DECISION No 3/80 OF THE ASSOCIATION COUNCIL OF 19 SEPTEMBER 1980 On the Application of the Social Security Schemes of the Member States of the European Communities to Turkish workers and members of their families

THE COUNCIL OF ASSOCIATION

Having regard to the Agreement establishing an Association between the European Economic Community and Turkey;

Having regard to the Additional Protocol, and in particular Article 39 thereof

HAS DECIDED AS FOLLOWS:

TITLE I – GENERAL PROVISIONS

Article 1

Definitions

For the purpose of this Decision:

a. the terms “frontier worker”, “seasonal worker”, “member of the family”, “survivor”, “residence”, “stay”, “competent State”, “insurance periods”, “periods of employment”, “periods of residence”, “benefits”, “pensions”, “family benefits”, “family allowances” and “death grants” have the meanings assigned to them in Article 1 of Regulation (EEC) No 1408/71 of the Council of the European Communities of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community(1), hereinafter referred to as “Regulation (EEC) No 1408/71”;

b. "worker" means:

c.

(i) subject to the restrictions set out in Annex V, A. BELGIUM (1), of Regulation (EEC) No 1408/71, any person who is insured, compulsorily or on an optional continued basis, against one or more of the contingencies covered by the branches of a social security scheme for employed persons;

(ii) any person who is compulsorily insured against one or more of the contingencies covered by the branches of social security dealt with in this Decision, under a social security scheme for all residents or for the whole working population, if such a person:

- can be identified as an employed person by virtue of the manner in which that scheme is administered or financed, or,

- failing such criteria, is insured against some other contingency specified in the Annex under scheme for employed persons, either compulsorily or on an optional continued basis;
(c) "legislation" means all the laws, regulations and other statutory provisions and all other implementing measures, present or future, of each Member State relating to the branches schemes of social security covered by Article 4 (1) and (2).

This term excludes the provisions of existing or future industrial agreements, whether or not the public authorities have taken a decision rendering them compulsory or extending their scope;

(d) "social security convention" means any bilateral or multilateral instrument which binds or will bind either two or more Member States exclusively, or one Member State and Turkey in the field of social security, for all or part of the branches and schemes set out in Article 4 (1) and 82), together with agreements, of whatever kind, concluded pursuant to the said instruments;

(e) "competent authority" means in respect of each member State and of Turkey, the Minister, Ministers or other equivalent authority responsible for social security schemes throughout, or in any part of, the territory of the State in question;

(f) "institution" means, in respect of each Member State or of Turkey, the Minister, the body or authority responsible for administering all or part of the legislation;

(g) "competent institution" means:

(i) the institution of the Member State with which the person concerned is insured at the time of the application for benefits, or

(ii) the institution from which the person concerned is entitled or would be entitled to receive benefits if he or a member or members of this family were resident in the territory of the Member State in which the institution is situated, or

(iii) the institution designated by the competent authority of the Member State concerned, or

(iv) in the case of a scheme relating to an employer's liability in respect of the benefits set out in Article 4 (1), either the employer or the insurer involved or, failing these, a body or authority designated by the competent authority of the Member State concerned;

(h) "institution of the place of residence" and "institution of the place of stay" mean respectively the institution which is competent to provide benefits in the place where the person concerned resides and the institution which is competent to provide benefits in the place where the person concerned is staying, under the legislation administered by that institution or, where no such institution exists, the institution designated by the competent authority of the State in question.
Article 2

Persons covered

This Decision shall apply:

- to workers who are or have been subject to the legislation of one more Member States and who are Turkish nationals,
- to the members of the families of these workers, resident in the territory of one of he Member States,
- to the survivors of these workers.

Article 3

Equality of treatment

1. Subject to the special provisions of this Decision, persons resident in the territory of one of the Member States to whom this Decision applies shall be subject to the same obligations and enjoy the same benefits under the legislation of any Member State as the nationals of that State.

