

The Association Agreement with Turkey

All foreign nationals who wish to enter, reside and work in Denmark, must enter the country legally and obtain residence and work permits in accordance with national rules and regulations. This also applies to Turkish nationals.

However, economically active Turkish nationals may be entitled to special rights that allow them to continue living legally in Denmark, irrespective of whether the grounds for their original resident permit and work permit no longer apply. This also applies to the family members of Turkish nationals, irrespective of their nationality.

The special rights for Turkish nationals and their family members to remain living in Denmark are defined in the agreement of 12 September 1963 on the establishment of an association between the EEC and Turkey (Association Agreement), Additional Protocol of 23 November 1970 to the agreement as well as the Association Council's decision no. 1/80 of 19 September 1980, plus a number of more recent rulings by the European Court of Justice.

The purpose of the Association Agreement is to strengthen the economic and trade links between Turkey and the current EU, while gradually establishing the free movement of labour between the parties of the agreement.

For more detailed guidance on the rules and conditions, please contact The Danish Immigration Service: Tel.: +45 35 30 88 88.

Economically active Turkish nationals

If you are an economically active Turkish national who no longer qualifies for your original Danish residence and work permit, or if your residency as part of a reunified family is revoked, for example, because you no longer co-habitate, you may, in certain situations, be entitled to a new residence permit in compliance with the Association Agreement and thereby **continue** to reside legally in Denmark.

This applies in the following examples, which are described in the three parts of article 6(1) of the Association Council's decision no. 1/80 dated 19 September 1980:

1. If you are a Turkish national, and you have worked legally in Denmark for **one year**, you are entitled to the renewal of your work permit for the same employer.
2. After **three years** of legal employment and subject to the priority to be given to workers of Member States of the Community, you are entitled to respond to another offer of employment, with an employer of your choice, and made under normal conditions and registered with the employment services of that State, for the same occupation.

3. If you have been legally employed in Denmark for **four years**, you are entitled to remain living in Denmark and enjoy free access in that Member State with regards to any paid employment of your choice.

Rights granted in accordance with article 6(1) of the Association Agreement therefore require that Turkish workers who have been **duly registered as belonging to the labour force of a Member State** have engaged in **legal employment** of a certain period. The periods specified in the decision are one, three and four years, and your rights are gradually extended according to the length of your residency and employment.

You qualify as a **worker** if you have had an employment relationship that is **real and genuine** for a certain period in return for payment for services rendered for another party, and on the instruction of another party as described below under "Definition of worker".

You are **duly registered as belonging to the labour force of a Member State** if you are entitled to be employed on the territory of a Member State.

Legal employment requires that as a Turkish national you have complied with the national rules on legal entry into Denmark and on obtaining a residence and work permit in Denmark.

The three parts of article 6(1) are to be satisfied in the order stated. This means that you must first qualify for the rights in part one before qualifying for the rights in part two and subsequently qualifying for the rights in part three.

You are not required to have had a residence and work permit in Denmark with explicit reference to article 6(1)(i) in order to qualify for the rights stated in sections 2 and 3 of the decision.

For more detailed guidance on the rules and conditions, please contact The Immigration Service.

The period during which you can earn rights under the terms of the Association Agreement

The rulings of the European Court of Justice and article 6(1) demonstrate that when calculating whether you have had legal employment for one year with the same employer, emphasis is to be placed on services rendered during the period from the date when you were first able to work legally in Denmark – typically the date on which you qualified for your original residency – up to the date when the original entitlement to reside in Denmark ceased.

This means that you **cannot** earn rights under the terms of the Association Agreement during a procedural stay in Denmark. During a procedural stay in Denmark, you are entitled to live in Denmark while your application for residency is processed by the immigration authorities, and in some circumstances you may be entitled to continue working without a residence permit.

The commencement of earning rights

In accordance with European Court of Justice rulings, as a Turkish national you earn rights in accordance with the terms of the Association Agreement from the day on which your employment commences – in other words from **your first working day**.

