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SOSYAL GÜVENLİK KURUMU

REPUBLIC OF TURKEY

The Application of Long-term Pension Provisions on Bilateral Agreements

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CONTENT

1- The brief characteristics of Turkish social security agreements

2- General Principles

3- The application of Invalidity, old-age and survivorship provisions

4- Final remarks

SSA signed so far

The Brief characteristics of the Turkish SSA

COUNTRY	DATE OF SIGNING	ENFORCEMENT DATE	COVERAGE	
			LONG-TERM	SHORT TERM
01. UK	**09.09.1959**	**01.06.1961**	✓	
02. GERMANY	**30.04.1964**	**01.11.1965**	✓	✓
03. NETHERLAND	**05.04.1966**	**01.02.1968**	✓	✓
04. BELGIUM	**04.07.1966**	**01.05.1968**	✓	✓
05. AUSTRIA	**12.10.1966**	**01.10.1969**	✓	✓
06. SWITZERLAND	**01.05.1969**	**01.01.1972**	✓	
07. FRANCE	**20.01.1972**	**01.08.1973**	✓	✓
08. DENMARK	**22.01.1976**	**01.02.1978**	✓	
09. SWEDEN	**30.06.1978**	**01.05.1981**	✓	
10. NORWAY	**20.07.1978**	**01.06.1981**	✓	
11. LIBIA	**13.09.1984**	**01.09.1985**	✓	
12. TURKISH REPUBLIC OF NORTHERN CYPRUS	**09.03.1987**	**01.12.1988**	✓	✓
13. MACEDONIA	**06.07.1998**	**01.07.2000**	✓	✓
14. AZERBAIJAN	**17.07.1998**	**09.08.2001**	✓	✓
15. ROMANIA	**06.07.1999**	**01.03.2003**	✓	✓
16. GEORGIA	**11.12.1998**	**20.11.2003**	✓	
17. BOSNIA-HERZEGOVINA	**27.05.2003**	**01.09.2004**	✓	✓
18. CANADA	**19.06.1998**	**01.01.2005**	✓	
19. QUEBEC	**15.10.1998**	**01.01.2005**	✓	
20.CHECH REPUBLIC	**28.06.2001**	**01.01.2005**	✓	✓
21. ALBANIA	**15.07.1998**	**01.02.2005**	✓	✓
22. LUXEMBURG	**08.12.2004**	**01.06.2006**	✓	✓

Ongoing Studies On New Bilaterals - II

COUNTRY	EXPLANATION
CROATIA	The agreement and the administrative agreement were signed in 2006 and they shall be accepted by The Turkish Grand General Assembly (TGGA).
SERBIA	The agreement and the administrative agreement were signed in 2005 and updated in October 2009 but waiting to be accepted by TGGA.
ISRAEL	The bilateral agreement was paraphed on 2000.
SLOVAKIA	The agreement and the administrative agreement were signed in 2007 and they will be ratified by the TGGA.
UZBEKISTAN	The bilateral agreement paraphed on 1998.
MOROCCO	The social security agreement negotiation is continuing.
PORTUGAL	The European Social Security Agreement is implemented between Turkey and Portugal
ITALY	The European Social Security Agreement is implemented between Turkey and Italy
SPAIN	The European Social Security Agreement is implemented between Turkey and Spain

The Brief characteristics of the Turkish SSA

Turkey has entered into 22 **bilateral social security agreements**, the first one of which dates back to 1959

- Half of the conventions were concluded with countries which are currently EU Member States
- The latter signed SSA's are applying the EU *acquis* on the free movement of persons (Switzerland in 1969, Norway in 1978)
- The older social security conventions have been modified (e.g. the agreements with Germany, Belgium and the Netherlands) or even completely replaced (the agreement with Austria in 1966 and 1982; the agreement with Denmark in 1999 and the agreement with Libya in 1984).

The Brief characteristics of the Turkish SSA

- All agreements are supplemented by one or more administrative arrangements, setting out in detail the procedure for implementing the conventions' provisions

- The scope of the latter agreements are not just confined to employed or self-employed persons, but also includes non-economically active persons.

