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REVISED EUROPEAN SOCIAL CHARTER

3rd National Report on the implementation of
the Revised European Social Charter

submitted by

THE GOVERNMENT OF TURKEY

(Articles 7, 8, 16, 17, 19, 27 and 31
for the period 01/01/2003– 31/12/2009)

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Genel Müdürlüğü



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the Revised European Social Charter

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**THE GOVERNMENT OF
THE REPUBLIC OF TURKEY**

For the period 1st January 2003 to 31st December 2009
on Articles 7, 8, 16, 17, 19, 27 and 31 Within the
Thematic Group 4

(February 2011)

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ARTICLE 7: THE RIGHT OF CHILDREN AND YOUNG PERSONS TO PROTECTION

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

Article 7 Paragraph 1

to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education.

Scope of the provisions as interpreted by the European Committee of Social Rights (ECSR)

Minimum age for employment in all sectors of the economy, including agriculture, and all work places, including family undertakings and private households, set at 15 years, subject to exceptions for children employed in prescribed light work with no risk of harm to their health, morals or education.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

1- Legal Framework

The right of children and young persons to protection is principally guaranteed by the Constitution of the Republic of Turkey. Article 50 of the Constitution states that “No one shall be required to perform work unsuited to his age, sex and capacity. Minors, women and persons with physical or mental disabilities, shall enjoy special protection with regard to working conditions.”

According to the article 71 of the Labour Law (LL) no. 4857, came into force on 10th June 2003, employment of children under 15 years of age is strictly forbidden; however, those children who have attained the age of 14 and completed their primary education may be employed in light positions which do not obstruct their physical, mental and moral development and education of those who attend schools.

On the other hand the Regulations on Procedures and Principles of the Employment of Child and Young Workers, issued pursuant to the LL no. 4857 and became effective on 6th April 2004, states, inter alia, the types of work in which the employment of children and young workers under 18 is prohibited, the types of work in which child and young workers who attained the age of 15 and are yet under 18 are allowed to be employed, the light works in which the children who attained the age of 14 and completed the compulsory primary education can be employed as well as procedures and principles of their working conditions. According to the said Regulations “Young Worker” means the person who attained the age of 15 and is yet under 18 and “Child Worker” means the child who attained the age of 14 and is yet under 15 and completed the compulsory primary education. The Annex of the Regulations clearly indicate the types of work in which the child and young workers can be employed.

2- Implementation

The section titled “Basic Objectives” of the 9th Development Plan states the objective of “623...Besides, the measures that prevent child labour will be taken and effectively implemented.” This manifestly shows the commitment of the Government with regard to eliminating the child labour.

Pursuant to the International Labour Convention No. 182 the “Time Bound National Policy Framework and Programme for the Elimination of Child Labour” has been prepared and implemented by the Ministry of Labour and Social Security (ÇSGB). This Programme aims at implementing the projects on elimination of child labour within the framework of the time bound national programme. The Programme indicates the basic objectives, instruments, methods as well as the institutions which implement the measures concerning the prevention of child labour.

The main objective of the above-mentioned Programme is prevention of child labour within the 10 year time limit in 2005-2015 period through large scale measures, inter alia, elimination of poverty, the major motive that drives the children to work, enhancing the quality and accessibility of education, increasing the public awareness etc. The Programme indicates the priority target groups as follows: “Children Working on the Streets”, “Children Working in Small and Medium-Sized Enterprises”, “Children Working in Arduous and Dangerous Works”, “Children Working in Seasonal Commercial Agriculture”.

Initiatives in regard to raising awareness on issues i.e. leading the school-age children to education, employing the children, if necessary, following completion of their compulsory education and observing and obeying the laws, have been taken by social partners. “Offices for Working Children”, “Social Support Centers for Working Children” have been established by the Turkish Confederation of Employer Associations (TİSK) and the Confederation of Turkish Trade Unions (TÜRK-İŞ) in metropolitan cities like İstanbul and Adana and through those centers and offices consultancy, health and educational services have been rendered to children, families and employers.

Comprehensive information on services rendered in the scope of the elimination of child labour by the Social Services and Child Protection Institution (SHÇEK) towards children living/working on the streets is given in this Report concerning article 17 of the Revised European Social Charter (Revised Charter)

3- Statistics

Statistics on child labour are compiled by the Turkish Statistical Institute (TÜİK) through “Child Labour Survey”.

The latest survey was carried out by TÜİK in 2006 and the comparison with previous data indicates a great decline in the ratio of children working in economic activities. The proportion of working children within the age group 6-17 was 15,2 % and dropped to 10,3 % in 1994 and to 5,9 % (in total 958,000 persons) in 2006. The number of working children within 6-14 age group was 320,000 , constituting 2,6 % of total population in the said age group. Again, the proportion of child labour in agricultural sector in rural areas was declined to 50 % in 2006 compared to 1999.

The committed combat against child labour and extension of compulsory schooling may be well cited within the basic factors of these positive developments.

On the other hand inspection has a great impact on insuring the conformity with the Turkish legislation as well as the Revised Charter and numbers of inspections carried out within the reporting period by the labour inspectors of the Labour Inspection Directorate of the ÇSGB are shown below:

2004	54.443	2007	69.544
2005	62.369	2008	62.565
2006	61.113	2009	56.095

During inspections, i.e. issues whether;

- the child and young workers spotted on the workplace have been of the minimum age set by the current legislation,
- the working and rest periods have been observed with regard to child and young workers,
- the night work requirements have been observed
- the salaries have been duly paid,
- work health and safety obligations have been pursued

have been as well checked. Number of apprentices and child workers, spotted at the inspected workplaces during the reporting period by the labour inspectors are as follows:

2004 ...	2.266 apprentices	1.200 child workers	2007 ...	3.144 apprentices	634 child workers
2005 ...	3.807 apprentices	1.604 child workers	2008 ...	1.936 apprentices	624 child workers
2006 ...	2.904 apprentices	2.697 child workers	2009	740 apprentices	465 child workers

and 6.620 young workers

As seen from above information, efforts with a view to bringing the implementation into conformity with the Turkish legislation in force as well as the Revised Charter have been continued during the reporting period.

Article 7 Paragraph 2

to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;

Appendix to Article 7§2

This provision does not prevent Parties from providing in their legislation that young person's not having reached the minimum age laid down may perform work in so far as it is absolutely necessary for their vocational training where such work is carried out in accordance with conditions prescribed by the competent authority and measures are taken to protect the health and safety of these young persons.

Scope of the provisions as interpreted by the ECSR

Minimum age for employment in prescribed occupations regarded as dangerous or unhealthy, which must be specified in legislation, set at 18 years, though exceptions are allowed if such work is essential for vocational training purposes, subject to strict conditions.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

1- Legal Framework

According to Article 85 of the LL no.4857 it is strictly forbidden to employ young workers who are under 16 and children as well as the workers who have not undergone vocational training on specific job they perform, in arduous and dangerous occupations. The Regulations on Arduous and Dangerous Works, issued pursuant to the said law, clearly indicates which types of occupations will be regarded as dangerous and unhealthy, what type of arduous and dangerous jobs may be performed by young workers who have attained the age of 16 and are yet under 18 as well as female workers.

Article 105 of the ĪK envisages that employers who, violating the above-mentioned Article 85, keep minors under 16 in their employ in dangerous and unhealthy jobs or employ workers contradicting the age limits indicated by the legislation will be fined.

2- Implementation

Programmes and projects carried out in regard to preventing child and young workers from being employed in dangerous and unhealthy occupations are shown below:

- Project on “Elimination of Worst Form of Child Labour (EWFCL) in Turkey” which was carried out from 2005 to 2007
- Project on “Combating Against Child Labour Through Education” which was carried out from 2004 to 2008
- Integrated programme for “EWFCL in furniture sector in Three Selected Provinces, Ankara, İzmir and Bursa” carried out by the Inspection Directorate of the ÇSGB from 2004 to 2007 within ILO / IPEC
- Project on “EWFCL in selected occupations in industrial sector (shoe making, car repair and maintenance, textile) in the Province of İzmir” carried out by the Inspection Directorate of the ÇSGB
- Project on “EWFCL and developing the working conditions of young workers in Ostim Şaşmaz Car Repair and Maintenance Industry Zone and Sincan Organized Industrial Zone” carried out by the Inspection Directorate of the ÇSGB in Ankara, Capital city of Turkey
- Integrated programme for “EWFCL in Seasonal Commercial Agriculture Through Education in Karataş / Adana”, carried out by the General Directorate of Primary Education of Ministry of National Education (MEB) within ILO / IPEC
- Project on “Guiding Children Working on the Streets in 13 Selected Provinces (Adana, Ankara, Antalya, Bursa, Çorum, Diyarbakır, Gaziantep, İstanbul, İzmir, Kocaeli, Şanlıurfa) to Education” carried out by the SHÇEK
- Project on “Social Co-operation Against Child Labour” carried out by the TÜRK-İŞ and TİSK within ILO / IPEC
- Project on “EWFCL Through Vocational Education to the Families of Child Labourers” carried out by the Confederation of Real Trade Unions of Turkey (HAK-İŞ) in co-operation with the Metropolitan Municipality of Gaziantep Province within ILO / IPEC
- “Modular Child Labour Survey” carried out by TÜİK within ILO / IPEC
- Project on “Raising Awareness Regarding Child Labour Through Mass Media” carried out by the ÇSGB in co-operation with the TÜRK-İŞ and the HAK-İŞ

In addition to the aforesaid activities,

- with a view to preventing the child labour in the seasonal commercial agriculture sector and enhancing their accessibility to education, significant measures have been introduced by the Circular Note no. 2010/6 of the Prime Ministry on “Enhancing the Labour and Social Life of Seasonal Commercial Agricultural Workers”.
- a symposium was organized by the General Directorate of Work Health and Safety of the ÇSGB in 2006 on “Young Workers” in co-operation with the Occupational Health and Safety Agency of Europe and six bulletins concerning young workers were translated into Turkish, printed and distributed.
- a co-operation on “Occupational Health and Safety for Students of Vocational Education” was established between the ÇSGB and the MEB in 2006. The main objective of the said co-operation was raising awareness on employment procedures and principles of child and young workers as well as occupational health and safety amongst students of vocational

education under the Vocational Education Law no. 3308 and hence, 4,000 students were trained in 10 provinces.

