

Convention on Social Security
Between
The Republic of Turkey and
The Kingdom of Denmark

The Government of Turkey and the Government of Denmark, desirous to regulate the relations between the two states in the field of social security,

Affirming the principle that the nationals of one of the two countries should receive, under the social security legislation of the other, equal treatment with the nationals of the latter,

Desirous of giving effect to this principle and of making arrangements enabling their nationals who go from one of the two countries to the other, either to retain any rights which they have acquired under the legislation of the former country or to enjoy corresponding rights, under the legislation of the latter country,

Have agreed as follows:

TITLE I

GENERAL PROVISIONS

Article 1

1. For the purpose of the present Convention, unless the context otherwise requires,
 - a) "Contracting Party" means, according to the context, the Kingdom of Denmark or the Republic of Turkey;
 - b) "territory" means, in relation to the Kingdom of Denmark, its national territory, with the exception of Greenland and the Faroe Islands and, in relation to the Republic of Turkey, its national territory;
 - c) "national" means, in relation to the Kingdom of Denmark, a Danish subject and, in relation to the Republic of Turkey, a Turkish national;
 - d) "legislation" means, according to the context, the legislation specified in Article 2 of this Convention in force in any part of the territory of one (or the other) Contracting Party;
 - e) "competent authority" means, in relation to the Kingdom of Denmark, the Ministry of Social Affairs, and in relation to the Republic of Turkey, the Ministry of Labour and Social Security or other ministries concerned;
 - f) "competent institution" means the institution responsible for providing benefits;
 - g) "residence" means habitual residence which is lawfully established;

- h) "worker" means, in relation to the Kingdom of Denmark:
- in respect of any period prior to the date of 1 September 1977, any person who from the fact of pursuing an activity in the service of an employer is subject to the legislation on accidents at work and occupational diseases,
 - in respect of any period commencing on the date of 1 September 1977 or a later date, any person who is subject to the legislation on the Labour Market Supplementary Pension Scheme, and
 - in relation to the Republic of Turkey, any person who from the fact of pursuing an activity in the service of an employer is subject to the legislation specified in paragraph 2 of Article 2
- i) "self-employed person" means,
- in relation to the Kingdom of Denmark, any person who is entitled to benefits, in pursuance of the legislation on daily cash benefit in the event of sickness or maternity on the basis of earned income, other than wages or salary; and
- in relation to the Republic of Turkey, any person (those in the sector of agriculture included) who works without being in the service of an employer.
- j) "members of the family" means any person defined or recognised as such by the legislation applied by the competent institution;
- k) "survivors" means any person defined or recognised as such by the legislation under which the benefits are granted;
- l) "periods of insurance" means contribution periods as defined or recognised as periods of insurance by the legislation under which they were completed, and any other periods insofar as they are regarded by the said legislation as equivalent to periods of insurance;
- m) "periods of employment" means periods defined, or recognised as such, by the legislation under which they were completed, and any other periods, insofar as they are regarded by the said legislation as equivalent to periods of employment;
- n) "periods of residence" means periods defined or recognised as periods of residence by the legislation under which they were completed or are deemed to have been completed;
- o) "benefits" and "pensions" means all benefits and pensions, including all elements thereof payable out of public funds, revalorization increases and supplementary allowances, unless otherwise provided by this Convention, as also lumpsum benefits which may be paid in lieu of pensions and, where applicable, payments made by way of reimbursement of contributions.
- p) "anticipatory pension" means all other social pensions than old age pension and disability benefit.

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

Article 2

This Convention shall apply:

- 1. in relation to the Kingdom of Denmark, to the legislation on:**
 - a) national health security,**
 - b) hospital service;**
 - c) maternity care;**
 - d) daily cash benefits in the event of sickness and childbirth;**
 - e) industrial injuries and occupational diseases insurance;**
 - f) family benefits and family allowances;**
 - g) unemployment insurance;**
 - h) social pension;**
 - i) Labour Market Supplementary Pension (ATP); and**

- 2. in relation to the Republic of Turkey, to the legislation on:**
 - a) social insurance, covering: accidents at work and occupational diseases, sickness, maternity, invalidity, old age, and survivors;**
 - b) pension fund, covering civil servants;**
 - c) old age, invalidity and survivors' pension insurance for self-employed persons (BAG-KUR);**
 - d) the social insurance funds integrated in the Social Insurance System, by virtue of the transitional Article 20 of The Social Insurance Act No. 506 of 17 July, 1964.**
 - e) social insurance covering agricultural workers;**
 - f) social insurance covering persons self-employed in the field of agriculture.**

Article 3

- 1. This Convention shall apply to all laws and regulations amending or supplementing the legislation specified in Article 2 of this Convention.**

2. Notwithstanding the provisions of paragraph 1 of this Article, this Convention shall apply to such laws or regulations as relate to a new branch of social security only if so agreed between the Contracting Parties.
3. This Convention shall apply to laws and regulations of a Contracting Party extending the application of the provisions in force to new categories of persons, only where no objections are raised by the other Contracting Party within three months of the date of the official promulgation of the said laws or regulations.

