

COUNCIL OF EUROPE

18th BIENNIAL REPORT

OF REPUBLIC OF TURKEY

ON THE

EUROPEAN CODE OF SOCIAL SECURITY

**(ARTICLE 76 – PARTS NOT SPECIFIED
IN THE RATIFICATION OF THE CODE
OR IN A NOTIFICATION MADE SUBSEQUENTLY)**

2018

Note: Former "Ministry of Labour and Social Security" and the former "Ministry of Family and Social Policies" were merged with the Presidential Decree No. 1 on 10.07.2018, and the newly formed Ministry was named as the "Ministry of Family, Labour and Social Services" as of 04.08.2018, out of the reporting period.

REPORT

for the period from 01 July 2016 to 30 June 2018 made by the Government of the Republic of Turkey in accordance with Article 76 of the European Code on Social Security on the position of national law and practice in regard to the matters dealt with Part of the European Code of Social Security which have not been specified in the ratification of the Code or in a subsequent notification.

Republic of Turkey has not ratified Family Benefits which appears under part VII and Unemployment Benefits under part IV of the European Code of Social Security.

PART IV – UNEMPLOYMENT BENEFIT

I. Unemployment Insurance and Legal Framework

The legal regulation for unemployment insurance has been enacted through the Law on Unemployment Insurance No 4447 published on the Official Gazette No 23810 dated 08 September 1999. Unemployment Insurance Fund has been established with the same law.

The unemployment insurance is defined as the compulsory insurance which averts any possible plight of the insured and family members, and which partially meets the income loss of those who have lost their jobs without their own will and fault, although they possess the will, the capacity, the health and the sufficiency required by the job. The unemployment insurance operates upon insurance technique and is established by the State.

As mentioned in the definition, the Unemployment Insurance is compulsory for all the insured. Those who are in the scope of Law 4447 and still working are deemed as insured as of the date of entry into force of this Law and the new entrants become insured from as of the date they start work.

Unemployment benefit refers to the monetary payment made to the insured unemployed for the period and amount specified in the Law No. 4447.

In the scope of Article 49 of Law No. 4447, the State, employers and all insured persons who are covered by this Law pay unemployment insurance premiums in order to cover the payments, service and management expenses required by unemployment insurance.

Unemployment insurance premium is collected from the insured at a rate of 1%, from the employer at 2% and as State subsidy at 1%, all calculated using the monthly gross earning amount of the insured which is the basis for the premium. In this context, unemployment benefit system is based on the contribution-based insurance system in Turkey within the scope

of Law No. 4447. In the present case, there is no universal budgetary unemployment benefit without relying on contributions. The following sections of the report are based on this general rule.

Legal arrangements for unemployment insurance are listed below;

1. "Law on Unemployment Insurance" No 4447 published in the Official Gazette dated 08 September 1999 and numbered No 23810.
2. "Regulation on Principles and Procedures Regarding the Assessment of Unemployment Insurance Fund Resources" published in the Official Gazette dated 01.09.2004 and numbered 25570.
3. "Communiqué No. 1 on the Implementation of the Unemployment Insurance Law No. 4447" published in the Official Gazette dated 21.05.2000 and numbered 24055.
4. "Communiqué No. 2 on the Implementation of the Unemployment Insurance Law No. 4447" dated 29.06.2000 and numbered 24094.
5. "Communiqué No. 3 on the Implementation of the Unemployment Insurance Law No. 4447" published in the Official Gazette dated 30.01.2002 and numbered 24656.
6. "Communiqué No. 4 on the Implementation of the Unemployment Insurance Law No. 4447" published in the Official Gazette dated 30.05.2002 and numbered 24770

II.

1. Scope

The scope of the unemployment insurance law in Turkey is stated in Article 46 of the Law No. 4447. According to this article, those who are covered by unemployment insurance are as follows:

- The insured persons working on contract, defined in Clause (a) of Paragraph 1, and in Paragraph 2 of Article 4 of the Law on Social Security and Universal Health Insurance no. 5510.
- The insured persons working on part-time working contract under Labour Law no. 4857 and paying voluntary insurance holders paying unemployment insurance premiums in the scope of Paragraph 1 of Article 52 of the Law N° 5510, and those in the scope of Additional Article 6 of the same law,
- The insured persons subject to the funds specified in the provisional Article 20 of the Law on Social Security no. 506.

According to Social Security Institution's data for the end of March 2018, the number of active insured is approximately 22 million and the number of people within the scope of unemployment insurance is approximately 14.467.000.

Those who aren't within the scope of unemployment insurance are civil servants and self-employed workers in general. "Artisan Guild Fund" has been added to Additional Article 6 of Law No. 4447 with the Article 9 of the Law "Restructuring Certain Claims and Making Amendments to Certain Laws and Decree Laws" published in the Official Gazette dated 08.03.2017 and numbered 30001. The aim of the fund is to prevent any possible hardship of the insured and their family members, and partially meet the loss of income of the self-employed persons. The legislation will take effect from 01.01.2020.

In the light of the above mentioned information, the conditions of Clause a of the Article 21 of the European Code of Social Security are met.