- again a co-operation on “Occupational Health and Safety in Vocational and Technical Education Schools” was established between the ÇSGB and the MEB in 2009. The main objective of the said co-operation was training both teachers and students of mentioned schools on occupational health and safety and briefing them on the current legislation concerning child and young workers. 741 school directors and 88 teachers have been trained within the framework of the recently ongoing co-operation.

Comprehensive information on services rendered in the scope of the elimination of child labour by the SHÇEK towards children living/working on the streets is given in this Report concerning Article 17 of the Revised Charter.

3- Statistics

Statistics on inspections performed with a view to bringing the implementation into conformity with the Turkish legislation in force as well as the Revised Charter is given in the above section regarding Paragraph 1. Besides, as mentioned before, within the scope of the projects carried out by the Inspection Directorate of the ÇSGB;

- 4,338 workplaces have been inspected in furniture sector in the Capital city Ankara as well as in İzmir and Bursa provinces and hence, 2,302 child workers have been spotted and guided to schooling. Whatsmore, in regard to preventing their brothers and sisters from labour 3.607 children have been supplied with educational support hence, totally 5,909 children and their families have been furnished with guidance educational services. During the inspections the income level of the families have been examined and 1,767 needy families have been supplied with educational services and employment opportunities, plus their children of school age have been furnished with financial support and health services.
- 3.604 car repair/maintenance, 748 shoe-repair and 504 textile workplaces in İzmir have been inspected and 6,709 working children and 2,339 brothers/sisters of them, totally 8,418 children have been reached and hence made to benefit the services.

Article 7 Paragraph 3

to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education

Scope of the provisions as interpreted by the ECSR

Prohibition of the employment of children still subject to compulsory education in work that would deprive them of the full benefit of their education. National legislation must limit working hours in school term time and offer sufficient leisure time during school holidays.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Taking into consideration the Conclusions and interpretations of the ECSR, specific information within the scope of this Paragraph is given in this section. More detailed information and statistics on education takes place in the section of this Report concerning Article 17 of the Revised Charter.

1- Legal Framework

Education has always been regarded in the front ranks among the issues considered as most important and priority by the Turkish State. The right to education of the children at the age of compulsory schooling has been guaranteed by the Constitutions prepared and adopted since the proclamation of the Republic.

Besides, Article 28 of the United Nations Convention on the Rights of the Child coming in the first place the global principles and targets regarding the primary education, welcomed by the international community, embraced and guaranteed by the national legislation and practice. In this context, basic principles, i.e. compulsory and free primary education, carrying out the educational affairs on equal opportunity basis etc. have been enshrined in the Constitution of the Republic of Turkey, the National Education Basic Law no. 1739 and the Primary Education Law (PEL) no.222.

According to Article 59 of the PEL no. 222, children who are at the age of primary education but not attending the compulsory primary education cannot be employed in paid or unpaid work in either public or private workplaces or any other place which involves labour. Those who attend primary education can only be employed in accordance with the provisions of the legislation concerning the employment of children.

On the other hand, Article 71 of the LL no. 4857, mentioned above regarding Paragraph 1, envisages provisions constituting legal framework.

2- Implementation

With a view to having a widespread education throughout the Country, extensive efforts have been exerted by the Ministry of National Education (MEB). In this context with a view to ensuring that all children can attend school, projects such as “Developing the National Education”, Basic Education Program and Projects”, “European Union Basic Education Support Program” have been prepared and implemented. Significant developments have been achieved through those projects some of which are still ongoing. In regard to judging the outcome of the above-mentioned efforts, developments achieved in the reporting period in the proportion of the children attending school (schooling rate) are shown below:

Schooling Rate in Primary Education

Educational Year	Total(%)	Male (%)	Female (%)	Difference in Schooling Rate (M % - F %)
2001-2002	92,4	96,2	88,45	7,75
2002-2003	90,98	94,49	87,34	7,15
2003-2004	90,21	93,41	86,89	6,52
2004-2005	89,66	92,58	86,63	5,95
2005-2006	89,77	92,29	87,16	5,13
2006-2007	90,13	92,25	87,93	4,32
2007-2008	97,37	98,53	96,14	2,39
2008-2009	96,49	96,99	95,97	1,02
2009-2010	98,17	98,47	97,84	0,63

With a view to ensuring the gender equality regarding access to education, “Let’s Girls to School Campaign (Girl’s Access to Education Project)” was started by the MEB in 2003. This project aimed at not only enhancing the educational opportunities for girls but in the mean time eliminating all obstacles that hinder girls from attending schools and from being successful in education. Within this campaign, applied in 10 provinces at the outset and later on throughout the Country and ended in 2007, 240,000 girls have been led to schools.

Various efforts have been exerted to ensure school attendance of the children and hence, “e-school monitoring method” may be cited as one of them. Through this method the school attendance of children (pupils) is monitored, registered to the system and families of non-attending pupils have been contacted with a view to diagnosing as to why they have not attended. The families of pupils, whose non-attendance have depended on labour, have been given a warning at first and fined in case of recurrence.

Furthermore, the financial assistance supplied by the “Social Assistance and Solidarity Foundations” which function in provinces and counties has been made conditional as regards education. According to this measure, namely “Conditional Fund Transfer”, the financial assistance of families who have children of school age but allow them to work instead of attending school is cut.

The State is committed in continuing the efforts with regard to ensuring all compulsory schooling age children's access to education.

With a view to bringing the implementation into conformity with the Turkish legislation in force as well as the Revised Charter, inspections carried out by the Labour Inspectors of the ÇSGB have been continued as mentioned above concerning Paragraph 1.

3- Statistics

The "Child Labour Survey" carried out by the TÜİK in 2006 shows that;

- 5,9 % of 16,264,000 children in 6-17 age group work in an economic activity. Regarding the working children within 6-17 age group, 47,7 % of them lived in urban areas and 52,4 % of them lived in rural areas while 66 % were males and 34 % were females.
- 31,5 % of working children attended school while 68,5 % discontinued their education. 2,2 % of children who attended school worked in an economic activity whereas 26,3 % of children who discontinued their education were employed.
- While 40,9 % (392,000 persons) and 59,1 % (566,000 persons) of working children were employed in agricultural sector and non-agricultural sector respectively, 53 % of them were salaried workers, 43,8 % were non-salaried family workers and 2,7 % were self-employed or employers.

Statistics regarding the inspections carried out in this respect are given above concerning Paragraph 1.

4- Conclusions XVII-2 of the ECSR

The Committee concludes that the situation in Turkey is not in conformity with Article 7§3 of the Charter on the following grounds:

- children subject to compulsory schooling might be employed in certain sectors of the economy;
- Turkish law does not ensure that they are not deprived of the full benefit of compulsory education.

Response to the Conclusions XVII-2 of the ECSR

As mentioned above, efforts started with a view to enhancing the legislation and the practices as well as bringing those into conformity with the Revised Charter have been continued within the reporting period.

Article 7 Paragraph 4

to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;

Scope of the provisions as interpreted by the ECSR

Limits, in legislation, regulations, contracts or practice, in the working hours of persons under 18 years of age to take account of their development needs, and particularly their need for vocational training.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply any relevant statistics or other information on the proportion of workers not covered by these limits and the reasons why they are not covered, and state whether any particular measures have been taken to assist young persons under 18 who do not benefit from any restrictions on their working hours

1- Legal Framework

In accordance with the Article 6 of the Regulations on Procedures and Principles of the Employment of Child and Young Workers, issued pursuant to the IK no. 4857 the working hours of the children who have completed their compulsory primary education and do not attend school anymore cannot be more than 7 hours a day and 35 hours a week. These limits may be raised to 8 hours a day and 40 hours a week with regard to the children who have attained the age of 15.

The work time is applied in such a way as to ensure for each 24-hour period, child and young workers are entitled to a minimum rest period of 14 consecutive hours.

During school term the work time, being outside the schooling hours, is at most 2 hours per day and 10 hours per week for children attending school. During the leisure time the work time cannot exceed the aforesaid limits.

A 30-minute break is given for work that lasts more than 2 hours and less than 4 hours, and a 1 hour break is given for work that lasts between 4 hours and 7 and a half hours, taking place in the middle of work time.