This first working day must take place while you were resident in Denmark under the original grounds for your residency, e.g. as a reunified family member.

For more detailed guidance on the rules and conditions, please contact The Immigration Service.

Dual grounds for residency

As a Turkish worker, you earn rights, according to the terms of the Association Agreement, from your first genuine working day, and after being legally employed with the same employer for one year, you will be entitled to live in Denmark on dual grounds: partly on the original grounds for your residency – e.g. as a reunified family member – and partly on the grounds of the Association Agreement.

If you apply to extend the grounds for your residency in Denmark, the application will be processed as an application for extending your original grounds for residency. If the requirements for extending the original grounds for residency are not satisfied, the application will also be processed as an application for residency based on the rights earned in accordance with the terms of the Association Agreement.

If your original grounds for residency in Denmark are still valid, and you have a legal interest in this, for example are facing an imminent change of job, you can contact the Immigration Service and we will promptly assess how changing jobs may affect the rights you have been granted under the terms of the Association Agreement.

For more detailed guidance on the rules and conditions, please contact The Immigration Service.

When am I a "worker"?

In order to earn rights under The Association Agreement guidelines, you must generally be employed for a **minimum of 10-12 hours a week**. This corresponds with the requirement for EU nationals claiming the right to the free movement of labour within the EU.

You must also be able to support yourself and therefore may not be receiving public assistance.

This means that you can continue to reside in Denmark legally even though your original grounds for residency no longer apply and you lose your main source of employment provided you have had secondary employment of a minimum of 10-12 hours a week for at least one year if you still have this secondary job and can still support yourself.

Turkish nationals employed with wage subsidies or council-supported employment (fleksjob) also qualify as workers and can earn special rights to remain residents in Denmark.

For more detailed guidance on the rules and conditions, please contact The Immigration Service.

Rights under article 6(1)(iii) – reasonable time limit to apply for a new job

After four years of employment in Denmark you will be entitled to the rights specified in article 6(1)(iii) in the Association Council's decision no. 1/80 and will have free access to any form of paid work in Denmark as you choose.

If you have the entitlements specified in article 6(1)(iii) and you are subject to involuntary unemployment or voluntarily cease your employment, it is the practice of the European Court of Justice to give you a reasonable time limit to apply for new employment. The immigration authorities have set this time limit at six months.

If you have not commenced a new employment relationship within six months of the end of your former employment relationship, you will normally lose your rights, according to the terms of the Association Agreement.

For more detailed guidance on the rules and conditions, please contact The Immigration Service.

Loss of rights

If you have earned the entitlement to remain living in Denmark under the terms of the Association Agreement, you can lose these rights.

This can happen if, for example, you withdraw entirely from the legal labour market, or exceed the reasonable time limit for entering into a new employment relationship following a temporary period without employment, or if your rights are earned fraudulently.

Also, the immigration authorities may decide that you should lose your rights in accordance with article 14(1) of the Association Council's decision no. 1/80, which states:

"1. The stipulations in this part are applied subject to limitations justified on grounds of public policy, public security or public health."

For more detailed guidance on the rules and conditions, please contact The Immigration Service.

Permanent residency

Applications for permanent residency based on rights granted under the terms of the Association Agreement are processed in accordance with the relevant rules in the Danish Aliens Act, see [LINK to tab on permanent residency].

Read more about the Danish Aliens Act's rules about permanent residency.

For more detailed guidance on the rules and conditions, please contact The Immigration Service.

Family members of economically active Turkish nationals

All foreign nationals who wish to enter, reside and work in Denmark must enter the country legally and obtain a residence and work permit in accordance with the national rules and regulations. This applies to Turkish nationals and their family members.

The stand-still clauses in the Association Agreement regulation can prevent the passage of new limitations to family reunification for family members of economically active Turkish citizens living in Denmark that are stricter than those that were in effect on the date the Additional Agreement came into effect in Denmark on 1 January 1973, and the date Association Council decision no. 1/80 came into effect on 1 December 1980, or those which may have come into effect at a later date.