2. Conditions for Entitlement to Benefits

In order to be eligible for unemployment benefit under the Unemployment Insurance Law No. 4447, the following conditions shall be fulfilled:

- Employment contract shall terminate without the person's will or fault,
- The person shall apply to the Turkish Employment Agency in person or online within 30 days of the termination of employment contract,
- The person shall have worked continuously, paying unemployment benefit premiums, for the last 120 days before the termination of employment contract and he/she shall have paid unemployment benefit premiums for at least 600 days within the last three years.

Except for force major, the time delayed on application is deducted from the total period of entitlement.

Unemployment benefit is granted for the following periods according to the working period in the last three years before termination of the service contract.

- 180 days for insured unemployed who have worked insured for 600 days and paid unemployment insurance premiums,
- 240 days for insured unemployed who have worked insured for 900 days and paid unemployment insurance premiums,
- 300 days for insured unemployed who have worked insured for 1080 days and paid unemployment insurance premiums.

3. Level of Benefits

Daily unemployment insurance benefit is calculated as 40% of daily average gross earning which is calculated in consideration of earnings taken as the basis for the premium for the last 4 months. The sum of unemployment insurance allowance calculated as explained may not exceed 80% of the gross sum of monthly minimum wage.

The lowest amount of unemployment benefit for 2018 is 805,64 TL, where the highest amount of unemployment benefit is 1.611,28 TL.

Minimum amount of unemployment benefit

The gross minimum wage in 2018 is 2.029,50 TL. The net minimum wage amount calculated taking into account the Minimum Living Allowance for a single and childless worker is 1.603,12 TL. Accordingly, the minimum amount of unemployment benefit is approximately 50% of the net minimum wage. (805,64 / 1.603,12)

Maximum amount of unemployment benefit

The calculations made by the Social Security Institution for March 2018, based on the average daily earnings of all the insured in the scope of the unemployment insurance

are taken into account in the elaboration of the maximum amounts.

According to SSI data, the average gross earning in March 2018 (the average daily gross earning $(105,86) \times 30$) is approximately 3.175,70 TL. When the average earnings of a worker are calculated, the 6th item of Article 65 of the European Code of Social Security is taken as basis. In this context, 125 percent of the average earnings of all protected persons is: $3.175,70 \times \%125 = 3.969,63$ TL.

As the gross average income is 3.969,63 TL, the average net wage calculated by taking into account the Minimum Living Allowance of qualified, single and childless worker is approximately 2.990 TL. In this context, the ratio of the maximum amount of unemployment benefit to the average net wage in this framework is about 54%. $(1.611,28 / 2.990)$

As a result of the above explanations and rates calculated, it can be seen that the minimum and maximum amounts of the unemployment benefits are provided in the sense of the 65th, 66th and 67th items of the Code.

4. Miscellaneous

a. Citizens may resort to judicial process against the work and operations carried out by the administration regarding the unemployment insurance.

b. Unemployment insurance premium is collected from the insured at a rate of 1%, from the employer at 2% and as State subsidy at 1%, all calculated using the monthly gross earning amount of the insured which is the basis for the Premium, according to Articles 80 and 82 of the Law on Social Security and Universal Health Insurance no. 5510. This premium fund is directed in line with the decisions of the Turkish Employment Agency Board of Directors, responsible for investment of the fund sources in the market conditions, managing the audit of income and expenses of the fund, and ensure that audit reports are announced to the public. Board of Directors consists of 6 members, namely the Director General of the Turkish Employment Agency, representative of the Ministry of Labour and Social Security, representative of Undersecretariat of Treasury, a member designated by the workers' confederation with the highest number of members, a member designated by the employers' confederation with the highest number of members, and member designated by the Confederation of Turkish Tradesmen and Craftsmen.

c. According to Article 53 of Law No. 4447, Unemployment Insurance Fund is not subject to the permit and registration of the Court of Accounts. The fund is supervised by the Court of Accounts. In addition, the income and expenditures of the Fund are audited quarterly by professional certified public accountants, who have licence and supervisory authority according to the Law No. 3568 dated 1.6.1989 and the results of audit reports are announced.

d. The third paragraph of Article 50 of the Law No. 4447, "The first unemployment benefit payment shall be made at the end of the month following the date of entitlement" was amended as "Unemployment benefit is paid to the unemployed person himself/herself on a monthly basis every fifth day of each month" in the year 2017, with Article 55 of the "Law on Amendment of Some Tax Acts and Some Other Laws" published in the Official Gazette dated 05.12.2017 and numbered 30261.

VII. FAMILY BENEFITS

Family benefits are not included in the Law on Social Security and Universal Health Insurance no. 5510.