2- Implementation

As mentioned in above sections, the IK no.4857 entered into force on 20th June 2003 and through the Regulations issued in accordance with it, the conformity of implementation into the said Law and the Revised Charter has been secured. During the inspections performed by the labour inspectors, statistics of which are given in the section concerning Paragraph 1 this

issue has strictly been handled. Behaviours and practices violating the IK have been fined and other enforcements, cited in the said Law, have been applied.

3- Conclusions XVII-2 of the ECSR

The Committee concludes that the situation in Turkey is not in conformity with Article 7§4 of the Charter because, under Section 61 of the LL, children under 16 may work up to 45 hours per week.

Response to the Conclusions XVII-2 of the ECSR

As indicated above under the heading “Legal Framework”, new provisions have been introduced by the Regulations issued in pursuance of the LL no.4857 which came into force on 10 th June 2003 and work time of workers under 16 years of age has been reduced. The labour inspectors have strictly inspected the cases to check whether the implementation has conformed to the said Law.

Article 7 Paragraph 5

to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;

Scope of the provisions as interpreted by the ECSR

Right of young workers and apprentices to a fair wage or other appropriate allowances, determined with reference to the basic or minimum wage paid to adults, after deduction of social security contributions and taxes.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please supply any relevant statistics or other information on the remuneration of young workers as well as on other appropriate allowances for apprentices, and on the adult reference wage or salary

1- Legal Framework

Article 39 of the LL no.4857 envisages that the minimum wage is calculated by the Minimum Wage Fixing Committee in accordance with the principles set by the Regulations on the Minimum Wage. According to Article 7 of the aforementioned Regulations, separate minimum wages for the workers over and under 16 are determined every two years at the latest.

In pursuance of Article 25 of the Vocational Education Law (VEL) no. 3308, the allowance of the apprentice is fixed by the contract, principles of which are determined by the MEB, signed between the parent or guardian or custodian of the student or the student himself/herself if he/she has attained the age of consent (18 in Turkish legislation) and the employer, for the students having their vocational training in the workplaces the allowance of the apprentice is fixed by the contract signed between the school administration and the employer. But the amount of allowance cannot be less than 30 % of the minimum wage.

On the other hand with a view to making the legal framework more clear-cut, a Draft Law was prepared and presented by the Prime Ministry to the Turkish Grand National Assembly on 29th November 2010. Article 54 of the Draft Law, introduces an amendment to Article 25 of the current VEL no.3308 and envisages that the allowance of an apprentice cannot be less than 30 % of the net amount of the minimum wage.

2- Implementation

Pursuant to the legislation above, gross minimum wages have been fixed twice a year and following the legal deductions, remaining net amounts have been paid to workers. In the course of inspections carried out by the labour inspectors with regard to the remuneration it has been particularly checked whether the minimum wages have been observed. Behaviours and practices violating the LL have been fined and other enforcements, cited in the said Law, have been applied.

3- Statistics

By the Decision no. 2009/1 of the Minimum Wage Fixing Committee, dated 29th December 2009;

- minimum daily wage of workers over 16 (included) for the period 1st January 2010 to 30th June 2010 was fixed as TRL 24,30 and for the period 1st July 2010 to 31st December 2010 TRL 25,35,
- minimum daily wage of workers under 16 for the period 1st January 2010 to 30th June 2010 was fixed as TRL 20,70 and for the period 1st July 2010 to 31st December 2010 TRL 21,60.

According to the information given above;

- minimum monthly gross wage of workers over 16 (included) for the period 1st January 2010 to 30th June 2010 was TRL 760,50 and monthly net wage was TRL 599,12,
- minimum monthly gross wage of workers under 16 for the period 1st January 2010 to 30th June 2010 was TRL 648,00 and monthly net wage was TRL 518,58.

Taking into consideration this information the percentage difference in the wages paid to workers under and above 16 (included) years of age was 17,35 % in gross wage and 15,53 in net wage respectively.

Gross and net amounts of minimum wages fixed for the workers above and under 16 within the reporting period are shown below:

MINIMUM WAGES

PERIODS	ABOVE 16 (INCLUDED)		UNDER 16	
	NET MINIMUM WAGE (TRL)	GROSS MINIMUM WAGE (TRL)	NET MINIMUM WAGE (TRL)	GROSS MINIMUM WAGE (TRL)
01.01.2003 - 31.12.2003	225.999.000	306.000.000	190.532.250	256.500.000
01.01.2004 - 30.06.2004	303.079.500	423.000.000	257.940.000	360.000.000
01.07.2004 - 31.12.2004	318.233.475	444.150.000	270.837.000	378.000.000
(*) 01.01.2005 - 31.12.2005	350,15	488,70	297,92	415,80
(*) 01.01.2006 - 31.12.2006	380,46	531,00	322,43	450,00
(*) 01.01.2007 - 30.06.2007	403,03	562,50	341,55	476,70
(*) 01.07.2007 - 31.12.2007	419,15	585,00	352,09	491,40
(*) 01.01.2008 - 30.06.2008	481,55	608,40	414,92	515,40
(*) 01.07.2008 - 31.12.2008	503,26	638,70	432,97	540,60
(*) 01.01.2009 - 30.06.2009	527,13	666,00	456,21	567,00
(*) 01.07.2009 - 31.12.2009	546,48	693,00	472,32	589,50

(*) In pursuance of the Law no. 5083 six “zero”s were repealed from the TRL as of 1st January 2005

4- Conclusions XVII-2 of the ECSR

The Committee concludes that the situation in Turkey is not in conformity with Article 7§5 of the Charter on the ground of a repeated lack of information providing evidence that apprentices are entitled to fair allowances throughout their apprenticeship.

Response to the Conclusions XVII-2 of the ECSR

Information on the proposed amendments in the current legislation is given above under the heading “1” as well as gross and net amounts of minimum wages paid to the workers above and under 16 years of age within the reporting period and the difference between those are given under the heading “3” of this section of the Report.

As explained above in practice minimum wage is regarded as “starting wage” and hence in the mean time it is the “reference wage”. As can be seen, full minimum wages are paid to the workers over 16 years of age when they newly start work. Gross and net amounts of minimum wages fixed for the workers above and under 16 within the reporting period are given above and hence, the difference has been higher than the one mentioned in the “Conclusions”.

The “Conclusions” state that in regard to comparing the remuneration of the young and adult workers, average wages must have been taken into consideration though, either in this article and paragraph of the Revised Charter or in the interpretation of the ECSR concerning this

paragraph as taken place in the report form prepared and sent by the Council of Europe, “basic wage” or “minimum wage” or “starting wage” are mentioned only. As clearly mentioned above, in accordance with the legislation and practice that prevail in our Country the minimum wage is regarded as the “starting wage” and hence information is given in this Report in due course.

Article 7 Paragraph 6

to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;

Scope of the provisions as interpreted by the ECSR

Right of young persons for time spent in vocational training during normal working hours to be treated, with the consent of the employer, as part of the working day.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

1- Legal Framework

The hours that are reckoned as working hours have been stated in article 66 of the IK no.4857. Besides, according to the Article 7 of the Regulations on Procedures and Principles of the Employment of Child and Young Workers;

- a) the time spent in training that must be provided by the employer,
- b) the time spent in courses or meetings that take place outside the workplace and as well as in occupational courses provided by the authorized institutions,
- c) the time that they cannot perform their work due to their taking part as a delegate to committees, congresses, conferences, and similar events organized by national or international institutions in regard to working children and youngsters,

are counted as part of the working time.

Furthermore, in accordance with the VEL no. 3308 apprentices undergo trainings of general and vocational nature at least 8 hours a week. In order to attend those trainings the apprentices must be granted paid leaves.

2- Implementation

As mentioned above, the LL no.4857 entered into force on 20th June 2003 and through the Regulations issued in accordance with it the conformity of implementation into the said Law and the Revised Charter has been secured. During the inspections performed by the labour inspectors statistics of which are given in the section concerning Paragraph 1, the issue has strictly been handled. Behaviours and practices violating the LL have been fined and other enforcements, cited in the said Law, have been applied.

3- Conclusions XVII-2 of the ECSR

The Committee concludes that the situation in Turkey is not in conformity with Article 7§6 of the Charter on the ground of a repeated lack of information providing evidence that time spent by young workers on vocational training is considered as working time and that this right applies to at least 80% of young workers receiving training.

Response to the Conclusions XVII-2 of the ECSR

Information indicating that the time spent by apprentices and young workers during the vocational training is reckoned as working time by the Turkish legislation and practice is given above. The numbers of apprentices and young workers who have enjoyed those trainings and have not been prejudiced as regards their remunerations will be given once compiled.

Article 7 Paragraph 7

to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks' annual holiday with pay;

Scope of the provisions as interpreted by the ECSR

Employed persons under 18 years to be entitled to a minimum of four weeks' annual holiday with pay, subject to the same arrangements as those applicable to the annual paid holidays of adults (Article 2, paragraph 3).

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

1- Legal Framework

In accordance with the Article 10 of the Regulations on Procedures and Principles of the Employment of Child and Young Workers, issued pursuant to the Article 53 of the LL no. 4857, the paid annual leave that shall be granted to child and young workers cannot be less than 20 days. It is conditional to enjoy the paid annual leave uninterruptedly.