Family members of economically active Turkish nationals who have obtained residency in Denmark in accordance with the relevant national rules can have special rights to **continue** their legal residency in Denmark even though the grounds for their original residence and work permits no longer apply.

Article 7 of the Association Council's decision no. 1/80 dated 19 September 1980 concerns Turkish workers' family members and is as follows:

1. "Members of the family of a Turkish worker duly registered as belong-ing to the labour force of a Member State who have been authorised to join him, shall be entitled – subject to the priority to be given to workers of Member States of the Community – to respond to any offer of employment after they have been **legally residents** in Denmark for at least **three years** - shall enjoy free access to any paid employment of their choice provided they have been **legally resident** in Denmark for at least **five years**."
2. **Children** of Turkish workers who have completed a course of voca-tional training in the host country can respond to any offer of employment in the relevant member state irrespective of the length of time they have been resident in the member state, provided one of their parents has been legally employed in the Member State concerned for at least **three years**."

The term **family members** in article 7(1) covers e.g.:

- The spouses of the person resident in Denmark,
- The registered partner of the person resident in Denmark,
- The respective direct descendants of the person resident in Den-mark and of his/her spouse/partner (children and step-children who have not turned 21)
- The respective direct descendants of the person resident in Den-mark and of his/her spouse/partner (children and step-children who have turned 21) who are supported by the person resident in Den-mark,
- The respective ascendants of the person resident in Denmark and of the spouse/partner (parents, grandparents etc.) who are supported by the person resident in Denmark.

Although article 7(1) clearly states that a family member must have permission to **move** to the member state, in practice, European Court of Justice rulings demonstrate that the decision also includes the respective direct descendants of the person resident in Denmark and his/her spouse/partner i.e. children and step-children who are **born in Denmark**.

In order to have **legal residency** you must have been granted permission to move to Denmark and must meet any requirements concerning residency specified in the permit. Regarding residency based on family reunification, it is a core requirement that the family lives with the person residing in Denmark.

After three to five years, when a family member has earned rights in accordance with article 7 (1), the family member is no longer be required to live with the person residing in Denmark.

For more detailed guidance on the rules and requirements, including the requirements relating to divorce, or if the person residing in Denmark dies, please contact The Immigration Service.

The notion of Turkish workers' **children** in article 7(2) covers both children who have and have not come of age. If a child who is covered by article 7(2) is not born in Denmark, the child must have entered Denmark legally in accordance with the relevant national rules and have obtained residency in accordance with the relevant national rules. The child is not required to have been granted residency due to family reunification. Children of Turkish workers granted residency in Denmark as students or on other grounds can also earn rights under the terms of article 7(2).

For more detailed guidance on the rules and conditions, please contact The Immigration Service.

Family members' loss of rights

Family members of a Turkish worker, who have earned the right to remain living in Denmark according to the terms of the Association Agreement, can lose these aforementioned rights.

This could happen if, for example, a family member leaves Denmark for an extended period of time, or if the rights are earned fraudulently.

In addition, the immigration authorities may decide that the rights given shall be revoked in accordance with article 14(1) of the Association Council's decision no. 1/80, which states:

"1. The provisions of this section shall be applied subject to limitations justified on grounds of public policy, public security or public health."

For more detailed guidance on the rules and conditions, please contact The Immigration Service.

Stand-still clauses

The Association Agreement's Additional Protocol of 23th November 1970 contains in article 41(1) a so-called 'stand-still' clause concerning the establishment and free exchange of services. The 'stand-still' clause, which

states that after the Additional Protocol entered into force, Turkey and the EU countries cannot introduce new restrictions hindering the freedom to establish and exchange services. The Additional Protocol was effective in Denmark as of 1 January 1973, in which Denmark joined the EC.