Article 4

A national of one Contracting Party shall, if he is resident in the territory of the other Contracting Party, be subject to the legislation of the latter Party, as specified in Article 2 of this Convention.

Article 5

Save as otherwise provided by this Convention, any person who is subject to the legislation of a Contracting Party as specified in Article 2 of this Convention shall enjoy the same rights, and be subject to the same obligations, under the said legislation as a national of the latter Party.

Article 6

Notwithstanding the provisions of Article 4, this Convention shall not apply to diplomatic or consular representatives or to the civil servants or persons treated as such who are employed in diplomatic missions or consular posts.

Article 7

Save as otherwise provided in this Convention, anticipatory pension, invalidity, old age or survivors' pensions, pensions in respect of accidents at work and occupational diseases, and death grants acquired by any person who is a national of a Contracting Party, or his survivors, under the legislation of one Contracting Party and, as appropriate, under the provisions of this Convention, shall not be subject to any reduction, modification, suspension, withdrawal or confiscation by reason of the fact that the recipient resides in the territory of the other Contracting Party.

Article 8

The legislative provisions of a Contracting Party for reduction, suspension or withdrawal of benefit in cases of overlapping with other social security benefits or with other income may be invoked even though the right to such benefits was acquired under the legislation of the other Contracting Party or such income arises in the territory of the other Contracting Party. However, this provision shall not apply where the person concerned receives anticipatory pension, benefits in respect of invalidity, old age, death (pensions) or occupational disease which are awarded by the institutions of both Contracting Parties in accordance with the provisions in this Convention, or where the person concerned receives benefits under the Turkish legislation pertaining to the utilization of the periods completed in foreign countries.

Article 9

The general rule of Article 4 of this Convention shall be subject to the following exceptions:

- a) A worker resident in the territory of a Contracting Party and employed by an undertaking whose registered office or place of business is situated in the territory of that Party and who is posted by that undertaking to the territory of the other Contracting Party to perform work there on a temporary basis for the account of the undertaking, shall continue to be subject to the legislation of the former Party during the first twelve months he is staying in the territory of the latter Party. If the duration of the work to be performed in the territory of the other Contracting Party exceeds twelve months owing to unforeseeable circumstances, the legislation of the former Party shall continue to apply until completion of the work, provided the competent authority of the Contracting Party to whose territory the worker was posted gives its consent; such consent must be requested before the end of the initial twelve-months period;
- b) A worker employed by a transport undertaking whose registered office or place of business is situated in the territory of one Contracting Party, and who is working in the territory of the other Contracting Party, shall be subject to the legislation of the former Party. Where the said undertaking has a branch or permanent representation in the territory of the other Contracting Party, a worker employed by such branch or agency and residing in the territory of that Party shall, however, be subject to the legislation of the Contracting Party in whose territory the said branch or permanent representation is situated;
- c) A worker employed on board a vessel flying the flag of a Contracting Party shall be subject to the legislation of that Party;
- d) A worker who, while not being habitually employed at sea, is employed in the territorial waters or in a port of a Contracting Party in the loading, discharge and repair of a vessel flying the flag of the other Contracting Party, but who is not a member of the crew, or who is responsible for supervising such work, shall be subject to the legislation of the former Party.

Article 10

1. Subject to the provision of Article 6, the provision of Article 4 shall apply to persons employed by diplomatic missions or consular posts and to the private domestic staff of agents of such missions or posts.
2. However, persons covered by paragraph 1 of this Article who are nationals of the Contracting Party represented by the mission or consular post concerned may opt to be subject to the legislation of that Party. Such right of option may be exercised once only. It shall be exercised within a period of six months from the date of entry into force of this Convention or from the date of entry of the worker into employment. The option shall take effect from the date of entry into force of this Convention in respect of workers who have entered into employment at the said date and, in other cases, from the date of entry into employment.