The paid annual leave is granted to child and young workers who are subject to compulsory full-time schooling, coinciding with the school holidays or the time when they do not attend courses or other educational programs

Whatsmore the Article 26 of the VEL no.3308 envisages that students of vocational education shall be granted a one month leave coinciding with the school holiday. Besides, following the consultation with the school administration those whose excuses are recognised, may be granted an unpaid leave of up to one month.

2- Implementation

As mentioned above, the LL no. 4857 entered into force on 20th June 2003 and through the Regulations issued in accordance with it the conformity of implementation into the said Law and the Revised Charter has been secured. During the inspections performed by the labour inspectors, statistics of which are given in the section concerning Paragraph 1, this issue has strictly been observed. Behaviors and practices violating the LL have been fined and other enforcements, cited in the said Law, have been applied.

Article 7 Paragraph 8

to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;

Appendix to Article 7§8

It is understood that a Party may give the undertaking required in this paragraph if it fulfills the spirit of the undertaking by providing by law that the great majority of persons under 18 years of age shall not be employed in night work.

Scope of the provisions as interpreted by the ECSR

Persons under 18 years of age shall not be employed in night work, with the exception of certain occupations provided for by national laws or regulations

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

1- Legal Framework

Article 73 of the LL no. 4857 states that child and young workers under 18 years of age cannot be employed in industrial workplaces.

According to Article 12 of the Duty and Powers of the Police Act no.2559 child and young workers under 18 years of age cannot be employed in workplaces open to public where i.e. entertainment, game play is served or restaurants where alcoholic beverages are served.

2- Implementation

The main purpose of the abovementioned laws is to improve the situation. During the inspections carried out by the labour inspectors and statistics of which is given in the section of this Report concerning Paragraph 1 as well as during the police security controls this issue has been strictly observed. In case of non-conformity enforcement measures introduced by the said laws, have been applied.

3- Conclusions XVII-2 of the ECSR

The Committee concludes that the situation in Turkey is not in conformity with Article 7§8 of the Charter on the ground that night work for workers under 18 years of age is prohibited only in industrial undertakings.

Response to the Conclusions XVII-2 of the ECSR

The legislation and practice concerning the issue are mentioned above.

Article 7 Paragraph 9

to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control

Scope of the provisions as interpreted by the ECSR

Persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to compulsory and regular medical examinations.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

1-Legal Framework

Article 87 of the LL no 4857 lays down that it is obligatory, prior to recruitment, to have child and young workers between 14 and 18 (included) examined by physician and have it certified by medical health reports that they are physically fit with regard to the qualifications and conditions of the job, as well as to have them examined in same manner by physicians every six months until attaining the age of 18, in regard to checking whether there is any drawback to continue to employ them in the respective work and to keep all these reports at the workplace and produce them to authorized officials upon request.

Article 82 of the Regulations on Seafarers envisages that young workers under the age of 18 are subject to medical control every 12 months.

Article 5 titled “Medical Health Report” of the Regulations on Arduous and Dangerous Works, came into force on 16th June 2004, states that it is obligatory to have all workers, including women who will be employed in arduous and dangerous work and the young workers who have attained the age of 16 and are yet under 18, prior to their recruitment, certified by a medical report which depends on physical examinations and laboratory tests, indicating that they are physically fit with regard to the qualifications and conditions of the job. Moreover, it has been clearly indicated in the Article that workers who have not undergone the required medical examinations and do not hold medical health reports cannot

be employed in arduous and dangerous jobs. According to the Article during the employment it is obligatory to be certified by medical reports, issued every 6 months for young workers who have attained the age of 16 and are yet under 18 and for the adult workers at least once a year, indicating that both medically and physically there is no obstacle that hinders them from working in such works.

2- Implementation

As mentioned above, the LL no. 4857 entered into force on 20th June 2003 and the Regulations issued in accordance with it in 2004 aim at improving the situation. During the inspections performed by the labour inspectors, statistics of which are given in the section concerning Paragraph 1, this issue has strictly been observed. Behaviors and practices violating the LL have been fined and other enforcements, cited in the said Law, have been applied.

3- Conclusions XVII-2 of the ECSR

The Committee concludes that the situation in Turkey is not in conformity with Article 7§9 of the Charter on the ground that the provisions of the LL on compulsory regular examinations of young workers only apply to young workers employed in the industrial sector.

Response to the Conclusions XVII-2 of the ECSR

The legislation and practice concerning the issue are mentioned above.

Article 7 Paragraph 10

to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

Scope of the provisions as interpreted by the ECSR

This Paragraph guarantees the right of children to protection against all forms of exploitation and against the misuse of information technologies. This Article covers also the trafficking of human beings since this is a form of exploitation. This Article is interpreted by the Committee akin to the right to life and dignity, similar to the rights guaranteed by the European Convention on Human Rights.

States Party must take specific measures to prohibit and combat all forms of sexual exploitation of children. This prohibition must be accompanied by an adequate supervisory mechanism and sanctions.

States Party must prohibit the use of children in other forms of exploitation such as, domestic/labour exploitation, including trafficking for the purposes of labour exploitation, begging, or the removal of organs. States party must also take measures to prevent and assist street children.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate

In this section of the Report, information regarding special protection of children and young persons against physical and moral dangers to which they are exposed, particularly against those resulting directly or indirectly from their work, are given. Information on the protection against dangers coming out of other motives mentioned in this Paragraph takes place in the section of the Report concerning Article 17 of the Revised Charter titled “The right of children and young persons to appropriate social, legal and economic protection”.

1- Legal Framework

As mentioned in above sections of this Report regarding Paragraphs 1 and 2, protection of children and young persons in working life is secured principally by Article 50 of the Constitution as well as Articles 72, 77 and 85 of the LL no.4857 and the Regulations on Arduous and Dangerous Works, put into effect in pursuance of the said provision of the Constitution. Moreover VEL no.3308 envisages provisions as regards ensuring special protection of children and young persons in working life.

On the other hand, as explained in the section of the Report regarding Article 17 of the Revised Charter, Turkish Penal Code no.5237, dated 26th September 2004 incorporates penal sanctions with a view to protecting children and young persons against physical and moral dangers. When looked into the legal provisions unveiled in the aforesaid section, special importance is attached to protection of children and young persons against physical and moral dangers, besides penalties are aggravated for the crimes committed by the persons who bears the care responsibility of the family or persons who possess influence in employment relation.

2- Implementation

As mentioned above, the LL no.4857 entered into force on 20th June 2003 and through the Regulations issued in accordance with it the conformity of implementation into the said Law and the Revised Charter has been secured. During the inspections performed by the labour inspectors, statistics of which is given in the section concerning Paragraph 1, this issue has strictly been observed. Behaviors and practices violating the LL have been fined and other enforcements, cited in the said Law, have been applied. Besides penal sanctions may have been applied in pursuance of the Turkish Penal Code as the case may be.

ARTICLE 8: RIGHT OF EMPLOYED WOMEN TO PROTECTION OF MATERNITY

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake;

Article 8, Paragraph 1

to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks

Scope of the provisions as interpreted by the European Committee of Social Rights (ECSR)

Paragraph 1 guarantees the right of employed women to maternity leave of at least 14 weeks for all categories of employees. In all cases there must be a compulsory period of postnatal leave of no less than six weeks which may not be waived by the woman concerned. Maternity leave must be accompanied by the continued payment of the individual's wage or salary or by the payment of social security benefits or benefits from public funds. A benefit must be adequate and must be equal to the salary or close to its value.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information to demonstrate that the level of maternity benefit is adequate.

1- Legal Framework

The provisions of the Civil Servants Law (CSL) no. 657 and the Labour Law (LL) no. 4857, envisage that female workers can not be employed for 16 weeks in total (8 weeks before and 8 weeks after the birth). An extra 2 weeks are added to the 8 weeks antenatal period in case of multi pregnancy. But if the health condition allows, the female worker can work with the consent of the doctor until three weeks before the birth. In that case, the worked periods are added to the in post natal period.

The periods mentioned above may be increased according to the health condition of the worker and the conditions of the work if necessary. These periods are to be stated by the medical report issued by the physician.

The woman who gave a birth continues to enjoy social security benefits and from other rights during those 16 weeks.

Following of the periods stated above, female civil servants, at their own request, can be granted an unpaid leave up to 12 months, while female workers are entitled up to 6 months unpaid leave.

Self-employed insured workers have been included in the scope of work accident, occupational diseases and maternity insurances for the first time ever by the Social Insurance and Universal Health Insurance Law (SIUHIL) no. .5510 which entered into force on 1st October 2008, In the context of maternity insurance the female self-employed insured persons enjoy the same rights as the insured female blue collar workers.

Article 104 of the LL no. 4857 envisages that employers , who cause the pregnant or -postpartum women to work during the antenatal and postnatal periods or do not grant them unpaid leave, are in breach of Article 74 of this Law. Equally, pursuant to Article 105 titled “Failure to comply with provisions on Occupational Health and Safety ” of the LL, employers who do not comply with the conditions and procedures set by the Regulation on the Working Conditions of Pregnant or Breastfeeding Women, Breastfeeding Rooms and Child Nursing Homes are fined.