The Association Council's decision no. 1/80 article 13 contains a 'stand-still' clause concerning workers and their family members. The 'stand-still' clause means that after the decision entered into force on 1 December 1980, Turkey and the EU countries cannot introduce new restrictions on the requirements for access to employment for workers and their family members who have been granted residence and work permits in the member state in accordance with the relevant national rules.

The 'stand-still clauses' requires that, in the event that a Turkish citizen seeks to enter an EU country to make use of their economic rights, the regulation that applies is the most lenient regulation passed since the Additional Protocol came into effect and the Association Council's decision was passed.

The implication of the 'stand-still' clauses for the limitations in the Aliens Act related to family reunification

The European Court of Justice, on 10 July 2014, handed down a decision (C-138/13 (Dogan)) in a German case regarding the extent of the 'stand-still' clause in the Additional Protocol to the Association Agreement between the EU and Turkey in regard to national limitations on family reunification.

The Ministry of Justice (now: The Ministry of Immigration, Integration and Housing), in a memorandum on the European Court of Justice's decision in case C-138/13 (Dogan) (in Danish only), laid out the findings of its analysis of the decision and its impact on the limitations to family reunification set out in the Aliens Act.

The memorandum concludes that the 'stand-still' clause in the Association Agreement regulation can be considered to apply to the limitations to family reunification for family members of economically active Turkish citizens living in Denmark, such that the clauses can prevent passage of new restrictions that are stricter than those that were in effect on the date the Additional Agreement came into effect in Denmark on 1 January 1973, and the date Association Council decision no. 1/80 came into effect on 1 December 1980, or those which may have come into effect at a later date. It is furthermore concluded that the decision does not give rise to changes in the Aliens Act regulations related to family reunification.

Read the decision in European Court of Justice case C-138/13 (Dogan).

Read the memorandum on the decision of the European Court of Justice in case C-138/13 (Dogan) (in Danish only).

Revocation of economically active Turkish nationals' residency granted on grounds of a family reunified spouse or co-habitant of a long-term duration

If you are a Turkish national and are a worker, self-employed person or service provider in Denmark, your residency may not be revoked or denied extension on the grounds of new restrictions introduced after the stand-still clauses entered into effect, and new restrictions may not be introduced on subsequent relaxations. This applies irrespective of the initial grounds for granting residency.

Since, from 1 January 1973 (self-employed persons and service providers) and from 1 December 1980 (workers) to the present day, on some points more relaxed revocation rules have been in force than is currently the case. The list below describes the former rules, which are the most relaxed, and still apply to economically active Turkish nationals under the terms of the stand-still clauses and the relevant European Court of Justice rulings.

The most relaxed rules

A review of the law from the enforcement of the stand-still clauses to the present day reveals that the most relaxed rules below apply to revocation of economically active Turkish nationals' residency:

Temporary residency – after two years of legal residency

Temporary residency based on family reunification for an economically active Turkish national who, is covered by the stand-still clauses in the Association Agreement etc. after two years' legal residency in Denmark, can only be revoked on the grounds of fraud.

Temporary residency – less than two years of legal residency

Residency may be revoked if you have legally resided in Denmark for less than two years and:

1. The grounds for the application no longer apply.
2. You fail to satisfy the requirements associated with residency. The requirement must be explicitly stated and you must be informed in writing with the point stressed that infringement of the requirements will result in revocation.
3. You lack the necessary passport or other travel documentation that gives access to return to the country of issue.

Permanent residency

If you are covered by the stand-still clauses in the Association Agreement etc. due to economic activity and have earned permanent residency in Denmark, this permanent permit may only be revoked as a result of fraud.

Balancing considerations regarding decisions on revocation

Section 26(1)(i) of the Danish Aliens Act lists the considerations to be taken into account concerning decisions on revocation, cf. section 19(6) of the Danish Aliens Act.

