



SPECIAL

(Social Protection in Europe. Convergence?
Integration, Accession and the free movement of Labour)

First Phase:
Cross-cutting questions

TURKEY

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1. Material Scope

1.1. Currently existing schemes/ regulations

1.1.1. Health care

Public servants:

The constitutional regulations relevant to public servants are in the Public Servants Act, no. 657, introduced on 14 July 1965. Clauses 105, 188 and 209 of the Act mentioned here are directly concerned with the health care of public servants.

The application of health care for public servants complies with the “Public Servant Treatment Aid and Funeral Cost Regulations” which consist of sub regulations introduced on 11 August 1973 and the directives of the “Budget Administration”, which is regenerated every year.

In addition, the spouses of public servants, persons that they are responsible for such as their parents and their children, can also take the advantage of this health care. (Public Servant Act, clause 188/B).

The health care services for public servant pensioners are provided within the clause, no. 139, of the Superannuation Fund Act of The Republic of Turkey, Act no. 5434, introduced on 8 June 1949, which has been regenerated many times in course of time; and the practice of health care is realised within the rule supported by the above clause which was introduced on 16 July 1973. Likewise, the spouses of these, persons that they are responsible for such as their parents and their children, can also take the advantage of the health care. (Public Servant Act, clause 188/C-Ç).

Workers:

The health care of workers is pre-eminently provided within the Social Insurance Act, no. 506, introduced on 17 July 1964. The subject Act is applicable to workers employed in every workplace regardless of the number of employees engaged in that workplace, with the exception of unpaid family workers and domestic helpers. Clause no. 11 and the following clauses of this Act cover industrial accidents and occupational illnesses, and clause no. 32 and the following clauses cover the normal insurance illnesses related to health protection.

In addition, the family individuals of the worker and the worker pensioners and their families also take the advantage of this health care. (Social Insurance Act, clause no. 35, 36).

Specifically, the health care services for agricultural labourers are provided within a separate Act, "The Social Insurance Act for Agricultural Labourers", no. 2925, introduced on 17 October 1983. Barring normal illnesses, this Act also covers social assistance for industrial accidents and occupational illnesses. Similarly, the health care relative to health insurance is offered to the spouses and the children of insured agricultural labourers (clause 16) and agricultural pensioners and the families of these persons (clause 17).

On the other hand, employees of banks and insurance companies as members of the independent funds of these banks and insurance companies, that were already established before 1965, that is, prior to the passing of the Social Insurance Act no. 506, take advantage of the health care provided in accordance with the rules

of the independent funds. The health care provided by these establishments cannot be less than the health care provided under the Social Insurance Act (Social Insurance Act, emergency decree no. 20).

Tradesmen, artisans and other self-employed persons:

The health care services for tradesmen, artisans and other self employed persons are provided under “The Foundation of the Social Insurance Act for Artisans, Tradesmen and Self Employed Persons”, commonly called the Act of Bağ-Kur, supplement no.11. In consequence, persons insured under the Bağ-Kur, and individuals of their family can take the advantage of the health insurance. In addition, the subject social assistance is also provided for the Bağ-Kur pensioners and their family relatives.

Socialisation of Health Services:

In our country, the socialisation of health services was firstly realised with the “The Act Concerning Socialisation of Health Services”, no. 224, introduced in 1961 and then after, with “The Foundation Act of Health Services”, no. 3359, introduced in 1987. As a consequence of this, a substantial part of the country has had experience of the socialisation of the health services; in addition, the benefit of public and the university hospital services free of charge in several centres and with a fixed charge in other centres, has been approved. Everyone can benefit from the system established with the realisation of the General Health Insurance.

Persons over 65 years old:

The Act no. 2022, prepared in 1976 was introduced for dependant persons over 65 years of age. According to the Act, persons entitled to receive pensions also benefit from Government Hospitals with treatment free of charge (clause 7). Likewise, their spouses of the same status are entitled to benefit from Government Hospitals with treatment free of charge (clause no. 23 of the code related to the Act no.2022).

War-veterans:

The Act, no.1005, introduced on 20 February 1968 concluded that war-veterans that are Turkish citizens, and their spouses, could benefit from treatment free of charge, and the cost for medicines will be borne by the Government. Likewise, widows of these persons are entitled to receive the advantage of this assistance as well (clause 2).

Citizens in the circumstance of dependency and poverty:

“Encouragement for Social Welfare and Care in the Community Act” no. 3294, introduced on 29 May 1986 aims to help both poor and dependant citizens, and those foreigners who are accepted into Turkey or are in Turkey. The cost of health care provided to disabled persons to whom the same circumstances apply, and who are cared for by social security Institutions, and receive payment from these institutions, is also included (clause 2).

Those persons who do not have the ability to pay:

“The Act Related to Bearing the Cost of Treatment by the Government for the Citizens Who Do Not Have the Ability to Pay” no. 3816, introduced on 18 June 1992, generalised among the public as “The Green Card Act”, acknowledges the benefit from the treatment services free of charge, by issuing “Green Cards” to those Turkish citizens who reside in Turkey and are not under the security program of any social security Institution and who have salaries less than one third of the minimum scale.

1.1.2. Pensions:

A remarkable reform movement was realised in the Turkish superannuation system with the implementation of the Act no. 4447 introduced in 1997. Indeed, not governed by any age limit before that date, insured female persons could retire in 20 years at their 38th and insured male persons could retire in 25 years at their 43rd. With this settlement, by adopting an age limit, the retirement of the insured people at an early age was prevented.