Article 11

The competent authorities of the two Contracting Parties may, by mutual agreement, provide for further exceptions to the general rule of Article 4. Likewise, they may permit, by mutual agreement, that the exceptions set out in Article 9 shall not apply in appropriate cases.

TITLE II Sickness and maternity

Article 12

A national of a Contracting Party who is resident in the territory of the other Contracting Party shall be entitled to benefits in kind and cash benefits in the event of sickness and maternity under the legislation of the latter Party for himself and for such members of his family as are resident in the territory of the latter Party.

Article 13

The competent institutions of a Contracting Party whose legislation makes the acquisition, retention or recovery of the right to benefits in respect of sickness or maternity conditional upon the completion of specified periods of insurance, employment or residence shall, to the extent necessary, take account of periods of insurance, employment or residence completed under the legislation of the other Contracting Party, as if they were periods completed under its own legislation.

Article 14

1. Subject to paragraph 2 of this Article, the competent institution of a Contracting Party whose legislation provides that the calculation of cash benefits in respect of sickness or maternity shall be based on the annual or average income from wage, salary or other earnings received by the protected person shall determine that annual or average income exclusively by reference to the income confirmed as having been received during the periods completed under the said legislation.
2. In determining whether a worker who is a Turkish national satisfies the conditions for entitlement to daily cash benefit in the event of childbirth under Danish legislation in the case where the person concerned has not been subject to Danish legislation throughout the whole period of reference stated in the said legislation:
 - a) Insurance periods completed under Turkish legislation within the said period of reference, during which the person concerned has not been subject to Danish legislation, shall be taken into account, as if they were periods completed under the latter legislation; and
 - b) The person concerned shall be deemed to have received during the periods taken into account an average income from wage or salary equal to the average income from wage or salary confirmed as having been received during the periods completed under Danish legislation for the said period of reference.

Article 15

Where nationals of a Contracting Party are entitled to receive cash benefits in respect of sickness or maternity under the legislation of one Contracting Party, such benefits shall be payable to the persons concerned also if they are resident in the territory of the other Contracting Party. The payment shall be made on the same conditions and to the same extent as apply to nationals of the Contracting Party in whose territory the competent institution is situated.

TITLE III **Accidents at work and occupational diseases**

Article 16

In determining the degree of invalidity resulting from an accident at work or an occupational disease under the legislation of one Contracting Party, any previous injury covered by the insurance of the other Contracting Party shall be taken into account.

Article 17

Where an occupational disease manifests itself after the person concerned has pursued, in the territories of both Contracting Parties, an activity likely to cause that disease, benefits shall be awarded under the legislation of the Contracting Party in whose territory the person concerned has last pursued the said activity.

Article 18

In the event of aggravation of an occupational disease for which a Danish or a Turkish national has received or is receiving benefit under the legislation of a Contracting Party, the following rules shall apply:

- a) Where the beneficiary has not, while in receipt of benefits, been in employment under the legislation of the other Contracting Party likely to cause or aggravate the disease in question, the competent institution of the first Party shall be bound to meet the cost of the benefits under the legislation which it administers, taking into account the aggravation;
- b) Where the beneficiary, while in receipt of benefits, has been in such employment under the legislation of the other Contracting Party, the competent institution of the first Party shall be bound to meet the cost of the benefits under the legislation which it administers without taking into account the aggravation. The competent institution of the second Party shall grant a supplement to the beneficiary, the amount of which shall be determined according to the legislation which it administers and shall be equal to the difference between the amount of benefits due after the aggravation and the amount which would have been due prior to the aggravation under the legislation which it administers had the disease in question occurred under the legislation of that Party.

Article 19

The provision of paragraph 1 of Article 14 shall apply by analogy in the calculation of cash benefits in respect of accidents at work and occupational diseases.

Article 20

The provision of Article 15 shall apply by analogy in the payment of daily cash benefits in respect of accidents at work and occupational diseases.

TITLE IV Family benefits and family allowances

Article 21

1. A child who is resident in the territory of Denmark and whose father or mother is a Turkish national resident in the territory of Denmark shall be entitled to family benefit and family allowances under Danish legislation under the same conditions as apply to Danish nationals.
2. Family benefit and family allowances are payable to Turkish nationals resident in the territory of Denmark under the same conditions as apply to Danish nationals, i.e. subject, inter alia, to the condition that the child is domiciled in the territory of Denmark. Such domicile, however, is interpreted to exist even in cases where the child concerned is sent by its parents resident in Denmark to live for a certain period of time in a country other than Denmark for educational purposes, provided the connection between the child concerned and its parents is maintained by way of the parents defraying the expenses involved in the maintenance of the child during its educational activities in the said country other than Denmark.