Therefore, consideration must be given to whether the revocation is believed to cause a special burden due explicitly to:

1. your connection with the Danish community,
2. your age, health and other personal issues,
3. your connection with Danish residents,
4. the consequences of your deportation for your close family members resident in Denmark, including in relation to considerations of your family unit,
5. your lack of or weak connection to your homeland or other countries where you could be expected to reside, and

6. the risk that you may suffer harm in your homeland or in other countries where you can be expected to reside other than the cases mentioned in section 7(1) and 2, or section 8(1) and (2).

In addition, as an economically active Turkish national, decisions involving the revocation of your residency must independently take into consideration the duration of your stay in Denmark, including whether you came to Denmark as a child or youth.

This formulation was previously part of section 26(1) of the Danish Aliens Act that due to Act no. 365 of 6 June 2002 no longer comprises a separate consideration but has become one of many considerations to be stressed. The change in law transformed this into a consideration concerning the individual's connection with Danish society, cf. section 26(1)(i) of the Danish Aliens Act.

If you are an economically active Turkish national, any revocation of your residency must take into consideration both your connection with the Danish society, and in addition; independently take into account of the length of stay in Denmark, including whether you came to Denmark as a child or not.

In accordance with the stand-still clauses, the most relaxed rule since the stand-still clauses were introduced is to be applied when balancing the considerations of section 26(1) of the Danish Aliens Act.

For more detailed guidance on the rules and conditions, please contact The Immigration Service.

What rules in the Danish Aliens Act can mean a change in grounds for residency?

A review of the law from the enforcement of the stand-still clauses to the present day reveals that the rules below can alter your grounds for residency as an economically active Turkish national:

Revocation of residency due to failure to satisfy the requirement regarding support

If your residency is conditional on you or a resident of Denmark not receiving assistance under the terms of the Active Social Policy Act or Integration Act, and you or the resident of Denmark subsequently receives such assistance, residency can be revoked in accordance with section 19(1)(iv) of the Danish Aliens Act.

If your residency is not conditional on whether you or a resident of Denmark receives assistance in accordance with the Active Social Policy Act or Integration Act, on special grounds and these special grounds no longer apply and you or the resident of Denmark subsequently receive such assistance, your residency can be revoked in accordance with section 19(1)(v) of the Danish Aliens Act.

If you are an economically active Turkish national and your residency was granted on grounds of family reunification, the revocation process will continue if you do not satisfy this requirement. As this may prevent you from being economically active, and as the rules are stricter on this point than was the case when the stand-still clauses were introduced and therefore the right to reside in Denmark may not cease based on the stand-still

clauses, you will simultaneously receive a new residence permit in accordance with section 9c(1) of the Danish Aliens Act on condition, for example, that you remain economically active as a self-employed person, service provider or worker.

Revocation of residency on grounds of failure to satisfy the residency requirement

If your residency is conditional upon a resident of Denmark demonstrating ownership of a reasonable sized property, and if that person can no longer do so, your residency can be revoked in accordance with section 19(1)(vi) of the Danish Aliens Act.

If, on special grounds, your residency is not conditional upon a resident of Denmark demonstrating ownership of a reasonable sized property, and these special grounds no longer apply and the resident of Denmark is unable to demonstrate ownership of a reasonable sized property, your residency can be revoked in accordance with section 19(1)(vii) of the Danish Aliens Act.

If you are an economically active Turkish national and your residency was granted on grounds of family reunification, the revocation process will continue if you do not satisfy this requirement. As this may prevent you from being economically active, and as the rules are stricter on this point than was the case when the stand-still clauses were introduced, the right to reside in Denmark may not cease based on the stand-still clauses and you will simultaneously receive a new residence permit in accordance with section 9c(1) of the Danish Aliens Act on condition that e.g. you remain economically active as a self-employed person, service provider or worker.

For more detailed guidance on the rules and conditions, please contact The Immigration Service.

What rules in the Danish Aliens Act cannot be applied to economically active Turkish nationals?