- The personal field of application is defined very much along the lines of that of the new coordination Regulation 883/2004

The Brief characteristics of the Turkish SSA

- The older agreements have a more restricted personal scope. e.g. Netherland, Sweden, Belgium
- All agreements extend to the family members and survivors of the respective persons covered.
- Social security conventions applies to the bulk of the contingencies provided for in the social security legislation of the countries concerned
- The overall majority of schemes covered are contributory in nature, although non-contributory schemes (notably family allowances) are included in the scope of some of them.

The Brief characteristics of the Turkish SSA

All selected conventions apply to the following schemes

- sickness (cash benefits and healthcare)
- accidents at work and occupational diseases
- maternity
- invalidity
- old-age
- survivorship

The Brief characteristics of the Turkish SSA

- The agreements TR-LU and TR-NL also apply to unemployment benefits. As regards the latter convention, this coverage is unilateral, in the sense that only Dutch unemployment benefits are covered.
- Several conventions include family benefits in their scope. This is the case, notably, for the agreements TR-DE, TR-BE, TR-NL, TR-LU and TR-SE.
- The agreements TR-LU and TR-NL also apply to unemployment benefits. As regards the latter convention, this coverage is unilateral, only Dutch unemployment benefits are covered.

The Brief characteristics of the Turkish SSA

- Several conventions include family benefits in their scope. This is the case, notably, for the agreements TR-DE, TR-BE, TR-NL, TR-LU and TR-SE
- Separate long-term care insurance schemes are not part of the scope of the respective conventions, even though they belong to the material scope of the coordination Regulations.

General Principles in Model Provisions

- Why do we need bilateral social security agreements?
- Bilateral instrument between two countries
- To protect the interest of workers in the Host country
- Equality of treatment with Host country nationals
- Avoidance of no/double coverage of contributions

General Principles in Model Provisions

- *Equality of Treatment;* seeks to ensure that persons who are resident in the territory of either contracting party and/or to whom the convention applies, have the same rights and obligations as the nationals of the other contracting party.

- This means that they receive the same benefits and are subject to the same conditions of entitlement.

- The principle of equal treatment is not extended to participation in social security administration or membership of social security tribunals.

General Principles in Model Provisions

- Export of Benefits;

  The model provisions make the export of benefits a general rule. They clearly state that no benefit shall be restricted solely on the basis that the recipient resides in the territory of the other contracting party

- There are two important exceptions to this blanket rule. The first is unemployment benefits, this is because states typically make the payment of this benefit subject to its recipient promising to seek work
- The second exclusion from export is special benefits granted as assistance or in case of need.

General Principles in Model Provisions

- The Prevention of the Overlapping of Benefits;
- Every national social security system will have some rules or regulations to prevent social benefits being combined with other benefits or with income or occupational activity. One of principal goals of these rules is to prevent double recovery, in other words preventing someone from being compensated twice for the same social risk
- There is one exception to the application of overlapping rules to benefits received in the other contracting party. This relates to pensions for old age, invalidity and survivors. International social security law often requires long-term benefits to be paid by more than one country

General Principles in Model Provisions

- Determining the Applicable Legislation;

- Model provisions state that in relation to one and the same employment or occupation only one legislation should be applicable at any time.
- The model provisions lay down three basic rules for the determination of the applicable legislation.

  i) Employees are covered by the legislation of the contracting party in which they work, even if they reside in the other contracting party,

  ii) Self-employed persons are covered by the legislation of the contracting party in which they perform their economic activity, and

  iii) Civil servants are covered by the legislation of the contracting party within whose administration they are employed.

Invalidity, Old-age, Survivors Benefits

- These benefits are typically long-term periodic benefits, entitlement to which is usually based on extensive periods of insurance. Where entitlement to a benefit is dependent on the completion of a minimum period of insurance the contracting parties are obliged to take into consideration any periods of insurance completed under the legislation of the other contracting party

- The model provisions provide two alternatives for the calculation of the amount of benefit for those persons who have been subject to the social security pension law of both contracting parties

Invalidity, Old-age, Survivors Benefits

- The first alternative is called the “pro rata calculation”. Each contracting party must go through the following stages:

- Firstly, if the person is entitled to a benefit solely in accordance with the period of insurance completed within your territory then your country shall pay that benefit

- Secondly, add together the periods of insurance completed in each contracting party

Invalidity, Old-age, Survivors Benefits

- Your country must pay a pension which is in proportion to the insurance period completed in your country compared to the total aggregated insurance period.