In accordance with Article 16 of the SIUHIL, no. 5510 during the period of incapacity for work due to illness or maternity, the insured persons are granted daily temporary incapacity allowance provided by the sickness and maternity insurances. In accordance with Article . 18 of the same Law, in case of maternity, the insured woman will get a temporary incapacity allowance for every non-worked days during the 8week prenatal and 8 week postnatal period (2 weeks are added to those 8 week antenatal period in case of multi pregnancy), provided that minimum 90 days of short-term insurance premium have been notified within one year prior to the childbirth.

In accordance with Article . 16 of the SIUHIL no.5510, nursing benefit shall be payable by the maternity insurance to female insured persons or to male insured persons due to their non-insured spouses’ giving birth and to spouses of male pensioners or to the female pensioners who got retired depending on their own working periods, for each newborn, provided that the newborn lives.

On the other hand, women working in public sector are not granted any incapacity allowance due to the fact that they continue receiving their salary during the incapacity for work caused by maternity; and hence they are not subject to loss of of income.

Maternity allowance is payable to civil servants who apply for it provided that the childbirth is certified.

If mother and father are both civil servants, the allowance is solely paid to the father. . If the amount of maternity allowance paid to one of the spouses according to labour contract or collective agreement is higher, the spouse who is a civil servant is not paid additional maternity allowance; if it is lower only the difference is paid. For children who are born pending the divorcement decision given by the courts, this allowance is paid to the mother.

2- Implementation and Statistics

Number of people in the scope of maternity insurance and maternity cases occurred during the year as of end 2009 are shown below:

Number Of People In The Scope of Maternity Insurance				Number of maternity cases Occurred during the year		
	Women	Men	Total	Insured women	Wife of the insured men	Total
Blue Collar Workers	2.850.921	9.968.525	12.819.446	74.543	288.089	362.632
Self-employed persons	695.126	2.600.618	3.295.744	(*)	(*)	(*)

(*) *No data is available yet as the self-employed insured workers were included in the scope of work accident, occupational diseases and maternity insurances for the first time ever by the SIUHIL no. .5510 which entered into force on 1st October 2008.*

In accordance with the Act No. 5510, the insured persons who become temporarily incapacitated as a result of a work accident, occupational disease, illness or maternity are granted daily temporary incapacity allowance.,. In the calculation of the daily temporary disability allowance, the daily income limits are taken into account.

The daily income limits are I stated by Article 82 of the SIUHIL no. .5510. According to that the lower limit of the daily income, which is taken into account at the calculation of premiums and allowances in accordance with the said Law, is 1/30 of the minimum wage; the upper limit is 6 and a half-folds of the lower limit of the daily income.

The changes made in the amount of the minimum wage, effect as well the daily income limits. The information on changes in the daily income limits are shown below :

Period	Lower limit of the daily income (TRL)	Upper limit of the daily income (TRL)
1/1/2009 – 30/6/2009	22,20	144,30
1/7/2009 - 31/12/2009	23,10	150,15

The amount of the nursing benefit, paid out in case of maternity, is shown below.

Period	Maternity Nursing Benefit (TRL)
1/1/2009 – 31/12/2009	70,00

Article 8 Paragraph 2

to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period

Scope of the provisions as interpreted by the ECSR

Paragraph 2 provides that it must be unlawful to ordinarily dismiss female employees from the time they notify the employer of their pregnancy to the end of their maternity leave. In cases of dismissal contravening this provision of the Charter, national legislation must provide for adequate and effective remedies, employees who consider that their rights in this respect have been violated must be able to take their case before the courts.

Appendix to Article 8§2

This provision shall not be interpreted as laying down an absolute prohibition. Exceptions could be made, for instance, in the following cases :

- a. if an employed woman has been guilty of misconduct which justifies breaking off the employment relationship;
- b. if the undertaking concerned ceases to operate;
- c. if the period prescribed in the employment contract has expired.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information if appropriate.

1- Legal Framework

Women who are employed as permanent staff within the scope of the . CSL no. 657 have the job guarantee until their retirement except situations that incur dismissal from employment.

In accordance with the Article no. 18 of the LL no. 4857, the employer who terminates the indefinite-termed (open –ended) labour contract of a worker with at least six months of service at a business employing thirty or more workers has to ground the termination on a valid reason arising out of the qualification or behaviors of the worker or the requirements of the enterprise, business or work. The same Article notably states that absence due to i.e. pregnancy, giving birth and in periods, cited in Article 74 of the LL and during which employment of female workers are strictly prohibited does not constitute a valid reason for

termination. The employer cannot terminate the labour contract of any female workers depending on mentioned grounds.

If it is proved that the labour contract is terminated due to pregnancy, giving birth or the absence during periods in which employment of female workers are strictly prohibited as stipulated in Article 74, the termination is ruled to be null and void by the Court. In pursuance of this decision, the employer is obliged to re-employ the worker within one month. The employer is obliged to pay indemnity equal to minimum four and maximum eight months' wage of the worker if he/she fails to re-employ him/her within one month upon his/her application. Furthermore the worker is paid the wages and other benefits that have accrued during maximum four months for the period that he/she has not been employed until the finalization of the Court's decision. If the worker is employed, the wage and seniority indemnity paid in advance for the notification period is deducted from the payment, made in accordance with the provisions mentioned above. The amount of wage pertaining to such periods is paid separately if the worker who is not employed is not granted a notification period or the wage pertaining to the notification period is not paid in advance. The worker is obliged to apply to the employer for re-employment within ten business days from the date of receipt of the finalized court decision or special arbitrator decision. If the worker does not apply within such period, termination by the employer is considered a valid and the employer is responsible only for the legal consequences thereof.

Besides, pursuant to Article 17 of the LL the worker is paid an indemnity equal to three times of the wages fall on the notification period in case the labour contract of the worker who is not covered by Article 18 of this Law, is terminated through misuse of the right of termination. Non-conformity with the condition of notification for termination also involves the payment of an indemnity.. In this context, terminations made due to pregnancy, giving birth or the absence during periods in which employment of female workers are strictly prohibited as stipulated in Article 74, are considered by the Court as terminations of bad faith.

Pursuant to Article 16 of the Press Labour Law female journalists are granted maternity leave beginning from the seventh month of their pregnancy until the end of the second month following the delivery. During this period, half of their last wage is to be paid to the journalist by the employer. If the birth does not take place or if the child is stillborn this wage must be paid for one month following the case.

2- Implementation

The Circular Note no. 2010/14 of the Prime Ministry on "Promoting the Employment of Women and Ensuring Equal Opportunities", envisages that "the inspections carried out both in public and private sector workplaces, whether the provisions concerning gender equality enshrined in Article 5 of LL no. 4857 are observed and mentioned in the report".

During the inspections performed by the labour inspectors, statistics of which are given in the section concerning Paragraph 1 of Article 7 of the Revised Charter, this issue has strictly been handled. Behaviours and practices violating the LL have been fined and other enforcements, cited in the said Law, have been applied.

Article 8 Paragraph 3

to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose.

Scope of the provisions as interpreted by the ECSR

All employed mothers who breastfeed their babies must be granted time off for this purpose. Time off for nursing should in principle be granted during working hours should be treated as normal working time and remunerated as such. Time off for nursing must be granted at least in principle until the child reaches the age of nine months.

1) Please describe the general legal framework Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

1- Legal Framework

In accordance with Article 104 of the CSL no. 657, female civil servants are granted totally one and a half hours breast-feeding leave in a day with a view to breast-feeding their babies under the age of 1. When using the breast-feeding leave, the mother has the right to make the choice of any time within working hours.

The female civil servants, within the framework of the same Law, may enjoy an unpaid leave for one year following the paid maternity leave of 16 or 18 weeks if they so wish.

As per the last paragraph of Article 74 of the LL No. 4857, female workers are granted breast-feeding leave for one and a half hours a day in total to feed their babies under the age of 1. The female worker is entitled to determine the time segments and the number of parts in which she should use such leave. This period is reckoned as daily working hours.

A similar provision also takes place in Article 14 of the Regulations on the Working Conditions of Pregnant or Breast-feeding Women, Breast-feeding Rooms and Child Nursing Homes. Article 15 of the said Regulations states that in workplaces where 100-150 women are employed, the employer has to established a breast-feeding room which is not further than 250 m. from the workplace for breastfeeding and day care of the children under age of 1. According to the same Article, in the workplaces employing more than 150 female workers, a nursery should be established by the employer for day care and breast-feeding of children between 0-6 years of age. The employers who are obliged to establish a nursery should also establish a kindergarten. The employer is obliged to provide transport if the nursery is away from the workplace farther than 250 meters.

In accordance with Article 105 of the Labour Law ; “It is stipulated that the employer or employer representatives who fail to comply the conditions and procedures indicated in the Implementing Regulation on Working Conditions of Pregnant or Breastfeeding Women, Breastfeeding Rooms and Child Nursing Homes are imposed a fine.

2- Implementation

During the inspections performed by the labour inspectors, statistics of which are given in the section concerning Paragraph 1 of Article 7 of the Revised Charter, this issue has strictly been handled. Behaviours and practices violating the LL have been fined and other enforcements, cited in the said Law, have been applied.

Article 8 Paragraph 4

to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants.