A review of the law from the enforcement of the stand-still clauses to the present day reveals that the rules below cannot be applied to economically active Turkish nationals:

Revocation of temporary and permanent residency if the permit holder is convicted outside Denmark for crimes that can be used as grounds for deportation in accordance with sections 22, 23 and 24 of the Danish Aliens Act. In accordance with section 19(2)(iii), temporary and permanent residency can always be revoked if information exists concerning issues that in accordance with the rules in section 10(2)(i) and (ii) would have exempted you from receiving residency.

Section 10(2)(i) of the Danish Aliens Act concerns foreign nationals who are convicted outside Denmark of a crime that can be grounds for deportation in accordance with sections 22, 23 or 24 of the Danish Aliens Act, provided the sentence is handed in Denmark.

Section 10(2)(ii) of the Danish Aliens Act concerns serious grounds for suspecting that a foreign national outside Denmark has committed a crime that can be grounds for deportation in accordance with sections 22, 23 or 24 of the Danish Aliens Act.

As the rules are stricter than was the case when the stand-still clauses were introduced, the residency of an economically active Turkish national may not be revoked in accordance with section 19(2)(iii), cf. section 10(2)(i) and (ii).

Matters concerning serious crime are categorised under section 19(2)(ii) of the Danish Aliens Act, cf. section 10(1), which stipulates that you must not be a danger to public security (no. 1), nor deemed a serious threat to public order or public health (no. 2), nor deemed to be covered by article 1 F of the Refugee Convention (no. 3).

In the opinion of the immigration authorities, section 19(2)(ii) of the Danish Aliens Act, cf. section 10(1), can be applied as the basis for revoking the residency of an economically active Turkish national as it involves rules introduced as a result of international regulation between member states on the basis of UN resolution no. 1373 on counter-terrorism passed based on the UN Charter. The UN resolution is applied by both Denmark and Turkey. The rules may therefore be used reciprocally i.e. Turkey can apply them in relation to economically active Danish nationals in Turkey.

In the opinion of the immigration authorities, section 19(2)(ii) of the Danish Aliens Act, cf. section 10(1), satisfies UN counter-terrorism resolution no. 1373.

It can therefore be concluded that the Association Agreement cannot reach a consensus on a system that exempts the contracting states from the obligations incumbent upon them in accordance with the UN Charter.

If your situation is categorised under section 10(1) of the Danish Aliens Act, as an economically active Turkish national your residency could be revoked in accordance with section 19(2)(ii) of the Danish Aliens Act.

However, in relation to section 19(2)(iii) of the Danish Aliens Act, cf. section 10(2)(i) and (ii), an “over-compliance” with the UN resolution is involved. If you receive a sentence outside Denmark that can be used as grounds for deportation in accordance with sections 22, 23 or 24 of the Danish Aliens Act, (section 10(2)(ii)), provided the sentence handed down in Denmark (section 10(2)(i)), or there are serious grounds to suspect that while outside Denmark you have committed a crime that can be used as grounds for deportation in accordance with sections 22, 23 and 24 (section 10(2)(ii)) of the Danish Aliens Act, section 19(2)(iii) of the Danish Aliens Act relating to revocation of residency cannot therefore be applied if you are an economically active Turkish national.

Revocation of permanent and temporary residency if you are registered in the Schengen Information System (SIS)

Temporary or permanent residency can be revoked if you are not a national of a Schengen country or a country associated with the EU, and are registered in the Schengen Information System as undesirable under the terms of

the Schengen convention due to circumstances that in Denmark can be used as grounds for deportation in accordance with section 4 on de- portation, cf. section 19(3) of the Danish Aliens Act.

The provision, which was introduced after the stand-still clauses entered into force, is deemed to be stricter than the rules that applied before and cannot therefore be applied to revoke the residency of an economically ac- tive Turkish national.

Revocation of permanent and temporary residency if an administrative au- thority in another Schengen country or other EU member state has reached a decision relating to deportation that in Denmark could result in deporta- tion in accordance with certain rules on deportation in the Danish Aliens Act

Temporary or permanent residency can be revoked for reasons in Denmark that can be used as grounds for deportation in accordance with certain rules in the Danish Aliens Act, if an administrative authority in another Schengen country or country associated with the EU reaches a final deci- sion on deportation of a person who is not a national of a Schengen coun- try or another country associated with the EU, cf. section 19(4)(i) of the Danish Aliens Act.