2. The provisions of paragraph 1 shall apply to the right to elect members of the organs of social security institutions or to participate in their nomination, but shall not affect the legislative provisions of any Member State relating to eligibility or methods of nomination of persons concerned to those organs.

Article 4

Matters covered

1. This Decision shall apply to all legislation concerning the following branches of social security:

   (a) sickness and maternity benefits;

   (b) invalidity benefits, including those intended for the maintenance or improvement of earning capacity;

   (c) old-age benefits;

   (d) survivors' benefits;

   (e) benefits in respect of accidents at work and occupational diseases;
(f) death grants;

(g) unemployment benefits;

(h) family benefits.

2. This Decision shall apply to all general and special social security schemes, whether contributory or non-contributory, and to schemes concerning the liability of an employer or shipowner in respect of the benefits referred to in paragraph 1.

3. The provisions of Title III shall not, however, affect the legislative provisions of any Member State concerning a shipowner's liability.

4. This Decision shall not apply to social and medical assistance or to benefit schemes for victims of war and its consequences.

Article 5

Relationship between this Decision and social security conventions binding two or more Member States exclusively

This Decision shall, as regards the persons and matters which it covers, replace the provisions of any social security convention, exclusively binding two or more Member States, save for such provisions of Part A of Annex II to Regulation (EEC) No 1408/71 as are not laid down in Part B of that Annex.

Article 6

Waiving of residence clause - Effect of compulsory insurance on reimbursement of contribution

1. Save as otherwise provided in this Decision, invalidity, old-age or survivors' cash benefits and pensions for accidents at work or occupational diseases, acquired under the legislation of one or more Member States, shall not be subject to any reduction, modification, suspension, withdrawal or confiscation by reason of the fact that the recipient resides in Turkey or in the territory of a Member State other than that in which the institution responsible for payment is situated.

The provisions of the first subparagraph shall also apply to lump-sum benefits granted in the case of the remarriage of a surviving spouse who was entitled to a survivor's pension.

2. Where under the legislation of a Member State reimbursement of contributions is conditional upon the person concerned having ceased to be subject to compulsory insurance, this condition shall not be considered satisfied as long as the person concerned is subject as a worker to compulsory insurance under the legislation of another Member State.
Article 7

Revalorization of benefits

Rules for revalorization provided by the legislation of a Member State shall apply to benefits due under that legislation subject to the provisions of this Decision.

Article 8

Prevention of overlapping of benefits

1. This decision can neither confer nor maintain the right to several benefits of the same kind for the and the same period of compulsory insurance. However, this provision shall not apply to benefits in respect of invalidity, old age, or death (pensions) which are awarded by the institutions of two or more Member States, in accordance with the provisions of Title III.

2. The provisions of the legislation of a Member State for reduction, suspension or withdrawal of benefit in cases of overlapping with other social security benefits or other income may be invoked against the beneficiary, even if the right to such benefits was acquired under the legislation of another Member State or of Turkey or the income was obtained in the territory of another Member State or of Turkey. However, this provision shall not apply when the person concerned receives benefits of the same kind in respect of invalidity, old age or death (pensions) which are awarded by the institutions of two or more Member States in accordance with Title III or by a Turkish institution pursuant to the provisions of a bilateral social security convention.

3. The provisions of the legislation of a Member State for reduction, suspension or withdrawal of benefits in the case of a person in receipt of invalidity benefits on anticipatory old-age benefits pursuing a professional or trade activity may be invoked against such person even though he is pursuing his activity in the territory of another Member State or of Turkey.

4. For the purposes of paragraphs 2 and 3, the institutions concerned shall, on request, exchange all appropriate information.

TITLE II - DETERMINATION OF THE LEGISLATION APPLICABLE

Article 9

The legislation applicable to Turkish workers employed in the Community shall be determined in accordance with the rules laid down by Article 13 (1) and (2) (a) and (b), Articles 14, 15 and 17 of Regulation (EEC) No 1408/71.
TITLE III - SPECIAL PROVISIONS RELATING TO THE VARIOUS CATEGORIES OF BENEFITS

Chapter 1: Sickness and Maternity

Article 10

For the purposes of acquisition, retention or recovery of the right to benefits, Article 18 of Regulation (EEC) No 1408/71 shall apply.