Public Servants:

Pensions of public servants are provided in accordance with the clause 13 of the Turkish Republic Superannuation Fund Act, no. 5434, introduced in 1949. The retirement age limit of public servants is 65 (Superannuation Fund Act, clause 40).

Workers:

Clause 59/a, of the Social Insurance Act, no. 506, introduced in 1964, authorises pension payment to workers. Conditions in the clause 60 of the Act, mentioned here, were further resolved with the amendment made on 25 August 1999. As a consequence and from that date, those insured females over 58 and males over 60 who have paid their premiums for 7000 days, or for insured females over 58 and males over 60 who have been insured for 25 years and paid their premiums for at least for 4500 days qualify for pension payment.

Agricultural labourers, specifically, shall be retired and be paid a pension in accordance with the Act of Social Insurance for Agricultural Labourers. These too have to be over 58 if they are female or 60 if male and they must have been insured for 15 years and paid the minimum premium for 3600 days (clause 20).

Employees of banks and private insurance companies who are also the members of the funds can receive a pension in accordance with the constitution of the trust they are bound to (emergency clause 20 of the Social Insurance Act).

Tradesmen, artisans and other self-employed persons:

Pensions for the self-employed are paid in accordance with clause 34 of Act no. 1479 that is commonly known as the Bağ-Kur Act. Therefore, as a condition, an insured person must be over 58 if female and over 60 if male, and must have already paid the premiums for 25 years in order to qualify for this pension (clause 35).

On the other hand, self employed farmers in agriculture enjoy a pension according to conditions put down in clause 16/a of the Act no. 2926, The Social Insurance Act For Self Employed Persons in Agriculture, Who Work For Their Own Account, commonly known as the Agriculture Bağ-Kur Act. Thereof, as a condition, an insured person must be over 58 if female and over 60 if male, and must have already paid the premiums for a full 25 years in order to qualify for this pension (clause 17).

Dependant persons over the age of 65:

The Act no. 2022, introduced in 1976, validates the lifetime assignment to desolate, straitened Turkish citizens above 65, who are dependants and who do not receive pensions from any of the social security Institutions. If the designated person is married, and the spouse suffers the same conditions, the assignment is increased by 50% (clause 1).

War-veterans:

The Act no. 1005, introduced on 20 February 1968, validates the lifetime assignment to war-veterans who are Turkish citizens (clause 1).

Compatriots who served the country voluntarily:

The Act no. 3292, introduced on 28 May 1986, structures the life time assignment for payment to compatriots who served Turkey voluntarily, and hold certificates for

such service, and following their death, to their destitute family individuals (clause 2).

Personally funded retirement:

In order to complete the compulsory insurance systems, a private retirement system was accepted in an Act introduced last year, called the “Personally Funded Retirement System” and is completely dependent on the “voluntary base” of the individual. Due to low pensions, the personally funded retirement has been accepted as a supplement to the pension assigned from compulsory insurance. Hereof, firstly, the “Personally Funded Retirement Savings and Investment Systems Act”, no. 4632, introduced on 28 March 2001, was validated after six months on 7 October 2001, and after, regulations under this Act were enacted.

Everyone over 18 years either employed or unemployed can take part in the personally funded retirement system. Entering into this system is completely optional. According to the retirement agreement to be made between the participant and the retirement company, a person who prosecutes his membership for more than 10 years, and is over 56 years, is entitled to demand his personally funded retirement payment, or choose to take the whole of the cumulative savings up to that date as valued by the retirement investment fund. A person who continues in this system for more than one year shall then have the option to change from the first chosen retirement company.

With regard to the personally funded system, it is the right time for the establishment of the retirement companies. The retirement companies to be

established shall have not less than US\$15 million capital and half of this shall be in the form of paid-up capital. The shareholders of these companies shall be exceptionally trustworthy and shall have no criminal record, and a governmental control of these companies shall be put forward.

1.1.3. (Un)employment

Public Servants:

Public servants are appointed in accordance with the Public Servants Act, no.657, introduced in 1965. The removal of these from government positions is extremely difficult due to the fact that, first administrative enquiry, then administrative jurisdiction is required. Public servants are subject to the currently in force regulations of the Public Servants Act.

Workers:

Employment of workers is realised with the individual work contract that is made with the Employer. This contract is contingent upon the Labour Act to the benefit of workers. The general attribute of the Labour Act is the Labour Act, no 1475, introduced in 1971. Specifically, journalists are subject to the Press Works Law introduced in 1952; crew-members to the Maritime Works Law introduced in 1967, and all other workers are subject to the rules (clause 313 vd.) related to the Turkish Obligations Code introduced in 1926.

A full and strict legal job security is not mentioned for workers. Because by being not liable to evidencing any acceptable excuse, the dismissal of a worker and giving appropriate compensation is appropriate for the Turkish judicial system.

Excepting the representatives of trade unions in the workplaces, calling back to work cannot be questioned. Job security is predominantly provided for by the rules of the collective labour agreement. But, this security is applicable only for the workers who belong to a trade union.

With the establishment of unemployment insurance in 1999, an unemployed worker is protected against unemployment risk from that date. Together with the acceptance of the Unemployment Insurance Act, 4447, introduced on 25 August 1999, accumulation of unemployment premiums in the unemployment funds was initiated. Starting from 1 April 2002, realisation of payments of unemployment benefit took place.