If the decision to deport is based on a violation of the penal code, resi- dency can be revoked only if you have been sentenced for a crime punish- able by imprisonment of at least one year in the relevant country, cf. sec- tion 19(4)(ii) of the Danish Aliens Act.

Section 19(4)(iv) of the Danish Aliens Act states that a decision on revoca- tion cannot be made in accordance with section 19(4)(i) if you are a family member of a national in a country associated with the EU who has ex- ercised his/her entitlement to free movement, cf. section 2(4) of the Danish Aliens Act.

The provision in section 19(4) of the Danish Aliens Act, which was intro- duced after the stand-still clauses entered into force, is deemed to be stricter than the rules that applied before and cannot therefore be applied to revoke the residency of an economically active Turkish national.

For more detailed guidance on the rules and conditions, please contact The Immigration Service.

Members of the clergy, missionaries etc.

Provisions for members of the clergy

The Integration ministry (now the Ministry of Immigration, Integration and Housing) memo of 7 April 2011 about the interpretation of the stand-still clauses demonstrates that on the basis of earlier rulings by the European Court of Justice relating to the To- prak ruling concerning article 13 of the Association Council's decision no. 1/80 it can be assumed that restrictions introduced after 1 December 1980 on **the first entry into Denmark with a view to earning entitlement as a worker** are covered by the stand-still clause in article 13 of the Association Council's decision no. 1/80.

European Court of Justice rulings demonstrate that article 13 of the Association Council's decision no. 1/80 is an obstacle to the passing of new restrictions on the conditions of access to employment, including restrictions with a view to the substantive terms and/or procedure relating to the first entry for Turkish nationals **wishing to exercise their freedom of access to employment in Denmark.**

This means that the substantive rules for obtaining residency as a member of the clergy etc. are covered by the stand-still clauses.

Members of the clergy, missionaries etc. cannot be self-employed or provide services regulated by the stand-still clauses in article 41(1) in the Additional Protocol of the Association Agreement. Therefore, only the stand-still clause in article 13 of the Association Council's decision no. 1/80 on workers covers members of the clergy. The Association Council's decision no. 1/80 entered into force as of 1 December 1980. Therefore, after 1 December 1980, no new restrictions may be introduced concerning conditions for access to employment for members of the clergy who can be viewed as workers.

Members of the clergy who will proselytise, such as priests, imams or the like, will be considered workers, as they work for the religious community. Therefore, the substantive conditions for the first entry into Denmark of a Turkish national wishing to exercise this freedom in Denmark are covered by the stand-still clause in article 13.

Missionaries, monks, etc. however, can generally not be regarded as workers.

However, in both cases, an individual assessment will determine whether you will be carrying out paid work of a scope that qualifies you as a worker and are thereby covered by the stand-still clause.

The most relaxed rules

Following a review of the previously applied practice for granting residency as a member of the clergy, missionary, etc., as well as a review of the rules in section 9f, in accordance with which types of residency are now granted to members of the clergy, missionaries etc., it is evident that the following most relaxed rules apply concerning applying for a residency as an economically active member of the clergy (worker):

Members of the clergy

Residency as a member of the clergy is granted if you can document that you will act as a member of the clergy within a religious community in Denmark.

Missionaries

Residency as a missionary can be granted if you can document that you will act as a missionary and thereby spread a certain religion or faith associated with a religious community in Denmark.

Performing functions within a religious order or denomination

Residency with a view to performing functions within a religious order or denomination can be granted if you can document that you will be working within a religious order. This is intended to mean nuns and monks, who traditionally perform internal functions within a religious order or denomination. The Danish National Church or a recognised or approved religious order or denomination must notify the Immigration service that the order has been established by and/or works in the religious community.

