



© Éditeur officiel du Québec

Updated to 1 October 2014
This document has official status.

chapter R-9, r. 41

Regulation respecting the implementation of the Agreement on Social Security between the Gouvernement du Québec and the Government of the Republic of Turkey

An Act respecting the Québec Pension Plan

(chapter R-9, s. 215)

Tax Administration Act

(chapter A-6.002, ss. 9 and 96)

An Act respecting the Ministère de l'Emploi et de la Solidarité sociale and the Commission des partenaires du marché du travail

(chapter M-15.001, s. 10)

1. The Act respecting the Québec Pension Plan (chapter R-9) and the regulations made thereunder shall apply to any person referred to in the Agreement on Social Security between the Gouvernement du Québec and the Government of the Republic of Turkey, signed at Québec on 21 November 2000, and appearing as Schedule I.

O.C. 738-2004, s. 1.

2. That Act and those regulations shall apply in the manner stipulated in the Agreement, and in the Administrative Arrangement for the implementation of the Agreement which appears as Schedule II.

O.C. 738-2004, s. 2.

3. *(Omitted).*

O.C. 738-2004, s. 3.

SCHEDULE I

(s. 1)

AGREEMENT ON SOCIAL SECURITY BETWEEN THE GOUVERNEMENT DU QUÉBEC AND THE GOVERNMENT OF THE REPUBLIC OF TURKEY

THE GOUVERNEMENT DU QUÉBEC

AND

THE GOVERNMENT OF THE REPUBLIC OF TURKEY

RESOLVED to guarantee to their respective nationals the advantages of the coordination of their social security statutes,

HAVE AGREED AS FOLLOWS :

TITLE I

GENERAL

ARTICLE 1

DEFINITIONS

(1) In this Agreement, unless a different meaning is indicated by the context, the following expressions shall mean :

“competent authority” : as regards Québec, the Minister responsible for the administration of the statutes involved ; and as regards Turkey, the Ministry of Labour and Social Security and the other ministries involved ;

“competent institution” : as regards Québec, the department or body responsible for the application of the statutes referred to in Article 2 (1)*a* ; and, as regards Turkey, the institutions or bodies responsible for the application of the statutes referred to in subparagraph *b* of paragraph 1 of Article 2 ;

“statutes” : the statutes, regulations and schedules and amendments made to those texts concerning the social security branches and plans referred to in Article 2 ;

“period of insurance” : as regards Québec, any year for which contributions have been paid or for which a disability pension has been paid under the Act respecting the Québec Pension Plan or any other year considered as equivalent ; and, as regards Turkey, any period of contribution and periods considered as such under the statutes in force ;

“benefit” : a pension, an annuity, an allowance, a lump-sum grant or any other benefit in cash provided under the statutes of each Party, including any extension, supplement or increase thereto ;

“national” : as regards Québec, a person of Canadian citizenship who is or who has been subject to the statutes referred to in Article 2 (1)*a* and has acquired rights under those statutes ; and, as regards Turkey, a person of Turkish nationality who is or who has been subject to the statutes referred to in Article 2 (1)*b* and has acquired rights under those statutes.

(2) Any term not defined in this Article has the meaning given to it in the applicable statutes.

ARTICLE 2

MATERIAL SCOPE

(1) The Agreement shall apply

(a) as regards Québec, to the statutes of Québec respecting the Québec Pension Plan ;

(b) as regards Turkey, only to the disability, old age and survivor's insurances in the following statutes :

(i) the Social Insurance Act, No. 506 ;

(ii) the Civil Servants Pension Fund Act, No. 5434 (T.C. Emekli Sandığı) ;

(iii) the Self-Employed Social Insurance Act, No. 1479 (shortened to BAG-KUR) ;

(iv) Act No. 2925 concerning agricultural workers and Act No. 2926 concerning the self-employed in the field of agriculture ; and

(v) the statutes concerning the special funds subject to provisional Article 20 of the Social Insurance Act, No. 506.

(2) The Agreement shall equally apply to any statutory or regulatory act which modifies, adds to or

replaces the statutes referred to in paragraph 1.

(3) The Agreement shall also apply to a statutory or regulatory act of one Party which extends the existing systems to new classes of beneficiaries or to new benefits ; notwithstanding the preceding, that Party may, within three months of the date of the official publication of that act, notify the other Party that the Agreement shall not apply.

(4) The Agreement shall not apply to a statutory or regulatory act which covers a new branch of social security, unless the Agreement is modified by common agreement of the Parties.