Article 11

For the purposes of the granting of benefits and reimbursements between institutions of the Member States Articles 19 to 24, Article 25(3) and Articles 26 to 36 of Regulation (EEC) No 1408/71 shall apply.

Moreover, Article 19 of Regulation (EEC) No 1408/71 shall apply to wholly unemployed frontier workers who satisfy the conditions specified by the legislation of the competent State for entitlement to sickness benefits.

Chapter 2 - Invalidity

Article 12

The rights to benefits of a worker who has successively or alternately been subject to the legislation of two or more Member States shall be established in accordance with Article 37(1), first sentence, and (2), Articles 38 to 40, Article 41 (1) (a), (b), (c) and (e) and (2), and Articles 42 and 43 of Regulation (EEC) No 1408/71.

However:

(a) for the purpose of applying Article 39(4) of Regulation (EEC) No 1408/71, all the members of the family, including children, residing in the Community or in Turkey, shall be taken into account;

(b) the reference in Article 40(1) of this Regulation to the provisions of Title III, Chapter 3 of Regulation (EEC) No 1408/71 shall be replaced by a reference to the provisions of Title III, Chapter 3 of this Decision.

Chapter 3 - Old age and death (pensions)

Article 13

The rights to benefits of a worker who has been subject to the legislation of two or more Member States, or of his survivors, shall be established in accordance with Article 44(2), first sentence, Articles 45, 46(2), Articles 47, 48, 49 and 51 of Regulation (EEC) No 1408/71.
However:

(a) Article 46 (2) of Regulation (EEC) No 1408/71 shall apply even if the conditions for acquiring entitlement to benefits are satisfied without the need to have recourse to Article 45 of the said Regulation;

(b) for the purposes of applying Article 47 (3) of Regulation (EEC) No 1408/71, all the members of the family, including children, residing in the Community or in Turkey shall be taken into account;

(c) for the purposes of applying Article 49 (1) (a) and (2) Article 51 of Regulation (EEC) No 1408/71, the reference to Article 46 shall be replaced by a reference to Article 46 (2).

Article 14

1. The benefit due under the legislation of a Member State which is bound to Turkey by a bilateral social security convention shall be awarded in accordance with the provisions of that convention.

Where a worker has been subject to the legislation of two or more Member States, a supplement shall be added, where appropriate, equal to the difference between the amount of the said benefit and the amount of the benefit obtained pursuant to Article 12 or Article 13, as the case may be.

2. Where a supplement is due pursuant to the second subparagraph of paragraph 1, Article 51 of Regulation (EEC) No 1408/71 shall apply to the whole amount of the benefit owed by the Member State concerned.

Chapter 4 - Accidents at work and occupational diseases

Article 15

For the granting of benefits and for reimbursements between Member States' institutions, Articles 52 to 63 inclusive of Regulation (EEC) No 1408/71 shall apply.

Chapter 5 - Death grants

Article 16

For the acquisition, retention or recovery of the right to benefits, the provisions of Article 64 of Regulation (EEC) No 1408/71 shall apply.

Article 17
Where the death occurs in the territory of a Member State other than the competent State, or the person entitled resides in such State, the death grants shall be awarded in accordance with Article 65 and Article 66 of Regulation (EEC) No 1408/71.

Chapter 6 - Family benefits and family allowances

Article 18

For the acquisition of the right to benefits, Article 72 of Regulation (EEC) No 1408/71 shall apply.

Article 19

1. Pensioners and their dependent children residing in the territory of a Member State shall be entitled to family allowances in accordance with Article 77(2) and Article 79(1)(a), (2) and (3) of Regulation (EEC) No 1408/71.