The conditions for an individual to be entitled to receive unemployment benefit are, primarily, within the last three years before the termination of the employment, to have been employed as an insured worker for at least 600 days, paid unemployment insurance premiums and before leaving work, should have been employed continuously for 120 days by paying premiums. Then, the termination of the employment should happen without desire or fault of the insured worker. Eventually, it is compulsory that, in order to be entitled to receive unemployment benefit, within 30 days after the cancellation of the employment contract an insured worker must obtain a testimonial from the former employer titled "Leaving Work Declaration" and must submit application together with this testimonial to the Employment Exchange Offices.

The unemployment benefit is determined on a daily basis. In addition, the daily value of the unemployment benefit is the 50% of the insured worker's daily

average net income calculated on the basis of the income of the last four months that formed the basis of the value of the premium for those months. The amount of the unemployment benefit cannot be more than the lowest net value of the monthly wage. Within this group, those who have paid the premiums and continuously worked for the last 120 days before termination of employment contract, and who, within the last three year;

- have been employed as insured for 600 days and have paid the premiums, receive the benefit for 180 days,
- have been employed as insured for 900 days and have paid the premiums, receive the benefit for 240 days,
- have been employed as insured for 1080 days and have paid the premiums, receive the benefit for 300 days.

Before legalisation of the unemployment insurance, seniority compensation constituted a security against unemployment risk. The seniority compensation constituted a sum of money paid to the employee on his departure from employment, calculated on the basis of service years and the gross wage received in the last 30 days. Thus, the unemployed could maintain himself until he could find other employment.

1.2 Responsibility

1.2.1 Health care

Public servants:

The expenditure for health care of public servants is covered by the budget of the public utility to which the employee belongs and it is directly under the responsibility of the state.

Workers:

Expenditure made by the health care of the Social Insurance Institution is covered by the Social Insurance Institution and its health care insurance branch and it is under public responsibility. The Government is only responsible to cover the debts of the Institution.

The expenditure for the health of agricultural workers is subject to the same procedure.

Also, for the bank and insurance company workers, the health expenditure is principally subject to the personal responsibility of persons whose health expenditure is legally covered by the private funds in the form of trusts. But, those private funds that are unable to pay may be transferred to the Social Insurance Institution subject to adjudication of the Council of Ministers. If this case arises, public responsibility comes forward. In this manner, the private fund members can be stated to be a combined responsibility.

Tradesmen, artisans and other self-employed persons:

Expenditure for these is covered directly by the Bağ Kur and by the health insurance; that is, the subject is under public responsibility. The Government covers only the debts of the Institution.

The health expenditure for farmers is subject to the same system.

Those who take place in the non-contributory systems:

Because persons applying to government or university hospitals bear their own health care expenditures, they are subject to individual responsibility.

The health care expenditure for dependant persons over 65 years and for war-veterans, poor and straitened citizens and persons who do not have ability to pay, are subject to state responsibility.

1.2.2. Pensions

Public servants:

Assistance provided by the Superannuation Fund is provided from the general budget and is under state responsibility.

Workers:

Retired workers' pensions are provided by the Social Insurance Institution and are under public responsibility. The Government is only responsible for payment of debts of the Institution and when pensions are unpaid by the Institution, they are paid from the general budget. The procedure for agricultural workers is the same.

Retired persons are under private responsibility in the matter of their payment from private funds. When the funds are transferred to the Social Insurance Institution by adjudication of the Council of Ministers, due to being incapable to pay, they are subject to public responsibility. In this manner, in general, to talk of a combined responsibility is feasible.

Tradesmen, artisans and other self-employed persons:

For these, public responsibilities apply. The state responsibility emerges when the Bağ-Kur cannot meet the payments.

Retired farmers as well are subject to the same system.

Those who take part in the non-contributory systems:

The pensions of the persons in question are directly subject to state responsibility.

Those who benefit from the private retirement system:

These persons are subject to private responsibility of the retirement companies.

But, the Government has strict control over these retirement companies.

1.2.3. (Un)employment

Public servants:

Employment of public servants is directly subject to Government control.

Workers:

Those workers who lost their jobs and receive unemployment benefit are subject to public responsibility. Unemployment benefit is reimbursed from the accumulation in the unemployment funds. The retraining of the unemployed worker is realised by the public utilities.

Those workers who do not qualify for benefit from the unemployment insurance must subsist on the severance payment given to them by the employer upon their departure from the workplace until they can find new employment. For these, individual responsibility applies.

1.3. Main Problems

1.3.1 Health care

With respect to health care, the existence of many laws regarding social security eliminates the combination of norms and standards in practice. And that contradicts with the equity principles and prevents improvement of the unity conception among all individuals. The absence of a social security code in general is a major incompleteness.

1.3.2. Pensions

During the year 1999, when reform was accomplished regarding the retirement system, the situation for employed persons was that provision was privately arranged and so a progressive transition program was suggested. The Supreme Court found this unconstitutional and vitiated this transitional arrangement but

allowed an interval to the lawmakers for a redraft. Even a conspectus draft prepared by the Ministry of Labour and Social Security hereof was rejected by the social partners.

On the other hand, because pensions result from many numbers of laws that are distinct from each other, either in the matter of provisions or in amount, they make a difference to individuals in practice. It is impossible to talk about a unique combination of norms and standards.

Private retirement systems are experiencing complications in presentation and timing. Indeed, the private retirement, in response to being a supplementary program, has been submitted as a privatisation in the attribute alternative to the compulsory public insurance. On the other hand, in the slump environment that Turkey has been experiencing recently, the economical potential of individuals has decreased.