Scope of the provisions as interpreted by the ECSR

Paragraph 4 does not require States Party to prohibit night work for pregnant women, women who have recently given birth and women nursing their infants, but to regulate it in order to limit the adverse effects on the health of the woman.

- 1) Please describe the general legal framework Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

1- Legal framework

In the second paragraph of Article 73 of the LL no. 4857 it is stated that “The rules and procedures for female workers who completed the age of 18 to work in night shifts are established by a Regulations to be prepared by the Ministry of Labour and Social Security after taking the views of the Ministry of Health.”

Article 9 of the Regulations on Working Conditions of Pregnant or Breast-feeding Women, Breast-feeding Rooms and Child Nursing Homes based on the provision of the aforesaid Article stipulates that, “Female workers cannot be employed in night shifts for a period starting from the date of their pregnancy, certified by a medical report issued by physician, until delivery as well as those breast-feeding workers cannot be employed in night shifts for a period of 6 months starting from the date of delivery. This period for breast-feeding workers can be extended for another one year if it is certified by a medical report, issued by physician, that states the necessity of it with regard to both the mother’s and the infant’s health.

The work of these workers in the above mentioned periods are regulated in the way that they come to day shifts without prejudice to the provisions of the Regulations on Working Conditions of Pregnant or Breastfeeding Women, Breastfeeding Rooms and Child Nursing Homes.”

Article 9 of the Regulations on Working Conditions of Pregnant or Breastfeeding Women, Breastfeeding Rooms and Child Nursing Homes is as follows:

“It is prohibited to ask the breastfeeding worker to work at night during the 6 months following the childbirth.

It is prohibited to ask the postpartum worker at the end of the eight week period following the childbirth; and to ask the breast-feeding worker after the six month period to work at night shift as long as it is determined harmful by a medical report during the aforesaid period. The female workers cannot be forced to work at night shifts for the period starting from the certification of their pregnancy by a medical report until the delivery.”

Employers who do not comply with the provisions and procedures envisaged by the Regulations on Working Conditions of Female Workers at Night Shifts as well the Regulations on Working Conditions of Pregnant or Breast-feeding Women, Breastfeeding Rooms and Child Nursing Homes” are fined in accordance with Articles 104 and 105 of the LL no. 4857 respectively.

2- Implementation

During the inspections performed by the labour inspectors, statistics of which are given in the section concerning Paragraph 1 of Article 7 of the Revised Charter, this issue has strictly been handled. Behaviours and practices violating the LL have been fined and other enforcements, cited in the said Law, have been applied.

Article 8 Paragraph 5

to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining, and all other work which is unsuitable by reason of its dangerous, unhealthy, or arduous nature and to take appropriate measures to protect the employment rights of these women.

Scope of the provisions as interpreted by the European Committee of Social Rights (ECSR)

Paragraph 5: prohibits the employment of the women concerned in underground work in mines. This applies to extraction work proper. Certain other activities, such as those involving exposure to lead, benzene, ionizing radiation, high temperatures, vibration or viral agents, must be prohibited or strictly regulated for the group of women concerned depending on the risks posed by the work.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

1- Legal framework

In Article 72 titled “Prohibition on employment in underground and underwater positions” of the LL no. 4857 it is stated that “It is prohibited to employ men below the age of 18 and women at any age in underground and underwater positions such as mine galleries, cabling, sewerage and tunnel construction.”

Article 104 of the LL stipulates that in case of violating this provision, employers are imposed a fine

Again in the last paragraph of Article 85 titled “Heavy and dangerous works” of the above mentioned Law, it is envisaged that “It is established by a regulation to be prepared by the Ministry of Labour and Social Security based on the opinion to be delivered by the Ministry of Health which work is considered heavy and dangerous, in which heavy and dangerous positions the women and young workers, who completed 16 but not 18 are to be employed.” The Regulations on Arduous and Dangerous Work which was issued pursuant to the above mentioned provision, entered into force on 16 th June 2004.

Moreover, Article 88 of the LL states that “The positions in which and the periods during which it is prohibited to cause the pregnant or breast-feeding women to work, and the requirements and procedures which such women should comply with in positions in which they are allowed to work, the conditions under which breast-feeding rooms or day nurseries (kindergartens) should be established, are governed by a regulation to be prepared by the Ministry of Labour and Social Security based on the opinion to be delivered by the Ministry of Health.”

Articles 5, 6, 7, 8 and 13 of the Regulations on Working Conditions of Pregnant or Breast-feeding Women, Breast-feeding Rooms and Child Nursing Homes which was prepared in accordance with the above mentioned provision are as follows:

“**Article 5** - Taking into consideration the effects of chemical, physical and biological actions and industrial processes which are considered as dangerous for the security and health of the pregnant, newly gave birth and breastfeeding workers; the precautions to be taken are described in the following.

These precautions also include the actions done by the workers related to the work they do, their standing, and mental and physical fatigue.

a) Related to mental and physical fatigue; the working hours and intervals of the pregnant, newly gave birth and breastfeeding workers are rearranged; the necessary precautions are taken to prevent the working hours of the aforesaid workers to intersect at night shift, and the pregnant workers to intersect at the earlier hours of the day.

b) Related to the standing problems; working place and working environment, is rearranged in such a manner that it will reduce the risk of standing problems and accidents for pregnant, newly gave birth and breastfeeding workers.

Depending on the pregnancy, with the scope of decreasing or eliminating the fatigue and standing problems; resting intervals are rearranged as more often and longer due to the necessity.

c) In work executed in high places, the necessary arrangement is done to keep the working place of the pregnant worker from the places with the risk of falling down from platform, ladder and other high places.

d) Related to the working hours and working velocity; the necessary conditions are provided to optimize the working velocity, hours and the density of work, taking into consideration the suggestions of the worker.

e) It is essential that the pregnant and postpartum workers will not be asked to work alone. However, in case it is necessary to ask these workers to work alone; the necessary precautions which will provide the easy communication of these workers with the others.

Besides, the necessary arrangement is done for the worker to have convenient medical and other supports; this situation is taken into consideration in emergency aid procedures.

f) Related to work stress; the protective precautions which protect the pregnant, newly gave birth and breastfeeding worker from stress factors like working conditions, working hours, relations with clients and third persons, hard work and phobia of losing her job.

Special efforts are made to protect the worker who has experienced abortion or dead birth, or who has lost her baby after birth from stress.

g) In work where the pregnant worker has to work on standing, sitting is provided in possible situations, she is hindered to work either by sitting or on standing continuously; in case that such a program is not available, the number of the intervals is increased, and the necessary precautions are taken due to the development of pregnancy.

h) Related to the providing the rest and other optimizing opportunities; the conditions which will allow the pregnant worker to work in a smoke free area, by sitting or lying freely, which will provide her to rest mentally and physically. Taking into consideration the toilet necessity of the pregnant, newly gave birth and breastfeeding workers, the long time works and team works are arranged in conformity with this situation; plus the necessary sanitary conditions are provided against infections and other diseases. Taking into consideration the personnel needs of the pregnant and newly gave birth worker; the food break, clean drinking water and the other needs agreed mutually are provided.

Article 6 - As a result of evaluating the effects of chemical, physical and biological actions and industrial processes which are considered as dangerous for the security and health of the pregnant, newly gave birth and breastfeeding workers; with the general precautions, the special precautions to be taken against the risks in the situation described in the following;

a) Concerning the physical effects;

1) Related to shock and vibration; it is prohibited to ask the pregnant workers to work in the works where they can receive sudden strokes, quakes, long term vibration, and in work machines and drillers.

The precautions which will prevent the experience of long term vibration with low frequency which especially affects the stomach region and continuous quake are taken.

2) Related to the noise; the noise level at the working place of the pregnant worker is arranged due to the lowest effective level of 80 dB (A) is provided. If the noise level cannot be decreased then the working place of the worker is changed.

Even though the personnel protectors are provided, it is prohibited to ask the pregnant workers to work in the places with noise level over the limits.

3) Related to the ionized radiation; the pregnant worker cannot be asked to work in the places with ionized radiation sources, the necessary warning plates are provided to prevent her entrance.

Breast feeding worker cannot be asked to work in the places stained with radiation and work.

4) Related to the radiation which does not cause ionization; the necessary precautions which will prevent the pregnant, newly gave birth and breastfeeding worker to be effected from radiation sources which are not ionized.

5) Related to cold, hot and high pressure; taking into consideration the type of the work done by the pregnant, newly gave birth and breastfeeding worker, the temperature and the pressure of the working place is provided in such a level that it would not cause any risk for health.

b) Related to biological effects; it is prohibited to ask the pregnant, newly gave birth and breastfeeding worker to work in places and works having the risk of group 2, group 3 and group 4, mentioned in the Implementing Regulation for Prevention of Experiencing Risks of Biological Factors, published in the Official Gazette numbered 25488, and dated 10/6/2004.

In case of the presence of immunity of the worker, by considering the situation, the work of these workers can be allowed.

c) Related to chemical factors; it is prohibited to ask pregnant, newly gave birth and breastfeeding workers to work in production, operation and usage of the chemicals which can be harmful for the breastfeed baby; and can be toxic for reproduction, which are carcinogenic, mutagen, high toxic, toxic, harmful and allergenic.