2. The natural or legal person responsible for an orphan and residing with him in the territory of a Member State shall be entitled to family allowances and, where appropriate, to supplementary or special allowances for orphans under the rules laid down in Article 78(2) and Article 79(1)(a), (2) and (3) of Regulation (EEC) No 1408/71.

TITLE IV - MISCELLANEOUS PROVISIONS

Article 20

1. The competent authorities of the Member States and of Turkey shall communicate to each other all information regarding measures taken to implement this Decision.

2. For the purposes of implementing this Decision, the authorities and institutions of the Member States and of Turkey shall lend their good offices and act as though implementing their own legislation. The administrative assistance furnished by the said authorities and institutions shall, as a rule, be free of charge. However, the competent authorities of these States may agree to certain expenses being reimbursed.

3. The authorities and institutions of the Member States and of Turkey may, for the purposes of implementing this Decision, communicate directly with one another and with the persons concerned to their representatives.

4. The authorities, institutions and offices or tribunals of a Member state may not reject claims or other documents submitted to them on the grounds that they are written in an official language of another Member state or in the Turkish language.

Article 21
1. Any exemption from or reduction of taxes, stamp duty, notarial or registration fees provided for in the legislation of a Member State or of Turkey in respect of certificates or documents required to be produced for the purposes of the legislation of that State shall be extended to similar documents required to be produced for the purposes of the legislation of another Member State or of Turkey, or of this Decision.

2. All statements, documents and certificates of any kind whatsoever required to be produced for the purpose of this Decision shall be exempt from authentication by diplomatic and consular authorities.

**Article 22**

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

**Article 23**

1. Medical examinations provided for by the legislation of one Member State may be carried out, at the request of the competent institution, in the territory of another Member State or of Turkey, by the institution of the place of stay or residence of the person entitled to benefits, under conditions agreed between the competent authorities of the States concerned.

2. Medical examinations carried out under the condition laid down in paragraph 1 shall be considered as having been carried out in the territory of the competent State.

**Article 24**

1. Money transfers effected in accordance with this Decision shall be made in accordance in the relevant agreements in force at the time of the transfer between the Member States concerned. In the case where no such agreements are in force between Turkey and a Member State, the competent authorities in both States, or the authorities responsible for international payment shall, by common accord, adopt the measures required to make these transfers.

**Article 25**

1. For the purposes of implementing this Decision, Annexes I, III and IV of Regulation (EEC) No 1408/71 shall be applicable.
2. For the purposes of implementing this Decision, Annex II of Regulation (EEC) No 1408/71 shall be applicable to the extent laid down in Article 5.

3. For the purposes of implementing this Decision, Annex V of Regulation (EEC) No 1408/71 shall be applicable to the extent laid down in Part I of the Annex.

Other special procedures for applying the laws of certain Member States are laid down in Part II of the Annex.

Article 26

1. The competent authorities may designate liaison bodies which may communicate directly with each other.

2. Any institution of a Member State or of Turkey, and any person residing or staying in the territory of a Member State or of Turkey, may make application to the institution of another Member State or of Turkey, either directly or through the liaison bodies.

Article 27

a. Claims for invalidity, old-age and survivors benefits (including orphans pensions) shall be submitted in accordance with Articles 35 (1) and (2), 36 (1), (2) and (4) first clause, 37 (a), (b) and (c) and 38 of Regulation (EEC) No 574/72 of the Council of the European Communities of 21 March 1972, fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community(1) hereinafter called “Regulation (EEC) No. 574/72.

b. However,

i. if the person concerned resides in Turkey, he shall submit his claim to the competent institution of that Member State to whose legislation the worker was subject, where appropriate through the institution of the place of residence;

ii. Article 38 of Regulation (EEC) No 574/72 shall apply to all members of the family of the claimant who reside in the territory of the Community or in Turkey.

Article 28

Administrative checks and medical examinations shall be effected in accordance with the provisions of Articles 51 and 52 of Regulation (EEC) No 574/72. These provisions shall apply if the recipient is resident in Turkey.