1.3.3. (Un)employment

In the matter of job security, an excessive inequality between public servants and workers is in question. While the public servants enjoy a strict work security, non-governmental workers security is insufficient. For the workers who cannot benefit from the employment laws, there is no job security.

2. Personal Scope

2.1. Extent

2.1.1 Health care

The ratio of the population covered by the social insurance programs is 91.0% and the ratio of the population with regard to health care, covered by the social insurance programs is 86.4%. Nearly half of the total civil placement, as being actively insured, is covered under the social insurance programs.

Table 1. Total Active Population Insured:

I.	Public Servants Pension Fund	2,118,000
II.	Social Insurance	5,858,000
III.	Self-employed insured by <i>Bağ-Kur</i>	1,940,000
IV.	Private Funds	79,000
V.	Total active insured	9,995,000
VI.	Social Insurance coverage related to health care (active and passive insured combined)	56,017,000
VII.	Total of general population	64,851,000
VIII	Ratio of the insured population (%)	91,0
IX.	Population covered by health insurance (%)	86,4

2.1.2. Pensions:

The average retirement payment has been increased in actuality at a ratio of 28.4% in respect of the Superannuation Fund, 29.5% in the Social Security Institution and 91.0% in Bağ-Kur.

Table 2. Distribution of the salaried employees according to funding of organisations:

I.	Superannuation Fund	1,257,000
II.	Social Insurance Institution	3,149,000
III.	Bağ-Kur	1,180,000
IV.	Private Funds	79,000
V.	General Total	5,665,000

2.1.3. (Un)employment

The population of Turkey, estimated as 64,851,000, is expected to increase by 15.1% to the year 2010, figuring out at 74,119,000.

The number of individuals of 15 years of age and above employed in Turkey amount to 21,545,000 and the percentage ratio of these within the total civil population is 69.6%. Overall in Turkey, participation in the workforce for those of 15 years of age and above is 51.8%. 55% of them are employed in rural areas. 69.1% employed constitute male population. 45% employed work in the agricultural sector, 20.7% in industry and 34.2% in the service sector.

Of the total employment numbers, the share of the wage earners, the salaried and those who work for a daily wage is 44.6%, the share for self employed and those

who work as employers is 31.8% and the share for unpaid family workers is 23.6%.

According to official records, the unemployment ratio in Turkey is 8.8%. Among the reasons for this ratio being so low can be explained from some aspects such as, that the people in our country regardless of the status and the salary offered, have to work under the necessity of being employed in any job and utilised inefficiently, that the number of unpaid family workers is high and that the ratio of participation in the workforce is low. In addition, also affecting this ratio is that unrecorded markets are common in Turkey and the figures mentioned here reflect only the recorded market.

2.2 Main problems

2.2.1. Health care

The social insurance health care must be extended to comprise the whole population. Increasing the number of the active insured persons, who are covered by the social insurance system, will avoid unrecorded employment.

The departments of the social insurance institutions that provide health care must be improved in technology and workforce. It is because of not providing this improvement now that unity of standards cannot be accommodated.

2.3.2. Pensions

With the new arrangement of 1999 regarding retirement age, Turkey has started a reform that is extremely important for the country. Yet, despite this, black holes still exist for which the retirement system is responsible.

The level of pensions provided by the various social security institutions has been found to be disproportionate and this also, in the matter of the population covered, contributes to the inequitable results.

Although the level of retirement payments has increased, it is unlikely that a sufficient level can be commented upon.

2.3.3. (Un)employment

The Unemployment Insurance Act basically references those who are covered by the Social Insurance Act, and those who are employed in work outside the scope of the social insurance administration, who cannot benefit from unemployment insurance. Likewise, also those who are outside the scope of employment acts cannot gain benefit from any of the provisions for work security. This aspect, perforce, grants privileges to those who have job security.

3. Funding

3.1. Extent

3.1.1 Health care

Public servants:

The health care expenditure for public servants is borne by the health budget; namely, it is primarily publicly funded.

Workers:

The health care expenditure for workers is borne by the fund of collected health insurance premiums (insured 5%, employer 6%); namely, it is primarily publicly funded, it is financed by the social insurance contributions.

Tradesmen, artisans and other self-employed persons:

The health care of the Bağ-Kur insured persons is borne by a fund consisting of social insurance premiums paid by those persons (10%); they are primarily publicly funded and rely on the social insurance contributions.

Other health care expenditure is borne by the government's general budget and in principle, they are primarily publicly funded but their source is taxation.

3.1.2. Pensions

Public servant pensioners:

The pensions of the public servant pensioners are borne by the Superannuation Fund. These payments are borne by the general budget; namely they are primarily publicly funded.

Social Insurance Institution and Bağ-Kur:

The pensions of workers and persons retired from self-employment are borne by the fund established by the Social Insurance Institution and Bağ-Kur. But if these organisations cannot pay the pensions, the Government bears the burden from the general budget and covers the debts of these organisations. According to this, it is primarily publicly funded and depends on social contributions.

Private fund pensioners:

When the employees of the private banks and insurance companies retire, they receive payment from private funds. These funds are legally organised in the form of trusts and are under governmental control, and if account discharge failure arises, they are transferred to the Social Insurance Institution by the decision of the Council of Ministers. The payments may be specified as primarily privately funded but they are financed in the same way as contributions to the social insurance.

War-veterans and poor, dependant citizens:

The payments provided for these are wholly borne by the amount reserved from the general budget. They are primarily publicly funded and their source is taxation.