However, if there is an obligation of asking the worker to work, and when these substances cannot be technically replaced with less harmful ones; by keeping every precaution and their health conditions and effect level continuously under control, the pregnant worker can be asked to work with toxic substances which are mutagen and toxic for reproduction; breastfeeding and newly gave birth worker with the substances other than the chemicals which can be harmful for the breastfeed child.

d) Related to the working conditions;

1) It is prohibited to ask the pregnant and newly gave birth workers to work in manual loading and carrying without a vehicle in such a manner that could have negative effects on the child's and on their own health. In this type of work a risk evaluation is done and in case necessary work modification is provided.

It is prohibited to ask the pregnant workers to do manual carrying work in any way.

2) The personal protective equipment have to be suitable for a complete protection of the pregnant, newly gave birth and breastfeeding worker, must not prevent their motions and as their body sizes change the new ones must be provided. When the suitable protective equipment is not available, the worker cannot be asked to work in such work.

Article 7 - The worker informs the employer about her commencement of pregnancy or breastfeeding period.

The employer; evaluates the pregnant, newly gave birth and breastfeeding worker, through the position at work, level and duration and the factors presented in ANNEX-I, II, III (of this Regulations), processes ,, working conditions or for the workers who carry the special risk through the protective and regular precautions, within the scope mentioned below;

a) Evaluation of the probable effects of the security and health risks on pregnant, newly gave birth and breastfeeding workers' pregnancy and breastfeeding activities,

b) Determination of the Precautions to be taken.

The employer has to take in consideration the stress factors derived from the work like shift work, phobia of losing her job, work density and similar; and the psychosocial and medical factors which personally effect the worker.

The pregnant, newly gave birth and breastfeeding worker will be informed about the necessary precautions decided to be taken as a result of the evaluation with the scope of providing security and health.

Article 8 - In case that the Employer has found a negative effect on the pregnancy or breastfeeding of the worker, or a security or health risk due to the results of the evaluation

done; the working conditions and/or working hours of the concerned worker are temporarily changed, in such a manner that they will prevent the worker to experience these risks.

In case that a change in the adaptation of the working conditions and/or working hours is not available technically and objectively; Employer takes the necessary precautions to forward the worker to another work.

In case that determined necessary by a medical report, the pregnant worker is asked to work in easy work suitable for her health. At this point no reduction will be done to the wage of the worker. In case that forwarding to another work is not technically and logically available, with the scope of protecting the security and health of the worker, within the due time, relying upon the demand of the worker, unpaid leave is provided. This period is not taken into consideration in the calculation of the annual paid leave.

Article 13 - In order for the breastfeeding workers to be asked to work in the works mentioned as convenient in the Implementing Regulation For Hard and Dangerous Work, published in the Official Gazette numbered 25494, and dated 16/6/2004, by the end of the termination of the eight weeks period after birth, and prior to commencement of work; the reports showing that they have no obstacles for work issued relatively by the doctor of the office, office common health unit, workers health clinics, in the absence of these relatively the nearest Social Insurance Institute, Local Health Units, and the doctors of Government or Municipality.

As a result of check, the worker whose obstacles for working are determined by the medical report; cannot be asked to work in such works during the first six months after birth.”

2- Implementation

During the inspections carried out by the labour inspectors, statistics of which are given in the section concerning Paragraph 1 of Article 7 of the Revised Charter, this issue has strictly been handled. Behaviours and practices violating the LL have been fined and other enforcements, cited in the said Law, have been applied.

ARTICLE 16: THE RIGHT OF THE FAMILY TO SOCIAL, LEGAL AND ECONOMIC PROTECTION

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms
2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework
3. Please provide pertinent figures, statistics or any other relevant information to show that Article 16 is applied in practice, including information on domestic violence, information on child care arrangements and housing for families, the level of family benefits, the number of recipients as a proportion of the total population, as well as information on tax benefits and other forms of financial assistance for families

Scope of the provision as interpreted by the ECSR

Notion of "family" as defined in domestic law.

States party are free to decide how they will provide social, legal and economic protection to their various types of families, particularly one-parent families and vulnerable families, including Roma.

Social protection

- there should be an adequate supply of family housing and families' needs should be taken into account in drawing up and implementing housing policies. Housing should be of an appropriate standard and with all the basic amenities. The destruction of accommodation and forced evictions are incompatible with Article 16. There should be effective means of appeal, arrangements for rehousing in decent accommodation and appropriate financial assistance. Vulnerable families should be offered proper protection, including suitable temporary and permanent housing, and evictions should be prohibited unless they comply with the relevant procedural safeguards.
- there should be financially affordable child care facilities of a suitable standard, measured in terms of the number of children aged 0-6 years covered, staff-child ratios, staff training, availability of suitable premises and the cost for parents.
- there should be appropriate family advice services and families' point of view should be taken into account when drawing up family policies.

Legal protection

- there must be full equality of rights and responsibilities between spouses, particularly with regard to marital authority, property and the use and administration of assets, and towards children, in terms of parental authority and management of children's property. There should be legal arrangements for settling disputes between spouses and concerning children, and mediation services
- there should be legal and practical protection from domestic violence (though violence against children is covered by Article 17).

Economic protection

- family or child benefits must provide an adequate additional income for a significant number of families, in terms of median net monthly income, as calculated by Eurostat, and may be supplemented by other forms of economic protection.
- vulnerable families must be protected in accordance with the principle of equal treatment.

Since the regulations on social, economic and legal protection of children can be made in a way to include the family, some information and data related with this article was given in the section related with Articles 7 and 17 of Revised Social Charter. Also information and data related with legislation and implication on housing intended to families was given in the section related with Article 31.

1-Legislative Framework

According to Article 41 of the Turkish Constitution “The family is the foundation of the Turkish society and based on the equality between spouses. The state shall take the necessary measures and establish the necessary organization to ensure the peace and welfare of the family, especially where the protection of the mother and children is involved, and recognizing the need for education in the practical application of family planning.”

As it is stated in a detailed way in the abovementioned sections of the report, the Law No 4320 on Family Protection, Turkish Civil Code(TCC TCC no. 4721, the Law no. 4787 Regarding Establishment, Function and Adjudicatory Procedures of Family Courts and the Law no. 5395 on Child Protection include provisions related with social, legal and economic protection of family. Provisions that protect children against physical and mental abuse of their parents, exploitation and other ill treatment are stipulated in Criminal Code (CC(CC) no. 5237.

According to Article 347 of the TCC TCC if the physical and mental development of the child is at risk or the child is in a spiritually abandoned condition, the judge will take him/her from the parent and place him/her near a family or to an institution.

According to Article 348 of the same Code “If no results are accomplished from the measures related with child protection or it’s realized beforehand these measures are inadequate, the judge will decide for the abolishment of guardianship in the following conditions:

1. Illiteracy, illness and disability of parent, being in another place or not being able to fulfill the liability of guardianship properly due to similar reasons,
2. Parent’s not paying due care to the child or omitting their liabilities to the child.

If the guardianship is abolished for both mother and father, another guardian will be appointed for the child.

Unless otherwise is stated in the judgment, abolishment of the guardianship covers the existing children and all the children that will be born.

The attitude of willfully felonious homicide and injuring towards spouse or child are enacted as causes for aggravation in Articles 82 and 86 of CC CC respectively.

According to Article 232 of CC the CC;

- 1) Any person who engages in abuse towards the person sharing the same dwelling, is sentenced to imprisonment from two months to one year.
- 2) Any person who improperly uses disciplinary power against a person whom he is responsible for his growth, education, protection or training in professional field, is sentenced to imprisonment up to one year.

According to Article 233 of CC the CC;

- 1) Any person who fails to fulfill the obligations conferred upon by the family law, which stipulates care, education or support of family members, is sentenced to imprisonment up to one year upon compliant.
- 2) Any person who abandons his pregnant wife, or a woman whom he knows to be made pregnant by him, is sentenced to imprisonment from three months to one year.
- 3) A mother or father who is determined to endanger the health, morality and safety of their children due to addiction to alcohol or drugs, or by bringing dishonor on their children, is sentenced to imprisonment from three months to one year.

In Article 1 of the Law on Protection of the Family no. 4320 it's stated that If a spouse or child or another member of the family living under the same roof is subject to abuse, and notification is made either by the victim or by the Public Prosecutor, in addition to the provisions of the Turkish Civil Code, taking into consideration the specific circumstances, a Justice of the Peace can pass one or more of the following rulings or take any other measures that are deemed appropriate. This also applies to the situation where one of the family members, who have the right of legal separation or for whom the decision of separation is given by court or who are separated despite being still married, is exposed to domestic violence. In the same Article it is specified that if the spouse or other family member committing violence is the one who earns or contributes in the living of the family, then the judge will take standard of living of the victim into account and rule on maintenance payments accordingly.

Rights and obligations granted upon the parties by way of marriage are regulated between Articles 185 and 201 of TCC TCC .

The issue of marital property is regulated between Articles 202 and 281 of TCC TCC. The regime of participation in acquired property is principle between spouses accordingly. On the other hand, the spouses can admit one of the other regimes that are stated by law with a contract of property regime.

The regulations related with management and protection of child properties are made between the Articles 352 and 363 of TCC.