- Thirdly, calculate the theoretical amount, this is the pension the person would receive had all the aggregated periods of insurance been completed in your country

Invalidity, Old-age, Survivors Benefits

- The second alternative is referred to as the “direct calculation”.
- In this case the pensions are generally calculated in each contracting party according to the insurance periods completed in that contracting party.
- The advantage of the second alternative is that there is no need to know the precise periods for which a person was insured in the other state but to know them only as far it is necessary to determine entitlement to a pension.

Invalidity, Old-age, Survivors Benefits

- Some states operate special pension schemes for those engaged in particular occupations, for example special schemes for teachers, miners or sports persons.
- These special schemes will only have to aggregate periods of insurance in the other contracting party if these periods were completed under a similar special scheme or within the relevant occupation.
- A miner example.

Invalidity, Old-age, Survivors Benefits

- Some states make the payment of an invalidity or survivor's pension conditional on the risk, i.e. long-term incapacity for work or death, occurring within their territory. [1]
- For such cases the model provisions provide that if the risk occurs in the other contracting party it must be treated as having occurred in the competent state

Invalidity, Old-age, Survivors Benefits

- This four-stage process is best understood using an example: State A and State B have selected this alternative from the model provisions. In State A a full (basic) pension of 800 EUR per month is paid to those who have been insured for 40 years (2% for each year), provided they have been insured for at least 20 years. In State B a pension of 50% of the maximum national pension (1000 EUR) plus 1% for each year is paid to those who have been insured for at least 25 years, the maximum period taken into account being 50 years. A worker is insured in State A for 18 years and State B for 24 years.

Invalidity, Old-age, Survivors Benefits

- Stage One: neither contracting party is able to pay this worker a pension under national law solely on the basis of the insurance periods s/he has completed in their territory.
- Stage Two: aggregating the periods of insurance completed in each contracting party gives a total of 42 years of insurance, this is enough to satisfy the entitlement conditions in both states.
- Stage Three: the theoretical amount in State A is therefore 800 EUR, and 50% + 42 x 1% of 1000 EUR = 920 EUR in State B.

Invalidity, Old-age, Survivors Benefits

- Stage Four: the pension to be paid by State A is equal to 18/40 x 800 EUR = 360 EUR per month, note that the fraction used is not 18/42 because the maximum insurance period in State A is 40 years. The pension to be paid by State B is equal to 24/42 x 920 EUR = 526 EUR (rounded) per month. This gives the person a total pension of 886 EUR per month.
- If the periods completed in one contracting party are more than the fixed denominator, then the full benefit or the full additional period is to be taken into account. Please note that this special pro rata calculating does not apply to pensions that are paid as a result of supplementary insurance or benefits that are means-tested and paid in order to guarantee a sufficient minimum income. These benefits would be payable in full.

Invalidity, Old-age, Survivors Benefits

- The direct calculation is best understood using the same example as above:
- Stage One: neither contracting party is able to pay this worker a pension under national law solely on the basis of the insurance periods s/he has completed in their territory
- Stage Two: aggregating the periods of insurance completed in each contracting party gives a total of 42 years of insurance, this is enough to satisfy the entitlement conditions in both states
- Stage Three: State A calculates its pension directly on 18 years and has therefore to pay 18 x 2% of 800 EUR = 288 EUR per month. In State B 50% of the maximum national pension does not depend on the length of periods completed, so from this part of the pension only 24/30 would be payable. State B has therefore to pay a monthly pension of 24/30 of 50% of 1000 EUR + 24 x 1% of 1000 EUR = 400 EUR + 240 EUR = 640 EUR. This gives the person a total pension of 928 EUR per month.

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