ARTICLE 3

PERSONAL SCOPE

Unless otherwise provided, the Agreement shall apply to the persons who are or who have been subject to the statutes of one Party, and to the successors of such persons.

ARTICLE 4

EQUAL TREATMENT

Unless otherwise provided in the Agreement, the persons referred to in Article 3 shall, in the application of the statutes of one Party, receive the same treatment as the nationals of that Party.

ARTICLE 5

EXPORT OF BENEFITS

(1) Unless otherwise provided in the Agreement, any benefits acquired under the statutes of one Party, as well as any such benefits acquired under the Agreement, shall not be subject to any reduction, modification, suspension, suppression or confiscation by reason only of the fact that the beneficiary resides in or is staying in the territory of the other Party, and such benefits shall be payable in the territory of the other Party.

(2) Any benefit payable under the Agreement by one Party in the territory of the other Party shall also be payable outside the territory of both Parties, under the same conditions that the first Party applies to its nationals under its own statutes.

TITLE II

APPLICABLE STATUTES

ARTICLE 6

GENERAL RULE

Unless otherwise provided in the Agreement and subject to Articles 7, 8, 9, 10 and 11, persons working in the territory of one Party shall be subject only to the statutes of that Party.

ARTICLE 7

SELF-EMPLOYED PERSONS

Persons residing in the territory of one Party and working as self-employed persons in the territory of the other Party or in the territory of both Parties shall, with respect to such work, be subject only to the statutes of the Party in the territory of their place of residence.

ARTICLE 8

DETACHED PERSONS

A person subject to the statutes of one Party and performing work for his or her employer in the territory of the other Party, for a period not exceeding 60 months, shall, with respect to such work, remain subject to the statutes of the former Party for the duration of the detachment. That period may be extended provided that the competent authorities of both Parties concur.

ARTICLE 9

TRAVELLING PERSONNEL EMPLOYED IN INTERNATIONAL TRANSPORT

(1) Persons working in the territory of both Parties as travelling personnel for an international carrier which, on behalf of others or on its own account, transports passengers or goods, by air or by sea, and which has its head office in the territory of one Party, shall, with respect to such work, be subject only to the statutes of the Party in whose territory the head office is located.

(2) Notwithstanding the preceding paragraph, if those persons are employed by a branch or permanent agency which the undertaking has in the territory of a Party other than the Party in whose territory it has its head office, they shall, with respect to such work, be subject only to the statutes of the Party in whose territory the branch or permanent agency is located.

(3) Notwithstanding the two preceding paragraphs, if the persons are employed wholly or mainly in the territory of the Party where they reside, they shall, with respect to such work, be subject only to the statutes of that Party even if the carrier does not have its head office, a branch or a permanent agency in that territory.

ARTICLE 10

PERSONS IN THE PUBLIC SERVICE

(1) Persons in the Public Service for one of the Parties and assigned to a post in the territory of the other Party shall be subject only to the statutes of the first Party for all matters relative to that post.

(2) Persons residing in the territory of one Party and who are in the Public Service for the other Party in that territory shall, with respect to that service, be subject only to the statutes which apply to that territory. Where the persons are nationals of the Party employing them, they may, within six months of the beginning of their employment or the coming into force of the Agreement, choose to be subject only to the statutes of the Party employing them.

(3) No provision of the Agreement may be interpreted as contrary to the provisions of the Vienna Convention on Diplomatic Relations dated 18 April 1961 or of the Vienna Convention on Consular Relations dated 24 April 1963, with respect to the statutes referred to in Article 2.

ARTICLE 11

DEROGATION FROM THE PROVISIONS ON COVERAGE

The competent authorities of both Parties may, by common agreement, derogate from the provisions of Articles 6, 7, 8, 9 and 10 with respect to any persons or category of persons.

TITLE III

BENEFITS

ARTICLE 12

BENEFITS

This Title shall apply

- (1) as regards Québec, to any benefits referred to in the statutes referred to in Article 2 (1)a ;
- (2) as regards Turkey, to any benefits referred to in the statutes referred to in Article 2 (1)b.

ARTICLE 13

PRINCIPLE OF TOTALIZATION

(1) When persons have completed periods of insurance under the statutes of both Parties and are not eligible for benefits by virtue of the periods of insurance completed solely under the statutes of one Party, the competent institution of that Party shall totalize, to the extent necessary for the entitlement to benefits under the statutes applied by it, the periods of insurance completed under its statutes and the periods of insurance completed under the statutes of the other Party, provided that the overlapping periods are counted only once.