Article 22

A child who is resident in the territory of Turkey and whose father or mother is a Danish national resident in the territory of Turkey shall be entitled to family allowance under Turkish legislation, under the same rules as apply to Turkish nationals.

Article 23

Children of widows and widowers who are Turkish nationals, as well as orphan children of Turkish nationals, shall, if the children are resident in the territory of Denmark, be entitled to special family allowance under Danish legislation under the same rules as apply to such children of Danish nationals, provided the child or one of its parents has been resident in the territory of Denmark for at least six months and the deceased father and/or mother was resident in the territory of Denmark at the time of death.

Article 24

Detailed rules for the payment of family allowances in such cases where a child is eligible for family allowance under the legislations of both Contracting Parties shall be laid down in the administrative agreement to be concluded in pursuance of Article 34.

TITLE V
Unemployment insurance

Article 25

Nationals of one Contracting Party shall, if they are resident in the territory of the other Contracting Party, be accorded equal treatment with the nationals of the latter Party, as regards the right to be insured against unemployment.

TITLE VI
Old age, invalidity, survivors' benefits
and anticipatory benefits (pensions)

Chapter 1
Benefits under Danish legislation

Article 26

Where no other provisions are laid down in the following, the Danish legislation on social pensions, whereafter entitlement to an allowance is conditional on residence in the territory of Denmark, shall not apply to persons residing in the territory of Turkey apart from entitlement to anticipatory pension owing to social conditions.

Article 27

1. Turkish nationals shall be entitled to anticipatory pension provided that they in the qualifying period laid down in the Social Pensions Act have been physically and mentally capable of carrying on a normal occupation for a continuous period of residence of not less than 12 months in the territory of Denmark.
2. Entitlement to anticipatory pension awarded for social reasons in respect of Turkish nationals shall be subject to the condition that they have been permanently resident in the territory of Denmark, for not less than 12 months immediately before the submission of the claim for pension and that the need for pension arose while they were resident in the territory of Denmark.

Article 28

1. Social pension to a Turkish national resident in the territory of Turkey shall be payable only if the person concerned has carried out an occupation as a worker or as a self-employed person in the territory of Denmark for not less than twelve months of the qualifying period provided for under the Social Pensions Act, after the age of 15.
2. Where the conditions under paragraph 1 have not been complied with, the social pension shall continue to be payable to a Turkish national who has been awarded social pension, also after transition to the territory of Turkey, provided the person concerned, during the qualifying period laid down in the Social Pensions Act, has been permanently resident in the territory of Denmark for not less than 10 years, of which at least 5 years are immediately preceding application for the pension.

Article 37

Any claim for anticipatory pension and old age, invalidity or survivors' benefits (pensions), for pensions in respect of accidents at work and occupational diseases, and for death grants (funeral benefit) shall be submitted in accordance with the provisions of the administrative agreement to be concluded in pursuance of Article 34.

Article 38

Any claim, declaration or appeal which should have been submitted, in order to comply with the legislation of a Contracting Party, within a specified period to an authority, institution or court of that Party shall be admissible if it is submitted within the same period to a corresponding authority, institution or court of the other Contracting Party. In such a case the authority, institution or court receiving the claim, declaration or appeal shall forward it without delay to the competent authority, institution or court of the former Party either directly or through the competent authorities of the Party concerned. The date on which such claims, declarations or appeals were submitted to the authority, institution or court of the other Contracting Party shall be considered as the date of their submission to the competent authority, institution or court which shall investigate them.

Article 39

The administrative agreement to be concluded in pursuance of Article 34 shall provide for rules as to the carrying out of the medical examinations prescribed by the legislation of a Contracting Party in cases where the person concerned is resident or staying in the territory of the other Contracting Party.

Article 40

The administrative agreement to be concluded in pursuance of Article 34 shall provide for the procedure to be followed in the payment of benefits to persons who are resident in a Contracting Party other than that in whose territory the institution responsible for payment is situated.

Article 41

The administrative checks and medical examinations of persons, who receive benefits under the legislation of a Contracting Party but stay or are resident in the territory of the other Contracting Party shall be carried out in accordance with the provisions of the administrative agreement to be concluded in pursuance of Article 34.

Article 42

The special provisions of Danish legislation on the membership of foreign workers in the Labour Market Supplementary Pension Scheme (ATP) shall apply to Turkish workers employed in the territory of Denmark.

Article 43

Any dispute that may arise in connection with the application of this Convention shall be resolved by mutual agreement between the competent authorities of the two Contracting Parties.