Article 29

1. In order to draw a pension or supplementary allowance in respect of an accident at work or an occupational disease under the legislation of a Member State, a worker or his survivors residing in Turkey shall make a claim either to the competent institution, or to the institution of the place of residence, which shall forward such claim to the
competent institution. The submission of the claim shall be subject to the following rules:

a. the claim must be accompanied by the required supporting documents and made out on the forms provided for by the legislation administered by the competent.

b. the accuracy of the information given by the claimant must be established by official documents attached to the claim form, or confirmed by the competent bodies of Turkey.

1. The competent institution shall notify the claimant of its decision directly or through the liaison body of the competent State; it shall send a copy of that decision to the liaison body of Turkey.

2. Administrative checks and medical examinations provided for in the event of pensions being reviewed shall be carried out at the request of the competent institution by the Turkish institution in accordance with the procedure laid down by the legislation administered by the latter institution. The competent institution shall, however, retain the right to have the person entitled to benefits examined by a doctor of its own choice.

3. Any person drawing a pension for himself or for an orphan shall inform the institution responsible for payment of any change in his situation or in that of the orphan which is likely to modify the pension.

4. Pensions due from the institution of a Member State to claimants resident in Turkey shall be made in accordance with the procedure laid down in Article 30.

Article 30

Benefits shall be paid in accordance with Articles 53 to 59 of Regulation (EEC) No 574/72. Where the recipient is resident in Turkey, payment shall be direct save as otherwise provided in the convention binding the Member State concerned and Turkey.

TITLE V – FINAL PROVISIONS

Article 31

Two or more Member States, or Turkey and one or more Member States, or the competent authorities of those States may, where necessary, conclude agreements designed to supplement the administrative procedures for implementing this Decision.

Article 32

Turkey and the Community shall, each to the extent to which they are concerned, take the necessary steps to implement this Decision.

Done at Brussels, 19 September 1980

For the Association Council
The President

The Secretaries C. KESKIN

N. AKYOL G.L.GIOLA

ANNEX

SPECIAL PROCEDURES FOR APPLYING THE LAWS OF CERTAIN MEMBER STATES

referred to in Article 25(3) of this Decision

I. Special procedures for applying the laws of certain Member States provided for in Annex V of Regulation (EEC No 1408/71 and applicable for the purposes of this Decision

Annex V to Regulation (EEC) No 1408/71 shall apply for the purposes of this Decision except for the following provisions:

1. Point B. DENMARK

   Paragraphs 1, 2, 3, 4, 5, 7, 8 and 11;

2. Point C. GERMANY

   Paragraphs 1, 4, 8 and 9;

3. Point D. FRANCE

   Paragraph 1(a) (b) and paragraph 3;

4. Point E. IRELAND

   Paragraphs 1, 2, 3, 4, 6, 7 and 9;

5. Point H. NETHERLANDS

   Paragraph 1(a);

6. Point I. UNITED KINGDOM

   Paragraphs 1, 4, 6, 7, 8 and 11.
I. Other special procedures for applying the laws of certain Member States

A. BELGIUM:

This Decision shall not apply to the guaranteed income for retired people, nor to the allowances paid to handicapped persons.

B. DENMARK

1. Any person who, by pursuing an activity as an employed person, is subject to legislation on accidents at work and occupational diseases shall be considered a worker within the meaning of Article 1(b) (ii) of the Decision.

2. Workers and pensioners and members of their families referred to in Articles 19, 22(1) and (3), 25(3), 26(1) and Articles 28a, 29 and 31 of Regulation (EEC) No 1408/71 resident or staying in Denmark, shall be entitled to benefits in kind on the same terms as those laid down by Danish legislation for persons whose income does not exceed the level indicated in Article 3 of Law No 311 of 9 June 1971 concerning the Public Health Service, where the cost of the said benefits is payable by the institution of a Member State other than Denmark.

3. Article 1(1) No 2 of the Law on old-age pensions, Article 1(1) No 2 of the Law on disability pensions and Article 2(1) No 2 of the Law on widows’ pensions and allowances shall not be applicable to workers or their survivors whose residence is in the territory of a Member State other than Denmark.