(2) Notwithstanding any other provision of this Agreement, if the total duration of the periods of insurance completed by a person under the statutes of one Party is less than one year and if, taking into account only those periods, entitlement to benefit is not acquired under those statutes, the competent institution of that Party shall not be required to grant benefits to that person in respect of those periods by virtue of this Agreement. Those periods shall be taken into account by the competent institution of the other Party in determining entitlement to benefits under the statutes it applies.

ARTICLE 14

BENEFITS UNDER QUÉBEC STATUTES

(1) If persons who have been subject to the statutes of both Parties meet the requirements for entitlement to benefits, for themselves, for their dependants, survivors or successors, under Québec statutes, without having recourse to the totalization referred to in Article 13, the competent institution of Québec shall determine the amount of benefits in accordance with the provisions of the statutes it applies.

(2) If the persons referred to in paragraph 1 do not meet the requirements for entitlement to benefits without totalization, the competent institution of Québec shall

(a) recognize one year of contribution when the competent institution of Turkey certifies that a period of insurance of at least 90 days has been credited in a calendar year under the statutes of Turkey, provided that the year is included in the contributory period as defined in Québec statutes ;

(b) totalize years recognized under subparagraph a with periods of insurance completed under Québec statutes, in accordance with Article 13.

(3) When the totalization provided for in paragraph 2 entitles persons to benefits, the competent institution of Québec shall determine the amount payable as follows :

(a) the amount of that part of the benefit which is related to earnings is calculated according to the provisions of the statutes of Québec ;

(b) the amount of the flat-rate portion of the benefit payable under the provisions of this Agreement is determined by multiplying

the amount of the flat-rate portion of the benefit payable under the provisions of this Agreement is determined by multiplying

by

the fraction which represents the ratio of the periods of contributions to the Québec Pension Plan and the contributory period defined in the statutes concerning that Plan.

ARTICLE 15

BENEFITS UNDER THE STATUTES OF TURKEY

(1) If persons who have been subject to the statutes of both Parties meet the requirements for

entitlement to benefits, for themselves or for their dependants, survivors or successors, under the statutes of Turkey without having recourse to the totalization referred to in Article 13, the competent institution of Turkey shall determine the amount of the benefits in accordance with the provisions of the statutes it applies.

(2) If the persons referred to in paragraph 1 do not meet the requirements for entitlement to benefits without having recourse to the totalization, the competent institution of Turkey shall

(a) for entitlement to old-age benefits in accordance with the statutes of Turkey

(i) recognize 360 days of contributions in accordance with the statutes of Turkey when the competent institution of Québec certifies each year of insurance ;

(ii) where entitlement to benefits is not acquired despite the application of subparagraph a i, recognize one day of contributions in accordance with the statutes of Turkey, for each year of residence within the meaning of the Old Age Security Act that applies in the territory of Québec provided that the day does not overlap a period of insurance completed in accordance with Québec statutes and that the number of days recognized does not exceed 360 per year ;

(iii) totalize days recognized under subparagraph a i and a ii with periods of insurance completed under the statutes of Turkey ;

(b) for entitlement to invalidity or death benefits in accordance with the statutes of Turkey, one calendar year which is a period of insurance within the meaning of the Act respecting the Québec Pension Plan shall be considered as 360 eligible days in accordance with the statutes of Turkey.

(3) Where persons have completed a period of insurance within the meaning of the Act respecting the Québec Pension Plan or a period of residence within the meaning of the Old Age Security Act which applies to the territory of Québec before the date of joining the insurance plan in Turkey, the earliest of the date of the beginning of either of those periods shall be considered the date of joining the insurance plan of Turkey.

(4) Where entitlement to benefits is acquired by the totalization referred to in paragraph 2, the competent institution of Turkey shall determine the amount of benefit payable as follows :

(a) the amount of the theoretical benefit payable is calculated as if all periods of insurance totalized under paragraph 2 had been completed under the statutes of Turkey ;

(b) the amount obtained under subparagraph a is multiplied by the fraction which represents the ratio of the sum of periods recognized under the statutes of Turkey and the sum of all periods recognized under the statutes of Turkey and the periods taken into account under paragraph 2 ;

(c) for the purposes of subparagraph b, where entitlement to benefits is acquired by totalization solely of the periods of insurance recognized under paragraph 2 a i, the periods of residence eligible under the Old Age Security Act that applies in the territory of Québec shall not be taken into account for the calculation of the benefits owed.