TITLE VIII
Final provisions

Article 44

1. No right shall be acquired under this Convention for any period prior to the date of its entry into force.
2. All periods of insurance, employment or residence completed under the legislation of a Contracting Party prior to the date of entry into force of this Convention shall be taken into consideration for the determination of rights to benefits under this Convention. Notwithstanding that provision and the provision of Article 7, periods of residence completed under the legislation of Denmark prior to 1 April, 1957 shall not be taken into consideration for the calculation of the amounts of social pensions under Danish legislation payable to Turkish nationals resident in the territory of Turkey.
3. Subject to the provision of paragraph 1 of this Article, a right shall be acquired under this Convention, even though relating to a contingency which materialised prior to the entry into force of this Convention.
4. Any benefit which has not been awarded or which has been suspended by reason of the nationality of the person concerned or his residence in the territory of the other Contracting Party shall, on the application of that person, be awarded or resumed with effect from the date of entry into force of this Convention, provided that the rights previously determined have not given rise to a lump-sum payment. Where the legislation of a Contracting Party does not require the filing of a claim for a benefit, such benefit shall be awarded without the person concerned submitting any application therefore.
5. If the application referred to in paragraph 4 of this Article is submitted within two years from the date of entry into force of this Convention, the rights acquired under this Convention shall have effect from that date. If the application referred to in paragraph 4 of this Article is submitted after the expiry of the two-year period following the date of entry into force of this Convention, rights which have not been forfeited or are not barred by limitation shall have effect from the date on which the application was submitted.

Article 45

This Convention shall be ratified and the instruments of ratification shall be exchanged in Copenhagen. The Convention shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged.

Article 46

1. This Convention shall remain in force for a period of twelve months as from the date of its entry into force. Thereafter it shall continue to be in force from year to year unless it is denounced in writing by the Government of any of the Contracting Parties, which shall be done at least three months before the expiry of any one-year period. In the case of such denunciation, the Convention shall cease to be in force at the expiry of the one-year period in which it is denounced.

2. The termination of the Convention shall be without prejudice to any rights previously acquired by a person in accordance with its provisions. Any questions relating to the award of future benefits by virtue of rights in the course of acquisition at the time when the Convention ceases to have effect following denunciation shall be settled by special agreement.

In witness whereof the undersigned, duly authorised by the respective governments have signed this Convention.

Done in duplicate at Copenhagen on 13 December 1999 in the Turkish, Danish and English languages, each version being equally authentic.

In cases of doubt as to the interpretation of the text, the text in English shall apply directional.

For the Turkish Government

For the Danish Government

Gün GÜR
Ambassador

Finn MORTENSEN
Permanent Secretary

PROTOCOL

In connection with the Convention on Social Security signed today, between the Republic of Turkey and the Kingdom of Denmark, the Contracting Parties have agreed as follows:

1. Family members, residing in Turkey, of Turkish workers who have died as a result of an accident at work or an occupational disease covered by Danish legislation, shall be provided the same rights as provided to Danish nationals as envisaged under Danish legislation.
2. Notwithstanding Article 7 of this Convention, a Danish national resident in the territory of Turkey, shall not be entitled to anticipatory pension awarded for social reasons.
3. The conditions for entitlement to daily cash benefit in the event of childbirth under Danish legislation shall not be deemed to be fulfilled where the person concerned has solely registered with the Public Employment Service as being available for employment.
4. Persons who have acquired the right to a Danish pension payable in the territory of Turkey in respect of the period before the date of 1 January, 1984, shall retain that right.
5. The Annex to the Convention agreed upon by the Contracting Parties through the exchange of letters dated 9 and 13 February, 1979, shall be repealed.
6. Where a Danish national, during a stay in Turkey, has acquired the right to a Turkish pension in pursuance of the provisions of this Convention, the same period shall not be included as a period of residence in Denmark in the calculation of pension under Danish legislation.
7. The provisions in the Danish Act of 7 June, 1972 on the pension rights of Danish nationals who have been permanent residents in Denmark for a specified period prior to the date of the claim remain unaffected.

In witness whereof the undersigned duly authorised by their respective Governments have signed this Protocol.

Done in duplicate at Copenhagen on 13 December 1999 in the Turkish, Danish and English languages, each version being equally authentic.

In case of doubt as to the interpretation of the text, the text in English shall apply directional.

For the Turkish Government

For the Danish Government

Gün GÜR
Ambassador

Finn MORTENSEN
Permanent Secretary