Persons who benefit from private retirement:

The payment for these is wholly borne by the accumulation of the investments realised by their own investments. These can be specified as primarily privately funded.

3.1.3 (Un)employment

The unemployment insurance benefits are borne directly by the unemployment fund which is composed of the social insurance contribution share paid by the insured (2%), the employer (3%) and government (2%), it is primarily publicly funded.

3.2. Main problems

3.2.1. Health care

For the purpose of covering the discharge of the health expenditure of the social security organisations, transfers from the general budget continue. In the last social security reform study, the least changed text was the Superannuation Fund. Because the health budget reserved for public servants is borne by the general budget, no major complications are likely to occur. In comparison, the account for health expenditure reserved from the social insurance for the workers, the self-

employed and the artisans and tradesmen, shows chronic deficiency that is impossible to recover with the premiums accumulated in that year.

On the other hand, the attributes and the proportion of the health care provided for the public servants, workers and artisans also differ from each other. Thus, the health care in government hospitals public servants in general subscribe to is better than the health care in social insurance hospitals. For this reason, application by workers to government hospitals are accepted in any emergency or essential conditions.

The health care that workers benefit from is generally borne by means of purchasing services. In purchasing services, because of serious illegal operations, the Social Insurance Institution has been subjected to serious losses and the Minister of Labour and Security has expressed this matter, himself, many times.

The practising of health care for the poor, free of charge, which has emerged as “Green Card”, has begun causing a serious burden on the general health budget. This practice in principle has not been terminated due to the high level of need of the poor, but it has been mentioned by the authorities that this practice will be squeezed out one day.

The health care provided appertained to private funds, is carried on by the establishments on contract basis. The question here is more than related to problems in general attribute of the private funds and it is not directly the matter of the health expenditures.

3.2.2. Pensions

In our country, the balance between the actively insured persons and passively insured persons continues to struggle unfavourably. In consequence, on one side the number of actively insured persons has increased by a ratio of 4.7%, while on the other, the number of passively insured persons has increased by a ratio of 6.7%. Therefore, while the average value for actively insured persons was 2.28, the average value for passively insured persons was 1, but this number climbed back to 2.24.

In the Superannuation Fund the realised ratio of actively insured per passively insured is 1.77, 2.63 in Bağ-Kur and 2.29 in the Social Insurance Institution. Excluding those insured that are insured of their own accord, the ratio of actively insured per passively insured is 1.98 in the Social Insurance Institution.

Average pensions; these increase in actuality at a ratio of 4.8-7.5 in Superannuation Fund, 2.4-3.4% in Social Insurance Institution and 3-3.3% in Bağ-Kur. The value of pensions provided by the funds of banks and insurance companies is not very high in comparison with pensions provided by government.

To form a structure in the social security system in order to perpetuate in the actuarial manner, the retirement age was increased in a frame of interim process; as a matter of fact, for those existing insured members who continue for 10 years, the retirement age for females was set at 52 and for males at 56. Following the year 1999, when the new Act became active, for those who become insured for the first time, the retirement age for females was set at 58 and for males at 60.

3.2.3. (Un)employment

Since the year 1999, when the Unemployment Insurance Act became active, the insurance premiums deducted from earnings have been added to the Unemployment Insurance Fund and the accumulated amounts have reached the figure of about US\$ 2 billion. From the accumulated amount, the payment of unemployment benefit started from 1 April, 2002. One of the fund's major questions of law is the fact that the outline regulations of the institution of İŞKUR (Labour and Employment Institution) that organises the unemployment insurance and payment of unemployment benefit, have been disallowed by the Supreme Court and in spite of the past duration, still outline regulations regarding this subject have not been enacted by the lawmakers. Hence, İŞKUR, as a public utility that organises the unemployment insurance, is in the position of being deprived of outline regulations.

On the other hand, legislative studies regarding employment security continue. The major objections of the employers to this law, hereof, are focused on the matter that this law will increase unemployment in Turkey. In respect of employment security, the basic discordance between the sectors of workers and employers are the details focused on at the suggestion of the employers, that work security should be considered together with workers seniority compensation, whereas the workers perceive the rearrangement of seniority compensation as an inviolable (taboo) topic.

4. Administrative / organisational aspects

4.1. Extent

4.1.1. Health care

Health care is provided by the public actor (that is, the social security administration). The autonomy of health care foundations that provide the health care plead against the privatisation of the social security foundations as an alternative. Those who bring forward the discourse that the health organisations are not among the duties of the public (government), plea for renunciation of the hospital organisations in favour of the private sector; in reply, the supporters of the Welfare-State set forward the fact that by way of hospital employers taking part in administration and by way of providing autonomy to hospital administrations, success can be achieved.

Amongst the organs of the social security formation, the General Assembly and the Board of Directors are comprised of the representatives of the social partners' participants. But, in comparison with the number of government representatives, the number of representatives from the social partners is low. Likewise, the General Manager and the Deputy General Manager as the administrators of the social security foundations are assigned to those positions by the government. The foundation's lower level officers are appointed by these; where as the foundation's high level personnel are appointed in connection with the approval of the Labour and Social Security Minister.

The funds of private banks and insurance companies present their health care services through doctors and private health organisations on a contract basis. In

the matter of these, it is the principle of providing the health care by private persons and establishments.

Also, the health care provided by government hospitals to citizens and, poor and dependant persons is accomplished by the public actors. As a matter of fact, the government hospitals are the health organisations operating directly under the Ministry of Health.