In the scope of Family Benefits, the aids/assistances/benefits/allowances provided by the Ministry of Family and Social Policies under various topics are specified below:

1. Family Benefits

a. Food Aid

It is the support given by Social Assistance and Solidarity Foundations in order to meet the basic needs of needy families. Additional fund is transferred to Social Assistance and Solidarity Foundations twice a year before the month of Ramadan and Feast of Sacrifice to that end.

b. Housing Aid

They are the benefits provided in-kind or in-cash for the maintenance and repair of the houses of needy citizens living in old, neglected and unhealthy houses. The citizens living on poor conditions and are unable to repair their houses attain a healthy and warm living environment through this benefit programme.

c. Project of Social House-Dwelling

It involves homebuilt for the citizens having no social security and are needy via Housing Development Administration of the Prime Ministry of the Republic of Turkey.

d. Fuel Aid

Coal, which is provided from Turkish Coal Enterprises, is distributed at least 500 kg. for each household in order to meet the need of winter fuel of our families in need via Social Assistance and Solidarity Foundations as of 2003. Furthermore, with the programme of fuel for the poor families the inactive underground resources of our country is brought in economy and makes significant contribution to the transportation sector and employment.

e. Assistance Programme for the Women Whose Husband Has Passed Away

“The Research Project of Developing a Cash Social Assistance Programme for the Women Whose Husband Has Passed Away” which was created considering the fact that women are much more affected by poverty was carried out in cooperation with Boğaziçi University and the project was completed as of December 2010. Within the framework of evidence based social policy understanding following the completion of the Project, it was decided to initiate a regular in-cash social assistance programme for the women whose husband has passed away with the decision of Social Assistance and Solidarity Promotion Fund dated 29.12.2011 and No. 2011/8. The applications of our citizens started to be taken by Social Assistance and Solidarity Foundations as of February 2012.

The target group of regular in-cash assistance was determined as women whose husband has passed away within the scope of the Law No. 3294. The process starts with the application of woman citizens in target group whose husband has passed away to Social Assistance and Solidarity Foundation within the borders of province/district of which their official residence is located and all the procedures from application process to the payment of assistance is carried out over Integrated Social Assistance Information System.

f. Assistance Programme for the Military Families in Need

Regular in-cash programme was initiated for the families of rank and file in need carrying out compulsory military service by the Ministry of Family and Social Policies in 2013. If the person going into the army is married, his legal spouse benefits from the programme. If the person going to the army is single, the priority for the application belongs to his mother. If his mother is not alive, then his father can apply.

g. Assistance of Military Brat in Need

It is a social assistance programme developed for the children whose father is in the army.

h. Assistance for Orphans

It is a regular and in cash social assistance programme carried out for the children whose mother or father has passed away.

i. Maternity Benefit

In line with the Additional Article 4 added to the Statutory Decree No. 633, a maternity benefit of 300-TL is given for the first child born alive, 400-TL for the second child and 600-TL for the third and the following children to the Turkish citizens and to the blue card holders as of 15/05/2015. Maternity benefit is given for the live birth on and after 15/05/2015. However, in the determination of the ranking of children to be paid, the children who were born before 15/05/2015 are also included in the ranking.

2. Educational Benefits

The low accessibility of poor families to education opportunities removes the equal opportunities of education and constitutes the biggest problem in precluding the transfer of poverty from generation to generation. The factor of education plays a critical role in establishing an effective social assistance policy and a successful fight against poverty. The following programmes are implemented within this scope:

- a. Assistance of training material
- b. Assistance of conditional education
- c. Assistance of lunch
- d. Assistance of free book
- e. Benefit of housing, transport, food
- f. Free transport to school for the disabled students
- g. Hostel building

3. Benefits for the disabled

- a. Old-age Benefit
- b. Benefits for the Disabled Applied Under the Law No. 2022
 - Payments for the citizens having disability at the rate of 40%-69%
 - Payments for the citizens having disability at the rate of %70 and over
 - Relative Benefit for the Disabled Younger than 18 Years of Age
- c. Benefits for Silicosis Patients
- d. Home Care Benefit

4. Special-Purpose Aid

- a. Meal Centres
- b. Disaster Benefits
- c. Emergency Benefits
- d. Terror Loss Benefit
- e. Benefits for the Relatives of Martyrs and Veterans

5. Medical Benefits

- a. Need Benefits for the Disabled
- b. Premium Payments of Universal Health Insurance
- c. Share Payment of Universal Health Insurance
- d. Conditional Medical Benefit

6. Assistance for the Foreigners

- a. Social Adaptation Assistance

Social Adaptation Assistance is an assistance programme financed by the European Union (EU) and is implemented through partnership among UN World Food Programme (WFP), Turkish Red Crescent and Ministry of Family and Social Policies. The said assistance programme has the ultimate budget human aid operation funded by EU and is supposed to continue until the end of 2018.

- b. Assistance of Conditional Education for Foreigners

Assistance of Conditional Education for Foreigners is an assistance programme financed by the European Union (EU) and is implemented through partnership among UNICEF, Turkish Red Crescent, Ministry of National Education and Ministry of Family and Social Policies. Conditional Education support is provided for the disadvantaged families in the Turkish society since the beginning of 2000 by the Ministry of Family and Social Policies on condition that they send their children to school regularly.

Within the framework of extending the Conditional Education Assistance Programme for the Syrians and other foreigners, it was decided to include also the Syrian and other refugee children in the programme as of May 2017.