

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2020 Nr. 103

A. TITEL

*Verdrag inzake sociale zekerheid tussen het Koninkrijk der Nederlanden en de Republiek Kosovo;
's-Gravenhage, 17 september 2020*

Voor een overzicht van de verdragsgegevens, zie verdragsnummer 012824 in de Verdragenbank.

B. TEKST

Agreement on social security between the Kingdom of the Netherlands and the Republic of Kosovo

The Kingdom of the Netherlands

and

the Republic of Kosovo,

hereinafter referred to as “the Contracting Parties”;

Desiring to promote their mutual cooperation in the area of social security, notably to ensure that there are arrangements in place to verify the legitimacy of statutory benefits related to old age exported by the Kingdom of the Netherlands and the Republic of Kosovo;

Have agreed as follows:

Article 1

Definitions

1. For the purposes of this Agreement the following definitions apply:

- a) “territory” means:
for the Netherlands, the territory of the Kingdom in Europe; and,
for the Republic of Kosovo, the territory of the Republic of Kosovo;
- b) “competent authority” means:
for the Netherlands, the Minister of Social Affairs and Employment; and,
for the Republic of Kosovo, the Ministry of Labour and Social Welfare;
- c) “competent institution” means:
for the Netherlands, the “Sociale Verzekeringsbank” (Social Insurance Bank) and the “Uitvoeringsinstituut Werknemersverzekeringen” (Employee Insurance Agency) or any other body designated by the aforementioned minister; and,
for the Republic of Kosovo, the Ministry of Labour and Social Welfare: Pensions Department – Division of Foreign Pensions;
- d) “relevant organisation” means any organisation that is involved in the application of this Agreement, and includes *inter alia* the population registers, the tax authorities, public registers of immovable property, chambers of commerce, police, prison services, immigration offices and data bases;
- e) “benefit” means any benefit related to old age under the legislation defined in article 2;
- f) “beneficiary” means any person who submits a request for or who is entitled to a statutory benefit related to old age;
- g) “spouse” means a person defined or recognised as such by the applicable legislation.

2. The other terms used in this Agreement have the meaning assigned to them in the applicable legislation of the respective Contracting Party.

Article 2

Material scope

1. This Agreement applies to social security legislation concerning:
 - a) for the Netherlands:
 - old age pensions
 - and, only for the application of article 7, 9 and 13 also social assistance;
 - b) for the Republic of Kosovo:
 - statutory benefits related to pension benefits.
2. This Agreement also applies to future legislation of a Contracting Party concerning statutory benefits related to old age.

Article 3

Personal scope

Unless otherwise stated, this Agreement applies to a beneficiary as well as to a member of his family insofar as the beneficiary or the family member resides in the territory of one of the Contracting Parties.

Article 4

Export of benefits

1. Unless otherwise provided in this Agreement, the provisions of the legislation of a Contracting Party which provide for a restriction of the entitlement to or the payment of a benefit for persons who reside outside the territory of that Contracting Party are not applicable with respect to persons residing in the territory of the other Contracting Party.
2. Paragraph 1 is without prejudice to the application of legislation introducing restrictions concerning the entitlement to and payment of old-age benefits with respect to persons who reside outside the territory of the Contracting Party or precluding such entitlement or payment.
3. The Contracting Parties shall inform each other in good time of such changes. In the event that paragraph 2 of this article applies, any entitlement to a benefit acquired prior to this by a person on the basis of this Agreement will be retained, provided this person continues to reside in the territory of the other Contracting Party and continues to be entitled to the benefit without interruption.
4. Paragraph 1 does not apply to the Netherlands' legislation concerning social assistance.

Article 5

Identification

1. In order to determine the entitlement to benefits and legitimacy of payments under the legislation of the Contracting Party, a beneficiary or their spouse is obliged to identify themselves by submitting an official proof of identity to the competent institution of the Contracting Party in whose territory they reside. An official proof of identity means a passport or any other valid proof of identity issued by the authorities in whose territory that person resides.
2. The competent institution of the Contracting Party in whose territory the individual concerned resides shall identify the beneficiary or their spouse on the basis of this proof of identity. The competent institution concerned shall inform the competent institution of the other Contracting Party that the identity of the beneficiary or their spouse has been verified by sending a certified and authenticated copy of the proof of identity.

Article 6

Verification of requests and payments

1. For the purposes of this article, 'information' means information regarding *inter alia* identity, address, actual household situation, income, cases of death, termination of payments and detention.

2. Concerning requests for or the legitimacy of payment of benefits, the competent institution of a Contracting Party shall, at the request of the competent institution of the other Contracting Party, verify the information regarding the beneficiary or their spouse. If necessary, the accuracy of the information shall be checked with the relevant organisations. The competent institution of the former Contracting Party shall forward a statement of the verification along with certified and authenticated copies of the relevant documents to the competent institution of the latter Contracting Party.

3. Without prejudice to paragraph 2, the competent institution of a Contracting Party shall, without prior request and to the extent possible, inform the competent institution of the other Contracting Party of any changes in the information regarding the beneficiary or a member of his family or household.

4. Without prejudice to paragraph 2, the competent institutions of the Contracting Parties may directly contact each other or each other's relevant organisations, as well as the beneficiaries, their spouses or representatives.