4.1.2. Pensions

Pensions are provided by the security organisations that are public actors. Because health care and pensions are provided by the same security organisations, information mentioned above (in 4.1.1.) is relevant here too.

For social security reform, it is being suggested and considered that organisations providing health administration and pensions must be separated. While it is proposed that the social organisations realise this work, it is considered that the administration of pensions should be left to the private sector. Herein, the small yield (of pensions) that are provided by private insurance companies since then, has been substantially influenced.

The practice of “private retirement” which is continued in the additional social security system relies entirely on the public actors. Thus, practising the subject matter is prosecuted by the “retirement company” which is in the attribute of private insurance companies.

The management of the private banks and insurance companies is realised by private actors. Thus, the administration of these is in the attribute of “fund

administration” which is directly governed by private regulation. However, governmental control is prosecuted over that.

4.1.3. (Un)employment

Administration of unemployment insurance is left to the Labour and Employment Offices. The organisation in subject is a public actor. The Labour and Employment Offices are authorised and empowered to accomplish every duty and operation given by the Unemployment Insurance Act whereas the responsibility for collecting unemployment premiums is left to the Social Insurance Institution.

For this purpose, an Unemployment Insurance Office Chairmanship has been established. The duties of this chairmanship consist of assessment and implementation of operations of the decisions of the fund administration committee, of the insured contributions that are transferred to the unemployment insurance fund, the employer and the government’s contributions, to record premiums in personal accounts, payment of the unemployment benefit and supplying the retraining services concerning the unemployed.

4.2. Main problems

4.2.1. Health care

The social security organisations that provide the health care do not have an autonomous structure. Hereof, firstly, it is required to emphasise that the formation of the Board of Directors of the Social Insurance Institution is mainly composed of the government (central administration) representatives. Also, it is

possible to say the same for the formation of the Board of Directors of Bağ-Kur. Within both organisations, the sectors of the insured (workers) and employers are represented by one each. And this, perforce, results in the weightiness of the central administration in making decisions.

Beside this, the quietus authorisation which was previously given to the general assembly of the social security organisations expired after 1980. For today, the boards have the status of consulting bodies; they have been discharged from being decision-making organs. In addition, the general assemblies that previously met every year, have since the specified date started to meet every three years. All of these issues prevented the general assemblies from being properly functioning organs.

Basically the reason of why the social security organisations are not autonomous lies in the fact that they are dependent on the Ministry of Labour and Social Security in the matter of administration and finance. Truly, albeit their establishment laws which state that they are autonomous in the matter of administration and finance, inuring some major decisions of the subject organisations, they are bound to the Ministry of Labour and Security's approval, to which they are responsible. Similarly, the approval of the budget and activities of the above mentioned organisations are also subject to the same ministry.

All of the social security establishments that offer health care are not under the same ministry. Thus, while the Social Insurance Institution and the Bağ-Kur operates under the Ministry of Labour and Social Security, the Superannuation Fund that provides the social security of the public servants operates under the

Ministry of Finance. But, this case creates the result that the social security establishments are detached from each other and brings about a lack of coordination. Currently, because the Superannuation Fund possesses valuable fixed assets and deployments, the Ministry of Finance does not intend to leave this organisation to the Ministry of Labour and Security.

4.2.2. Pensions

Pensions paid from disablement, senility and death insurances, and the contributions provided by the short-term insurance branches, are implemented by the same social security organisations. The implementation of long-term contributions and short-term insurance contributions by the same organisations is criticised from the aspect of social security reform and the need for their separation asserted. So, the transfer of health insurance, left outside the pensions system, to the private sector will be straightforward.

The practice of additional and unforced retirement, introduced under the title of “private retirement” has been left to “retirement companies” of which there is intent to establish. Where as organisations of the retirement companies, on the other hand, are subjected to strict stipulations and considered as establishments requiring high capital. For reasons such as unprompted entry into a private retirement system for the persons who have high salaries and of preserving high earnings boundaries, prevents individual retirement systems gaining extensiveness across the existing pensions system.

4.2.3. (Un)employment

The unemployment insurance is in danger of not being autonomous in the matter of administration and organisation. In fact, the board of directors connected with the unemployment insurance fund is composed of four individuals. Two of these four are representatives of the government, that is, the central administration. The other two are the representatives of the social partners. In the event that a vote is tied, the side to which the Chairman belongs, that is, the government representatives, is rated as the majority.

On the other hand, the establishment that collects the unemployment insurance premiums and the establishment that pays the unemployment benefit are not the same. In fact, the unemployment insurance premiums are put into the Social Insurance Institution; where as, the unemployment benefit is paid by the Labour and Employment Institution. In order that a structure like this can be successfully operated, it must depend on settled essential and sufficient co-ordination. In any circumstance, it is impossible to state the existence of such co-ordination.

5. Conclusions

5.1. Health care

5.1.1 Some sectors in Turkey, within the premium system, lack healthcare protection. The sectors that exclusively do not acquire any of the private protection and which are outside the scope of application of the Social Insurance Act, lack subject protection. It is seen that within the regime with no premiums, benefit is from the general protection that is provided for all citizens. Instead of

this, it is required that these sectors must as well be included in the system with premiums. But this will only be possible by expanding the scope of application of the Social Insurance Act in a form to cover these. In this manner, it will be possible for health care coverage to apply to all individuals in the community.