4. The terms of this Decision shall be without prejudice to the transitional rules under the Danish Laws of 7 June 1972 on the pension rights of Danish nationals having their effective residence in Denmark for a specified period immediately preceding the date of the application.

5. The periods during which a frontier worker residing within the territory of a Member State other than Denmark has worked in Denmark are to be considered as periods of residence for the purposes of Danish legislation. The same shall apply to those periods during which such a worker is posted to the territory of a Member State other than Denmark.

6. For the purposes of applying Article 8(2) of this Decision to Danish legislation, disability, old-age and widows’ pensions shall be considered as benefits of the same kind.

7. When a Turkish worker to whom this Decision applies has been subject to Danish legislation and to the legislation of one or more other Member States, and fulfils the requirements for a disability pension under Danish legislation, his entitlement to such pension shall be subject to the condition that he has been resident in
Denmark for a period of at least one year and during that period has been capable, physically and mentally, of carrying out a normal occupation.

8. The following provisions shall apply until the entry into force of a bilateral social convention between Denmark and Turkey:

When a Turkish worker to whom this Decision applies has been subject to Danish legislation and not to the legislation of another Member State, his entitlement and that of his survivors to old-age, disability and death benefits (pensions) shall be determined in accordance with the following provisions:

a. Turkish nationals resident in Denmark shall be entitled to an old-age pension granted in accordance with Danish legislation if, between the age of 18 and the minimum age for entitlement to an old-age pension, they have been resident in Denmark for at least fifteen years, at least five of which immediately preceded the date of the application for a pension;

b. Turkish nationals resident in Denmark shall be entitled to an old-age pension granted in accordance with Danish legislation if, between the age of 18 and the minimum age for entitlement to an old-age pension, they have been resident in Denmark for at least fifteen years, at least five of which immediately preceded the date of the application for a pension;

c. Turkish nationals resident in Denmark shall be entitled to a disability pension granted in accordance with Danish legislation if they have been resident in Denmark for at least five years immediately preceding the date of the application for a pension and during that period have been capable, physically and mentally, of carrying out a normal occupation;

d. Turkish nationals resident in Denmark shall be entitled to a widow’s pension granted in accordance with Danish legislation

- if the deceased spouse had been resident in Denmark after the age of 18 for at least five years immediately preceding the date of death.

- or if the widow had been resident in Denmark for at least five years immediately preceding the date of the application for a pension.

C. GERMANY

1. Article 6 of this Decision shall not affect the provisions under which accidents (and occupational diseases) occurring outside the territory of the Federal Republic of Germany, and periods completed outside that territory, do not give rise to payment of benefits, or only give rise to payment of benefits under certain conditions, when those entitled to them reside outside the territory of the Federal Republic of Germany.

2. Article 1233 of the insurance code (RVO) and Article 10 of the clerical staff insurance law (AVG), as amended by the pension reform law of 16 October 1972, which govern voluntary insurance under German pension insurance schemes, shall apply to Turkish nationals who fulfil the general conditions:
a. if the person concerned has his permanent address of residence in the territory of the Federal Republic of Germany;

b. if the person concerned has his permanent address or residence in the territory of another Member State and at any time previously contributed compulsorily or voluntarily to a German pension insurance scheme.

D. FRANCE

The Decision shall not apply to the supplementary allowance of the National Mutual Aid Fund.

E. IRELAND

1. Any person who is compulsorily or voluntarily insured pursuant to the provisions of Section 4 of the Social Welfare Act 1952 shall be considered a worker within the meaning of Article 1(b) (ii) of this Decision.

2. Workers and pensioners, together with members of their families referred to in Articles 19, 22(1) and (3), 25(3), 26(1) and Articles 28a, 29 and 31 of Regulation (EEC) No. 1408/71, resident or staying in Ireland, shall be entitled, free of charge, to any such form of medical treatment as is provided for by Irish legislation, where the cost of this treatment is payable by the institution of a Member State other than Ireland.