5. Without prejudice to paragraph 2, the diplomatic or consular representatives and the competent institutions of a Contracting Party may directly contact the other Contracting Party's competent authorities or their authorised representatives, the relevant organisations, the beneficiaries, their spouses or representatives in order to verify entitlement to benefits or the legitimacy of payments to the beneficiaries.

6. For the purposes of applying this Agreement, the relevant organisations shall lend their good offices and act as though applying their own legislation. The administrative assistance furnished by the relevant organisations shall be free of charge. However, the competent authorities of the Contracting Parties may agree to certain expenses being reimbursed.

Article 7

Verification of social assistance

1. In order to enable determination of entitlement to social assistance in the Netherlands, the competent institution in Kosovo shall, at the request of the competent institution in the Netherlands, furnish or verify the necessary information. The competent institution shall forward a statement of verification along with copies of relevant documents, if available, to the competent institution in the Netherlands.

2. For these purposes and in this context, 'information' concerns details of income, possessions or other details relevant to enabling the entitlement to social assistance in the Netherlands to be determined. This includes information on immovable property derived from organisations such as public registers of immovable property or from the chambers of commerce.

3. Without prejudice to paragraph 1, the diplomatic or consular representatives and the competent institutions of a Contracting Party have the competence to contact the relevant organisations of the other Contracting Party directly in order to verify entitlement to social assistance in the Netherlands.

Article 8

Recognition of administrative decisions

1. Any administrative decision regarding the recovery of undue social security benefit payments or administrative sanctions pursuant to the applicable legislation taken by a competent institution in one Contracting Party against which no further legal remedy is available shall be recognised by the other Contracting Party.

2. An administrative decision as referred to in paragraph 1 may not be recognised by the Contracting Party in which recognition is sought, if such recognition is contrary to domestic legal order.

3. Enforceable administrative decisions recognised pursuant to paragraph 1, shall be executed by the other Contracting Party in accordance with its statutory provisions governing the enforcement of similar administrative decisions. Confirmation that a decision is enforceable shall be stated on the certified and authenticated copy of that decision. Confirmation that a decision has been enforced shall be given in writing to the other Contracting Party.

Article 9

Exchange of information and mutual assistance

1. The competent authorities and competent institutions which are responsible for the application of this Agreement shall provide each other with all the information necessary for the purposes of applying this Agreement, in accordance with their relevant national legislation concerning the protection of personal data.

2. The information and assistance referred to in paragraph 1 shall be furnished free of charge, unless the competent authorities institutions agree otherwise.

3. The language used for communication between the competent authorities and competent institutions shall be English.

Article 10

Implementation of the Agreement

The competent institutions of both Contracting Parties shall, by means of supplementary arrangements, establish measures for the application of this Agreement.

Article 11

Settlement of disputes

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled through negotiations and consultations between the competent authorities or competent institutions of the Contracting Parties.

2. If disputes cannot be resolved in accordance with paragraph 1, they shall be settled promptly through diplomatic channels.

Article 12

Data protection

1. Where, for the purposes of applying this Agreement, the competent authorities, their authorised representatives or the competent institutions of a Contracting Party provide personal data to the competent authorities, their authorised representatives or the competent institutions of the other Contracting Party, that provision of data shall be subject to the statutory provisions governing data protection of the Contracting Party providing the data.

2. The personal data referred to in paragraph 1 of this Article can only be used for the application of this Agreement.

3. Any further processing of the data shall be subject to the provisions of the data protection legislation of the receiving Contracting Party, provided that this Contracting Party ensures an adequate level of protection of personal data.

Article 13

Duration of the Agreement

1. This Agreement shall remain in force for a period of ten (10) years from the date of its entry into force. Thereafter, it shall remain in force for successive periods of ten (10) years unless Parties agree through diplomatic channels to terminate it in writing, at the latest twelve (12) months before the expiry of such a period of ten (10) years.

2. Notwithstanding paragraph 1 of this Article, a Contracting Party may terminate this Agreement at any time with twelve (12) months' notice, in writing through their diplomatic channels to the other Contracting Party.

3. In the event that this Agreement expires or is terminated, a person remains entitled to a benefit which that person already acquired under this Agreement before its termination, and for as long as this person continues to fulfil the other conditions for entitlement to the benefit without interruption and continues to reside in the other Contracting Party.

Article 14

Entry into force of this Agreement

1. The Contracting Parties shall notify each other in writing through diplomatic channels of the completion of their respective legal or constitutional procedures required for the entry into force of this Agreement.

2. This Agreement shall enter into force on the first day of the fourth month after the date of the last notification.

3. Article 4, paragraph 1, of this Agreement shall have retroactive effect as from 1 January 2020.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

DONE at The Hague this 17th day of September 2020, in duplicate, in the English language.

For the Kingdom of the Netherlands,

STEF BLOK

For the Republic of Kosovo,

MELIZA HARADINAJ-STUBLLA

D. PARLEMENT

Het Verdrag behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het Verdrag kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel 14, eerste en tweede lid, van het Verdrag in werking treden op de eerste dag van de vierde maand na de datum van de laatste schriftelijke kennisgeving langs diplomatieke weg waarbij de partijen elkaar ervan in kennis hebben gesteld dat de respectieve wettelijke of grondwettelijke procedures die vereist zijn voor de inwerkingtreding van het Verdrag zijn voltooid.

Uitgegeven de *negenentwintigste* september 2020.

De Minister van Buitenlandse Zaken,

S.A. BLOK