ARTICLE 16

PERIODS COMPLETED UNDER THE STATUTES OF A THIRD PARTY

If a person is not entitled to benefits on the basis of the totalization provided for in Article 14 or 15, the periods of insurance completed under the statutes of a third party that is related to each of the Parties by a legal instrument respecting social security and making provisions for the totalization of periods of insurance shall be taken into account to determine if the person is entitled to benefits, in accordance with the provisions of this Title.

TITLE IV

MISCELLANEOUS

ARTICLE 17

ADMINISTRATIVE ARRANGEMENT

(1) The terms and conditions for the application of the Agreement shall be set out in an Administrative Arrangement to be agreed to by the Parties.

(2) The liaison agency of each Party shall be designated in the Administrative Arrangement.

ARTICLE 18

CLAIM FOR BENEFITSS

(1) To be entitled to a benefit under the Agreement, a person shall file a claim in accordance with the terms and conditions provided in the Administrative Arrangement.

(2) For the purposes of Title III, a claim for a benefit filed under the statutes of one Party after the date of coming into force of the Agreement shall be deemed to be a claim for a corresponding benefit under the statutes of the other Party

(a) when a person asks that the claim be considered as a claim under the statutes of the other Party ; or

(b) when a person indicates, at the time of the claim, that periods of insurance have been completed under the statutes of the other Party.

The date of receipt of such a claim shall be deemed to be the date on which that claim was received under the statutes of the first Party.

(3) The presumption set out in paragraph 2 shall not prevent a person from requesting that a claim for benefits under the statutes of the other Party be deferred.

ARTICLE 19

PAYMENT OF BENEFITS

(1) Cash benefits shall be payable directly to the beneficiary in the currency of the Party making the payment or in legal tender in the place of residence of the beneficiary, without any deduction for administrative charges or for any other costs incurred for the payment of that benefit.

(2) For the purposes of paragraph 1, where an exchange rate is required, that rate shall be the rate in effect on the day the payment is made.

ARTICLE 20

FILING OF A REQUEST, A DECLARATION OR AN APPEAL

(1) A request, a declaration or an appeal which, under the statutes of one Party, is filed within a prescribed time to the competent authority or institution of that Party shall be accepted if it is filed within the same time period to the corresponding authority or institution of the other Party. In such a case, the competent authority or institution of the latter Party shall immediately forward the request, declaration or appeal to the competent authority or institution of the first Party.

(2) The date on which the request, declaration or appeal is filed with the competent authority or institution of a Party shall be considered as the date of filing with the competent authority or institution of the other Party.

ARTICLE 21

MEDICAL EXAMINATION REPORTS

(1) At the request of the competent institution of one Party, the competent institution of the other Party shall make the necessary arrangements to provide the medical examination reports required for persons residing or staying in the territory of the latter Party.

(2) The reports referred to in paragraph 1 shall not be considered invalid solely because they have been made in the territory of the other Party.

ARTICLE 22

EXEMPTION FROM FEES AND AUTHENTICATION

(1) Any reduction of or exemption from fees provided for in the statutes of one Party with respect to the issuing of a certificate or document required for the purposes of those statutes shall be extended to the certificates and documents required for the purposes of the statutes of the other Party.

(2) Any document required for the purposes of the Agreement shall be exempt from authentication by the diplomatic or consular authorities or from any other similar procedure.

ARTICLE 23

DISCLOSURE OF PERSONAL INFORMATION

(1) In this Article, the word "information" means any information from which the identity of a natural or a legal person may be easily established.

(2) Unless disclosure is required under the statutes of a Party, any information communicated by an institution of one Party to an institution of the other Party shall be confidential and shall be used exclusively for the application of the Agreement.

(3) Access to personal information shall be subject to the statutes of the Party on whose territory the information is located.

ARTICLE 24

MUTUAL ASSISTANCE

The competent authorities and institutions shall

- (a) communicate to each other any information required for the application of the Agreement ;
- (b) assist each other free of charge in any matter concerning the application of the Agreement ;
- (c) forward to each other any information on measures adopted for the application of the Agreement or on amendments to their statutes to the extent that such amendments affect the application of the Agreement ; and
- (d) inform each other of the difficulties encountered in the interpretation or in the application of the Agreement.

ARTICLE 25

PAYMENTS BETWEEN INSTITUTIONS

(1) The competent institution of one Party must pay to the competent institution of the other Party the fees pertaining to each medical examination report produced in accordance with Article 21. The forwarding of medical information or other information already in the possession of the competent institutions shall be an integral part of administrative assistance and shall be free of charge.

(2) The Administrative Arrangement shall determine the terms and conditions respecting the payments of the costs referred to in paragraph 1.

