate or document required to be produced for the application of that legislation shall be extended to certificates or documents required to be produced for the application of the legislation of the other Contracting Party.
2. Any documents of an official nature required to be produced for the application of this Agreement shall be exempt from any authentication by diplomatic or consular authorities and similar formality.

ARTICLE XXII

Language of Communication

For the application of this Agreement, the competent authorities and institutions of the Contracting Parties may communicate directly with one another in any official language of either Contracting Party.

ARTICLE XXIII

Submitting a Claim, Notice or Appeal

1. Claims, notices and appeals concerning eligibility for, or the amount of, a benefit under the legislation of a Contracting Party which should, for the purposes of that legislation, have been presented within a prescribed period to a competent authority or institution of that Contracting Party, but which are presented within the same period to an authority or institution of the other Contracting Party, shall be treated as if they had been presented to the competent authority or institution of the first Contracting Party. The date of presentation of claims, notices and appeals to the authority or institution of the other Contracting Party shall be deemed to be the date of their presentation to the competent authority or institution of the first Contracting Party.

2. Subject to the second sentence of this paragraph, a claim for a benefit under the legislation of a Contracting Party made after the date of entry into force of this Agreement shall be deemed to be a claim for the corresponding benefit under the legislation of the other Contracting Party, provided that the applicant at the time of application:
 - (a) requests that it be considered an application under the legislation of the other Contracting Party, or
 - (b) provides information indicating that creditable periods have been completed under the legislation of the other Contracting Party.

The preceding sentence shall not apply if the applicant requests that his or her claim to the benefit under the legislation of the other Contracting Party be delayed.

3. In any case to which paragraph 1 or 2 applies, the authority or institution to which the claim, notice or appeal has been submitted shall transmit it without delay to the authority or institution of the other Contracting Party.

ARTICLE XXIV

Payment of Benefits

1. The competent institution of a Contracting Party shall discharge its obligations under this Agreement in the currency of that Contracting Party.
2. Benefits shall be paid to beneficiaries free from any deduction for administrative expenses that may be incurred in paying the benefits.
3. In the event that a Contracting Party imposes currency controls or other similar measures that restrict payments, remittances or transfers of funds or financial instruments to persons who are outside its territory, that Contracting Party shall, without delay, take suitable measures to ensure the payment of any amount that must be paid in accordance with this Agreement to persons described in Article III who reside in the territory of the other Contracting Party.

ARTICLE XXV

Resolution of Difficulties

1. The competent institutions of the Contracting Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles. If the competent institutions have not resolved the difficulty, the competent authorities of the Contracting Parties shall do so.
2. The Contracting Parties shall consult promptly at the request of either Contracting Party concerning matters which have not been resolved by the competent institutions and authorities in accordance with paragraph 1.
3. Any dispute between the Contracting Parties concerning the interpretation of this Agreement which has not been resolved or settled by consultation in accordance with paragraph 1 or 2 shall, at the request of either Contracting Party, be submitted to arbitration by an arbitral tribunal.
4. Unless the Contracting Parties mutually determine otherwise, the arbitral tribunal shall consist of three arbitrators, of whom each Contracting Party shall appoint one within two months from the date of receipt of the request for arbitration, and the two arbitrators so appointed shall appoint, within two months after the last notice of appointment, the third who shall act as president; provided that if either Contracting Party fails to appoint its arbitrator or if the two appointed arbitrators fail to agree about the third, the competent authority of the other Contracting Party shall invite the President of the International Court of Justice to appoint the arbitrator of the first Contracting Party or the two appointed arbitrators shall invite the President of the International Court of Justice to appoint the president of the arbitral tribunal.
5. If the President of the International Court of Justice is a citizen of either Contracting Party, the function of appointment shall be transferred to the Vice-president or the next most senior member of the Court who is not a citizen of either Contracting Party.
6. The arbitral tribunal shall determine its own procedures, but it shall reach its decisions by a majority of votes.
7. The decision of the arbitral tribunal shall be final and binding.

ARTICLE XXVI
Understandings with a Province of Canada

The relevant authority of the Republic of Hungary and a province of Canada may conclude understandings concerning any social security matter within provincial jurisdiction in Canada in so far as those understandings are not inconsistent with the provisions of this Agreement.

PART V
TRANSITIONAL AND FINAL PROVISIONS

ARTICLE XXVII
Transitional Provisions

1. Any creditable period completed before the date of entry into force of this Agreement shall be taken into account for the purpose of determining the right to a benefit under this Agreement and its amount.
2. No provision of this Agreement shall confer any right to receive payment of a benefit for a period before the date of entry into force of this Agreement.
3. Subject to paragraph 2, a benefit, other than a lump sum payment, shall be paid under this Agreement in respect of events which happened before the date of entry into force of this Agreement.

ARTICLE XXVIII
Duration and Termination

1. This Agreement shall remain in force without any limitation on its duration. It may be terminated at any time by either Contracting Party giving 12 months' notice in writing to the other Contracting Party.
2. In the event of the termination of this Agreement, any right acquired by a person in accordance with its provisions shall be maintained and negotiations shall take place for the settlement of any rights then in course of acquisition by virtue of those provisions.

ARTICLE XXIX
Entry into Force

This Agreement shall enter into force on the first day of the fourth month following the final day of the month in which the Contracting Parties shall have exchanged written notices through the diplomatic channel confirming that their respective legal requirements for the entry into force of this Agreement have been completed. The date of the exchange of the written notices shall be the date of the delivery of the last notice.

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

DONE in duplicate at Budapest, this 4th day of March, 2002, in the English, French and Hungarian languages, each text being equally authentic.

FOR CANADA

Jane Stewart

FOR THE REPUBLIC OF HUNGARY

Peter Harrach