3. For the purposes of applying Article 8(2) of this Decision to Irish legislation, invalidity, old-age and widows’ pensions shall be considered as benefits of the same kind.

4. For the purpose of calculating earnings for the award of earnings-related benefit payable with sickness and maternity benefits under Irish legislation, a worker shall, in derogation from Article 23(1) of Regulation (EMC) No 1408/71, be credited for each week of employment completed under the legislation of another Member State during the relevant income-tax year with an amount equivalent to the average weekly earnings in that year of male and female workers, respectively.

D. ITALY

None.

E. LUXEMBOURG

The supplement to make up the minimum pension as well as the children’s supplement in Luxembourg pensions shall be granted in the same proportion as the fixed part.

F. NETHERLANDS

A person receiving an old-age pension under Netherlands legislation and a pension under the legislation of another Member State shall, for the purposes of Article 27 and
/or Article 28 of Regulation (EEC) No 1408/71, be considered to be entitled to benefits in kind if he satisfied the conditions required for entitlement to voluntary sickness insurance for elderly persons.

G. UNITED KINGDOM

1. All persons who are “employed earners” within the meaning of the legislation of Great Britain or of the legislation of Great Britain or of the legislation or Northern Ireland and all persons in respect of whom contributions are payable as “employed persons” in accordance with the legislation of Gibraltar shall be regarded as “workers” for the purposes of Article 1(b) (ii) of this Decision.

2. This Decision shall not apply to those provisions of United Kingdom legislation implementing a social security agreement between the United Kingdom and a third State other than Turkey.

3. Wherever required by United Kingdom legislation for the purposes of determining entitlement to benefits, Turkish Nationals born in a State other than a Member State or turkey are to be treated as nationals of the United Kingdom born in such other State.

4. For the purposes of applying Article 8 (2) of this Decision to the legislation of the United Kingdom, disability, old-age and widows’ pensions shall be considered as benefits of the same kind.

STATEMENT BY THE MEMBER STATES OF THE COMMUNITY

annexed to Decision No 3/80 of the Association Council

The Member States of the Community,

WHEREAS , pursuant to Article 39(2) of the Additional Protocol, the provisions to be adopted by the Association Council concerning social security for workers of Turkish nationality moving within the Community and for their families residing within the Community may not create an obligation on Member States of the Community to take into account periods of insurance or employment completed in Turkey;

WHEREAS , moreover, the bilateral agreements concluded between Turkey and most Member States contain provisions which state that these Member States shall take into account periods completed in Turkey;

CONSIDERING , the special nature of the Association relations between the Community and Turkey,

HEREBY STATE:

The Number States undertake to devise the legal means and arrangements necessary for taking into account periods completed in Turkey as regards the acquisition, maintenance or recovery of entitlement to benefits and the calculation of benefits.
STATEMENTS FOR THE EEC-TURKEY ASSOCIATION COUNCIL MINUTES

1. “The Community notes that:

The fact that Article 5 of the Decision does not mention bilateral conventions binding in Turkey and the Member States does not prevent workers of Turkish nationality from taking advantage of the more favourable provisions of such a convention, existing or to be concluded.”

2. “The Association Council notes that:

   Article 19 applies to:

   o family allowances and, where appropriate, to

   o supplementary or special allowances for orphans,

   as provided for by the legislation referred to in Article 4(1) (h) of Regulation (EEC) No 1408/71.

   Increases or supplements to the pensions referred to in Article 77(1) of regulation (EEC) No 1408/71 and the orphans’ pensions referred to in Article 78(1) of Regulation (EEC) No 1408/71 are already governed by the Decision, i.e. by

   o Article 12(1), which refers to Article 37(1) first sentence (but not the second sentence) of Regulation (EEC) No 1408/71;

   o Article 13(1), which refers to Article 44(2) first sentence (but not paragraph 3) of Regulation (EEC) No 1408/71.