5.1.2. In Turkey, the social security organisations that are included in the system with and without premiums are many in number and to speak of any sufficient coordination between them is not possible. Therefore, unifying all the social security organisations in an integrated and single social security organisation will strengthen the health care protection.

5.1.3. Related to the financing of the health expenditure in Turkey, beside the unemployment insurance, the government has no other direct contribution. The government covers only the debts concerning health expenditure of the social security organisations.

5.1.4. The social security organisations that realise health care do not possess an autonomous structure. Because the general assemblies do not hold quietus authorisation but have the status of being solely consulting organs, and in the formation of the board of directors, the government representation has been granted a greater share, and because some important decisions taken by the social security organisations are subject to approval of the Ministry of Labour and Social Security, this incapacitates the mention of sufficient autonomy.

5.2. Pensions

5.2.1. Raising the retirement age to 58 in females and to 60 in males was an extreme step in Turkey. According to previous arrangements, being able to retire at 37 for females and at 43 for males was creating enormous inconveniences in Turkey's retirement system. On the evidence of the rearrangement made to raise the retirement age in the year 1999, a serious fault was repaired in the Turkish pensions system.

5.2.2. The real increase in retirement payments is far from being satisfactory. Although the cost of living increments are reflected in retirement payments, it is extremely difficult to talk about retirement payments as being at a level sufficient for living. Against the low level of the retirement payments and the possibility of being retired at an early age, it has been observed that the number of pensioners has risen. The amount of premiums that the employer must pay for employed pensioners being low in comparison with normal employees, it induces the re-employment of pensioners.

5.3. (Un)employment

5.3.1. Together with the Act introduced in 1999 and the start of the execution of unemployment insurance in Turkey, the expansion provided the risk protection of

social security. With the payments of unemployment benefit from 1/4/2002, Turkey entered into a complete unemployment insurance practice environment.

5.3.2. Because the ratio of the unemployment is not low, the unemployment insurance may experience difficulty in practice. Although the amounts accumulated in the unemployment fund since 1999 will be sufficient for the beginning, in the long run, with an increase in the number of unemployed, difficulties may be experienced. After all, the Act, no. 4447, which structures the unemployment insurance is not an act that covers all unemployed persons. If, in the matter of executing the existing fund, no complexities appear, it is an advantage to expand the scope of the unemployment insurance to cover more beneficiaries.

5.3.3. In the financing of the unemployment insurance a more operative government accession may be expected. But, if careful of the fact that the government contributes only directly to the unemployment insurance, it can be predicted that the existing accession is an important step in Turkey.

5.3.4. The government in Turkey has undertaken the fund operations in the matter of unemployment insurance. But, any accomplishment of the government in the past, in fund operations, has not been seen. Furthermore, in the board of directors of the unemployment fund, the government representation constitutes the majority. It is likely that such a setting overshadows the fund's autonomy.

5.3.5. In avoiding unemployment, discussions regarding unemployment security still continue. It is expected that these will complete with the introduction of a job security act. But, following the introduction of a job security act, at this time, faultfinding discussions will start.

5.3.6. About encouragement to employment and control of unemployment, it is expected that the Turkish working legislation will set up part-time employment and atypical work relations. Presently, this subject is being tested in court, but it is not possible to say that the subject will gain court approval.

6. Reform process

6.1. - In pension

Presently Turkey is struggling with the matter that happened during the progressive transition of the employees to retirement at the time when the retirement age was increased. The transition arrangement related to this was invalidated by the Supreme Court. Due to this, the Ministry of Labour and Social Security prepared a conspectus, but this conspectus was not found appropriate by the social partners. Because of this, the Ministry of Labour and Social Security is expected to soon prepare a settlement that will satisfy the social partners and consider the justification of the cancellation of the Supreme Court.

Whereas the additional and unforced retirement, introduced under the name of “private retirement” has been put into practice, regulation under the related act

was introduced recently. It is conceived that the retirement companies to be established shall contribute in forming an important retirement fund.

6.2. - In health care

The settlement with regard to the constitution of a unified single social security organisation was invalidated by the Supreme Court recently. A new settlement cannot be prepared by the lawmakers in the time specified by the Supreme Court. It is expected that the subject settlement will again be enacted soon.

The Turkish government, being in financial depression, cannot start an operation to include those who are not under the coverage into the social security system.

6.3. - In employment

In the matter of creating new employment and decreasing unemployment, the government is currently making studies for a job security act. As well, the Ministry of Labour and Social Security who realised that it can facilitate a flexible employment that will be materialised during the working life, is preparing a flexible and modern Labour Act draft with a committee composed of technical staff. Hence, the flexibility of working times and facilitating the atypical working relations is foreseen. A work security practise that is put into effect with a draft such as this is expected to satisfy both of the social parties. But the economic crisis in Turkey essentially prevents such preliminary studies becoming law. Therefore, some opinions suggest that the outline regulations for work security be enacted

immediately with the definitive draft to be effected at the time in the future when Turkey emerges from the crisis.

General Evaluation

1. When the Turkish social security system is evaluated by international standards and the standards of the European Community, the reasons why income of the social security organisations does not recompense outgoings are observed in practices that do not comply with the actuarial bases. In order to meet the liabilities of the Turkish social security organisations in future, the actuarial indemnities that should be blocked up against each encashed premium have not been reserved; reserves that were accumulated in the first years have been swallowed up by inflation due to investments made in unprofitable fields. Also, individuals have been retiring decades before the age that deserve the “old” attribute. Amongst the organisations that have not paid premiums, and those who are the deepest in debt, that have met with forgiveness are the public organisations (especially the municipalities).