The following requirements must also be satisfied:

- You must demonstrate that you are affiliated with the Danish National Church or a recognised or approved religious community in Denmark by producing an agreement or a declaration issued by the religious community that documents your application as a member of the clergy, missionary etc. in a religious community/order.
- The number of foreign nationals granted a residency as a member of the clergy, missionary or with a view to performing functions within a religious order or denomination belonging to a religious community must correspond reasonably with the size of the religious community. The religious community will be required to document the size (membership) and number of members of the clergy, missionaries etc. working in the religious community.
- You must demonstrate that you have a relevant background or the training to operate as a member of the clergy, missionary or within a religious order or denomination.
- As a general rule, your residency will be conditional on you and any accompanying family members receiving no public assistance for support while staying in Denmark. However, an individual assessment should determine whether receipt of specific public assistance also with regard to previous practice, would have led to the grounds for residency as a general rule no longer applying, cf. section 19(1)(i) of the Danish Aliens Act.

What applicable rules in section 9f of the Danish Aliens Act cannot be applied to economically active Turkish nationals?

Section 9f(4) of the Danish Aliens Act

Under the terms of section 9f(4) of the Danish Aliens Act, extension of a residency as a member of the clergy, missionary etc is conditional on you passing an 'immigrant test' no later than six months after you first receive residency. This is a test of your Danish language skills and knowledge of Denmark and Danish society.

Such a rule did not previously apply to residency for members of the clergy, missionary etc. and cannot therefore be enforced on economically active Turkish members of the clergy.

The condition in section 9f(4) regarding the requirement to pass an immigrant test no later than six months after initially being granted residency means that in practice members of the clergy etc. are initially granted a residency for seven months. As the rule in section 9f(4) of the Danish Aliens Act cannot be applied to economically active members of the clergy, this group is initially granted a residency for one year.

Section 9f(6) of the Danish Aliens Act

Section 9f(6) of the Danish Aliens Act requires you to solemnly swear and sign a declaration that while in Denmark you will not do anything that could pose a threat to public security, public order or public health, public morals or the rights and obligations of others.

Such a rule did not previously apply to residency for religious members of the clergy, missionaries etc. and cannot therefore be enforced on economically active Turkish members of the clergy.

To the extent that you are covered by section 10(1)(ii) of the Danish Aliens Act, which also covers economically active Turkish nationals and states that you are to be considered a serious threat to public order or public health, in accordance with this decision, an economically active member of the clergy may be refused residency.

The additional grounds for refusal stated in section 9f(6) of the Danish Aliens Act regarding posing a threat to public security, public morals or the rights and obligations of others cannot therefore be enforced upon economically active Turkish members of the clergy.

Duration

If you are an economically active member of the clergy with the authority to marry members of your congregation, and you are exempt from the requirement to an immigrant test in accordance with section 9f(4) of the Danish Aliens Act, you can normally obtain residency for one year with the option of extension for two years and then for two years and subsequently for periods of three years without an upper limit to this duration.

If you are a missionary without the authority to marry members of your congregation, you will generally not be considered a worker. However, an individual assessment can establish that you qualify as a worker and therefore; are covered by the stand-still clause in article 13 of the Association Council's decision no. 1/80.

Such missionaries are normally granted residency for one year with an option for extension for one year at a time for a maximum of three years in total.

When applying for an extension, just use the same application form that you used the first time (form RF1) and state that you are applying for an extension.

Family members

Foreign members of the clergy, missionaries or people working within a religious order or denomination are not entitled to apply for family reunification in Denmark. If residency can be granted or extended to cover a stay of three years or more, a spouse, registered partner or permanent cohabitant and children living at home under 18 years of age may also be granted residency. Where appropriate, it is a condition that the family can support itself and must live together in Denmark. If your spouse, registered partner or cohabitant is granted residency, he or she will be entitled to work for the duration of the permit.

For further information or consultation regards right to VISA Service, working permissions and family reunification

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