

Social Security of Foreign Employees Working in Turkey

Introduction

The right to social security is guaranteed as a constitutional right by Article 60 of the Constitution of Turkey for both Turkish and foreign employees. Social Security financing in Turkey is covered by employers depositing premiums to the Social Security Institution on behalf of both themselves and their workers. The legal aspects of social security of foreign workers in Turkey should be evaluated by examining both the Social Security and Universal Health Insurance Law (Law No. 5510, "Law"), the provisions of the social security agreements signed between Turkey and the relevant countries, as well as the type of employment.

In this article, the social security status of foreign employees working in Turkey will be explained first, then the procedure for refund of pension premiums will be examined briefly.

Determination of Social Insurance

According to Article 4/1/a of Law; those who are employed by one or more employers through an employment contract are deemed to be insured. Therefore, regardless of whether they are Turkish or foreign nationals, anyone who works for an employer under an employment contract is deemed to be insured according to Law.

Without prejudice to the provisions of international social security agreements, the following employees are not considered to be insured:

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- 1) Those who work for an organization established in a foreign country and provide certificates indicating that they are subject to Social Security in a foreign country and whose working period does not exceed three months
- 2) Those who reside abroad and are subject to the social security legislation of the country of residence however work for its own business established in Turkey.

Social Security Agreements

Social security agreements are bilateral agreements that coordinate the social security legislation of two countries mainly to eliminate the contribution of social security for the same work. Turkey has entered into 34 bilateral social security agreements with countries such as Germany, Netherlands, Belgium, France, Canada. Citizens of a country that is party to a social security Agreement with Turkey have the same rights and benefits as the citizens of Turkey.

The basic rule for many social security agreements is that the posted workers of contracting countries are subject to the social security legislation of where the employees work. However, certain groups in social security agreements are kept apart from this main principle who are;

- The posted workers that will work for a temporary period, (the meaning of the temporary period, the extensions and conditions are determined by the social security agreements)
- Employees who work in the field of international transportation business,
- Civil and military employees of the sending country who work in embassies, consulates, diplomatic missions, etc.
- Employees on ships flying the flag of one of the contracting parties or working in the ports of the contracting country.

These groups are subject to their countries' social security legislation.

Combination of Service in Terms of Pension Premiums

Another advantage of working in Turkey as a citizen of a contracting country of a bilateral social security agreement is the recognition of services provided in the contracting country. Pursuant to the

bilateral social security agreements signed by Turkey, the insurance periods in both countries can be combined provided that they don't coincide with the same period. Therefore, the right to obtain pension is determined through the combination of services. Contracting countries pay the part of the pension calculated corresponding to the number of working days in their countries, as a contractual pension (partial pension).

In this context, the contractual pension is the pension that is paid within the scope of social security agreements, calculated according to the total period of the services performed in the contracting countries, and paid over the amount corresponding to the service period in the relevant country.

Refund of Pension Premiums

There is no special application for foreign employees regarding the social security premium refund process and retirement conditions. The refund of premiums is regulated only in the social security agreement signed with Germany. Therefore, except for Germany, premium refund requests of foreign employees are evaluated under the general retirement procedure in Turkey.

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According to the Law, only employees over the age of 60 for men and 58 for women can request the return of their pension premiums if they cannot retire for any reason.

Pursuant to the provisions of the social security agreements, if the combined period is sufficient to retire, the employees whose number of premium payment days in Turkey is not sufficient to retire can receive a contractual pension equal to the premium days corresponding to their working days in Turkey. In this case, the starting date is the first date started in both countries.

After all requirements are met, the premium refund can be made if a written request is made to the social security institution in Turkey through the social security institution in the relevant contracting country.

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