2. As yet the Turkish society has a youthful population, the disruption of the active/passive balance of the social security and being in the situation of not been able to secure any collected premiums for future liabilities, indicate that this community, as it matures, in parallel with the demographic transition trend, may experience a more serious financial burden. The Act no. 4447, which was prepared for the purpose of eliminating this hardship of the Turkish social system. On the other hand, beside its reformist attribute, by making only parametric changes attempts to

end the change for the worse and improve the system. Where as the parametric changes in subject matter, instead of increasing the prosperity of the individuals, aims to re-establish the balance of income-outgoings of the social security organisations.

3. Although in Turkey the resources reserved for the social security are insufficient, the reason for the complications is not only the lack of resources. The basic reason that the Turkish social security system experiences problems is found in the fact that the system is not operated in accordance with the general social security principles. In fact, the social security system should have been operated under specified principles. To that effect, the social insurance, being common amongst the organisations that operate in the sense of social purposes, is one of the organisations that technical rules and computations predominate in its operations. The disruption in the Turkish social security system emanates from the interference with the social security principles in general and with the private insurance principles. Such interference that encourages not only the political aims of the state potentials but also the short-term interests of other social parties, have negatively affected the indexes of the social insurance organisations, being at the foremost the active/ passive insurance balance.

4. The social security organisations have serious questions regarding their being organised and regarding administration. Truly, the social insurance organisations have problems related with the administration structure. To that effect, the Superannuation Fund has been organised in the form of an establishment and at the statue of public corporation. The Social Insurance Institution and the Bağ-Kur

are accepted as private establishments in their foundation, in managerial and financial regulations. But, indeed, this autonomy, cannot be materialised because the state powers interfere in the administrations of these organisations. Overwhelming representation of the government in the administration organs and the usage of the facilities they control for political purposes precludes autonomy of the social insurance organisations.

5. The social insurance organisations, similar to public organisations, bear the classic problems of Turkish bureaucracy in their structures. With their slow working and large organisational structures, the social insurance organisations prevent the effective implementation of services intended for insured persons. As a matter of fact, the personnel regime of the social insurance organisations sets aside the facility to employ sufficient personnel and specialists with satisfying salaries.

6. The social security organisations have a decision making process which has multiple centres. The board of directors that constitute the highest-level administration organs function as the decision organs of the administration that finalise the daily activities rather than the places where strategic decisions regarding the organisation are taken. In addition, too many important decisions that they make are subject to approval of the concerned ministry. By that, the subject organisations render unfeasible a quick and strategic decision making and harm the autonomy of the organisations.

7. The inspection activities of the social security organisations are not at a sufficient level. Particularly, there are voids in the inspection activities required to be accomplished regarding the pursuance of rights and liabilities that appear in the

relations between the insured, the organisation and the employer. These voids have resulted in insured and premium losses. The organs that largely provide the inspection activities for the social insurance organisations must be strengthened.

8. The Inspection of Accounts and Financial Auditing Project is continuing and this will constitute the basics of the realisation of the auditing of social insurance organisations, the separation of the retirement and health insurance programs from each other, the transfer to the individual identity number system and the preparation of the application plan for the social security reform. The subject project has been started with the support of the World Bank and aims to bring in operations to the Turkish social security system.

9. Studies with regard to a Social Security Foundation Measure are continuing and this will advantage functionality and determine the structural nature of the social security organisations. With the subject act, it is considered to end the embarrassment of the Turkish social security organisations, to determine the necessary basic elements of the unity of norms and standards and to provide settlements to increase the income and reduce the outgoings of the Turkish social security organisations.

The social security organisations that are constructed on the foundation of professional solidarity are required to be reconstructed with respect to social insurance risk. Hereof, the completion of the necessary regulation studies are intended for separation of long-term insurance programs and short-term insurance programs, and also, for the construction of health insurance programs and health care submittal separately from each other.

Likewise, for the purpose of giving more effective services to social groups who live at the limit of poverty, efforts are being made towards the commencement of the regulation studies for the strengthening of the co-operation between the existing social services and social assistance establishments and of the services and assistance to be taken as basis of the new elements and regulations.

10. The improvements in the areas of the health care, pensions and employment, imply some of the purposes and principles to be considered in Turkey. When the subject purposes and principles are considered, these fundamentally cover the below mentioned trends:

Firstly, the expansion of the public insurance programs, which will cover the social insurance risks at the minimum level in a form that will include the whole population, is obligatory. Whereof, it is necessary to enhance the active insured population who are covered under social security and prevent unrecorded employment.

Afterwards, building up the administrative and financial activities of the social security organisations will be considered. Whereof, the determination of the necessary basic elements for the provision of unity of norms and principles and to re-establishing the fund administration areas in accordance with the conditions of the daily portfolio administration, emerge as obligatory.

Lastly, the unemployment insurance program will be executed extensively and the consisting funds will be evaluated in the frame of fund administration principles. On this occasion, the generalisation of the unemployment insurance in time, as well, takes place in the targets that are to be followed up.

It is a big advantage for Turkey to have a young population, but because the level of education and knowledge of the subject population is not high, the establishment of an informed society and the efforts to be given for establishing new employment areas are prevented. The necessity for programs to increase the knowledge and skill levels is high for the young Turkish population. In the manner of extending the duration of the compulsory and uninterrupted basic education from five years to eight years and also to take measures to commence intensively the application of universal retraining, anxieties will be mitigated.