ARTICLE 26

COMMUNICATION

(1) The competent authorities and institutions and liaison agencies of both Parties may communicate with one another in their official languages.

(2) A decision of a tribunal or an institution may be communicated directly to a person residing in the territory of the other Party.

ARTICLE 27

SETTLEMENT OF DISPUTES

(1) Any dispute between the two Parties concerning the interpretation or the application of the Agreement shall be settled by the competent authorities through direct negotiations.

(2) If a dispute cannot be settled within six months following the beginning of the negotiations, it shall be referred, at the request of one Party or of both Parties, to an arbitration commission whose composition and rules of procedure are determined in the Administrative Arrangement.

(3) The arbitration commission shall decide the dispute according to the spirit and the fundamental principles of the Agreement. Its decision shall be binding and final.

TITLE V

TRANSITIONAL AND FINAL

ARTICLE 28

TRANSITIONAL

(1) The Agreement shall not confer any right to the payment of benefits before the date of its coming into force.

(2) For the purposes of Title III and subject to the provisions of paragraph 1 of this Article,

(a) period of insurance completed prior to the date of coming into force of the Agreement shall be taken into consideration for the purpose of determining entitlement to benefits under the Agreement ;

(b) a benefit, other than a death benefit, is due under the Agreement even if it is related to an event prior to the date of coming into force of the Agreement ;

(c) when benefits are payable pursuant to the totalization provided in Article 13 and when a claim for such benefits is produced within two years from the date of coming into force of the Agreement, rights arising from the Agreement shall be acquired, notwithstanding the provisions of the statutes of either Party relative to the forfeiture of rights ;

(i) from the date of coming into force of the Agreement if the event occurred before the date of coming into force ; or

(ii) from the date of the retirement, death or invalidity as confirmed by a medical report creating the right to benefits if such date follows the date of coming into force.

If the claim for benefits is submitted after the limit of two years following the coming into force of the Agreement, rights shall be acquired from the date provided for in the statutes of either Party.

(d) benefits which, on account of nationality or residence, have been refused, reduced or suspended shall, at the request of the person involved, be granted or re-established from the date of coming into force of the Agreement ;

(e) benefits granted before the date of coming into force of the Agreement shall be revised, at the request of the person involved. They may also be revised by the competent institution. If the revision leads to benefits that are lower than the benefits paid before the coming into force of the Agreement, the amount of benefits previously paid shall be maintained ;

(f) if the request referred to in subparagraphs *d* and *e* is filed within two years of the date of coming into force of the Agreement, rights arising from the Agreement shall be acquired from that date, notwithstanding the provisions of the statutes of both Parties relative to the forfeiture of rights ;

(g) if the request referred to in subparagraphs *d* and *e* is filed after the limit of two years following the coming into force of the Agreement, rights which are not forfeited shall be acquired from the date of the request, unless there are more favourable provisions in the applicable statutes.

(3) For the purposes of Article 8, a person already detached at the date of coming into force of the Agreement shall be deemed to have become detached on that date.

ARTICLE 29

COMING INTO FORCE AND DENUNCIATION

(1) The Parties shall notify one another when their respective internal procedures required for the coming into force of the Agreement have been completed.

(2) The Agreement is entered into for an indefinite term from the date of its coming into force, which is determined by an exchange of letters between the contracting Parties. It may be denounced by either Party giving notice to the other Party. The Agreement expires on the 31st day of December which follows the date of notification by at least 12 months.

(3) If the Agreement is terminated, all rights acquired by a person under the provisions of the Agreement shall be maintained, and negotiations shall be undertaken to settle any rights in the process of being acquired under these provisions.

Done at Québec on 21 November 2000, in two copies, in the French and Turkish languages, both texts being equally authentic.

For the Gouvernement
du Québec

For the Government of
the Republic of Turkey

LOUISE BEAUDOIN,
Minister of International
Relations

ERHAN ÖG,
*Ambassador of the
Republic of Turkey*

O.C. 738-2004.

SCHEDULE II

(s. 2)

ADMINISTRATIVE ARRANGEMENT FOR THE IMPLEMENTATION OF THE AGREEMENT ON SOCIAL SECURITY BETWEEN THE GOUVERNEMENT DU QUÉBEC AND THE GOVERNMENT OF THE REPUBLIC OF TURKEY

CONSIDERING Article 17 of the Agreement on Social Security between the Gouvernement du Québec and the Government of the Republic of Turkey, signed at Québec on 21 November 2000 ;

CONSIDERING the desire of both Governments to implement the Agreement ;