Within Article 352 of the aforesaid Code, the right and obligation of managing child's properties is given to parent. It is stated in this Article that the parent will not be accountable for and give assurance on this issue however if they do not meet their liabilities the judge will interfere .

Article 353 of TCC TCC imposes the parent who has the guardianship after marital breakdown the obligation of submitting to the judge a book including the property ownership of the child and notifying any important changes on the child's property ownership.

According to Article 360 of the TCC if the parent does not pay due care on managing the properties of the child for any reason, the judge takes the necessary measures to protect the properties. The judge, can take necessary measures in order to protect the child's properties also instruct on the issue of property management and decide on entrustment or reassurance of the property if he/she doesn't find the submitted information and account sufficient. According to Article 361 of TCC the TCC which regulates discharging of parents from management, the judge can decide to transfer the management to another trustee when the properties of the child are at risk.. In the case of the properties of the child which are not managed by parents are at risk, the judge can take the same measures.

According to Article 46 which is "Wage for week holiday" of LL, leave periods that should be given up to three days in weddings are counted as worked days.

Another regulation that will support family is stipulated under Civil Servants Law no. 657. The provisions of the aforesaid Law related with "The right of the family to social, legal and economic protection" are stated below:

Appointment by means of displacement:

Article 72 - The appointments by means of displacement in institutions are realized in view of determining requirements and properties of services and classifying the provinces that show similarities in Turkey's economic, social, cultural and transportation conditions and among the determined regions in a fair and balanced way. For the reappointments and appointments by means of displacement; by facilitating coordination among institutions, the optional appointment of the other spouse, who is also a civil servant, is realized to the place where the civil servant, who is subject to appointment, is appointed to under the framework of fundamentals specified in Articles 74 and 76, for the purposes of conserving the family unit.

When there's no organization for the spouse of the civil servant who is subject to appointment where he/she's appointed or no appropriate position for the spouse, this staff will be given leave for the time period of his/her spouse's tenure upon request of the relevant person on the following terms:

- a) 60% of the net amount of the salary after the legal deductions from supplementary scale, raise and compensation is paid by their institutions from staff savings in return for the salary and the other payments (total of basic salary and monthly enhancements included) to the ones who are given leave in this way and whose spouses are appointed to the provinces in public emergency region and to the provinces that are specified as neighboring to these provinces
- b) 50% of the aforementioned salary to the ones who are assigned in the 1st degree development priority regions

- c) 25% of the aforementioned salary to the ones who are assigned in the 2nd degree development priority regions

Those whose spouses are on duty in other regions are regarded as being on non-paid leave.

The positions of the above-mentioned are reserved for the period of their spouses' assignment. However this period may under no condition exceed 4 years during official duty. The promotion, retirement, all other rights and liabilities of them are maintained. It's required for those who are given non-paid leave to pay in the contribution and deductions to the Retirement Fund of Republic of Turkey every month for making the non-paid leave period to be regarded as retirement.

Leave for Excuse

Article 104-

A) The civil servant is given leave for a total of 16 weeks, 8 of which are before and the rest is after giving birth. In case of multiple pregnancy, 2 weeks are added to the period of 8 weeks before birth. But to the extent that the state of health is convenient, civil servant can work at workplace till 3 weeks before birth with a medical statement at her own request. In this case the working period of the civil servant is added to the period after birth.

The periods stated above can be extended according to the medical statement considering the health condition of the civil servant. Total of 1,5 hour per day of breast-feeding leave is given to civil servants to feed their infants. The mother has the right for deciding the time period for breast-feeding leave.

B) Three days of leave is given to male civil servant on his own request owing to his wife's giving a birth.

C) Five days of leave is given to civil servant on his/her own request in case of his/her or his/her child's marriage and his/her parent's, child's or sibling's death.

Non-paid Leave

Article 108 – The civil servants are given non-paid leave for maximum six months on their own request when one of their parents, spouses, children or siblings, whom the civil servants are responsible to look after or whose lives will be at risk when they do not accompany, have vital accidents or come down with an important disease, on the condition that these situations are reported with medical statements. This period of non-paid leave can be extended by two-folds under same conditions.

The civil servants who gave birth are given non-paid leave of 12 months on their own requests beginning from expiry of the periods stated in the subparagraph A) of the Article 104.

The civil servants who are sent abroad by state for training activities (scholarships are included) and spouses of civil servants who are permanently subject to domestic or abroad appointment can be given non-paid leave for at least one year at every turn and at most eight years during their public service period. The appointments of those are realised

notwithstanding to their place of duty within framework of Article 72 when they come back to the country.

Pension Rights:

Article 187 – The rights of civil servants in case of their retirement and disablement and the rights of widows and children in case of civil servant's death are regulated with law of pensions.

Health and Maternity Insurance:

Article 188

The necessary social security grants are provided in the cases of;

- A) Sickness, maternity, accident arising out of duty and occupational disease of civil servants
- B) Sickness and maternity of the spouses and dependants like parent and children of civil servants
- C) Sickness and maternity of the ones who are receiving old age pension and disability pension (the ones who are receiving old age or disability pension or allowances for occupational accidents and diseases, from Social Security Institution are excluded)
- Ç) Sickness and maternity of family members of the ones who are receiving old age or disability pensions stated in subparagraph (C)
- D) Sickness and maternity of the ones who are receiving widow's and orphan's allowance . (the ones who are receiving pensions and allowances by Social Security Institution are excluded)

These social security grants are regulated with special laws. The rights and grants that are provided under these insurances cannot be less than the ones that are granted by the general social insurance scheme.

Family Allowance:

Article 202 –The married civil servants are granted family allowance. This allowance is paid ...for spouse who does not work for any benefit by any means or does not get salary from social security institution and ...for each of the children. If the child allowance paid to one of the spouses according to labour contract or collective agreement is less than the state family benefit in this case only the difference is paid

The provisions of the above paragraphs are implemented for the children of the divorced civil servants.

In case of divorcement or separation the court indicates in its decision which parent will be paid for child allowance and the rate at which the allowance will be paid.

This allowance is paid for the step-children of the civil servant whom he/she takes care of.

Eligibility for family allowance:

Article 204 – The civil servant is entitled to receive family allowance when he/she is married and child allowance as from the pay day following the date when child of civil servant is born.

Maternity Allowance:

Article 207 - The civil servants who have children are paid maternity allowance . If both the mother and the father are civil servants, then the maternity allowance is paid only to the father. If the amount of maternity allowance paid to one of the spouses according to labour contract or collective agreement is higher, the spouse who is a civil servant is not paid additional maternity allowance; if it is lower only the difference is paid. For the children who are born in the period of divorcement decision given by the courts, this allowance is paid to the mother. The maternity allowance is paid immediately without any tax and deduction and any payment order by accountants. This allowance cannot be sequestered due to debt.

Funeral Benefit:

Article 208 – The funeral grant, equal to the amount of the highest civil servant salary (including supplementary scale), is paid to the civil servant, whose non-civil servant spouse or child who is entitled for family allowance, dies; in case of the civil servant's death the funeral grant equal to the amount of two folds of the highest civil servant salary (including supplementary scale) is paid to the one who he/she announced beforehand, to his/her spouse and children if he/she did not announce anyone beforehand, to his/her parents if he/she does not have any spouse or children, to his/her siblings if he/she does not have any of the parents.

The Regulation on Kindergartens which was prepared based on Social Services and Child Protection Institution (SHÇEK) Law No 2828 envisages to provide free service of “Nursing and Education” for children of the families which are economically disadvantaged. According to the provisions of the aforesaid regulation, a 5% quota is reserved for at least 2 children and free service of nursing is provided in the kindergartens or day nurseries which are opened with the authorization of the SHÇEK.

The children;

- whose parents are in poverty,
- whose parents are dead and who are looked after by a relative or fellow,
- whose mother or father is dead and the alive parent works,
- whose parents are divorced and have to work,
- whose mothers stay at women's shelter house
- whose mothers are in prison

benefit from this service of nursing.

With the “Free Nursery Service”, children of families who are in poverty are provided with the opportunity to benefit from the service of kindergartens nearby the family without being taken under protection.

Besides, it's decided to provide financial support for families under the Social Insurance and Universal Health Insurance Law no. 5510 by paying marriage bonuses amounting to sum of their twoyear allowances for once only to daughters whose allowances are cut off due to marriage. Provisions for marriage allowance to those who are within the scope of collective labour agreements by way of determining a fixed sum, are inserted into collective labour agreements.

Article 32 of the Income Tax Law no 193 is amended by the Law no 5165 hence, the system of tax reduction for wage earners is abolished with this amendment and the implementation of "subsistence allowance for wage earners", which is compatible with the *acquis communautaire* of the EU and makes taxation taking the family into consideration came into force as of 1st January 2008..

On the other hand , "Draft Law on Mediation for Legal Disputes" was referred to Grand National Assembly of Turkey on 3rd August 2008 and is still at the Commission of Justice. With this Draft the system of "mediation" will be established and this system will provide the facility of settling disputes between parties, including foreigners, which occur due to private legal relationships of parties and on which they can freely dispose without litigating through the "mediator" who is decided as a third party.

Pursuant to the provision "The measures taken cannot be interpreted as contradictory to the principle of equality" which was added to the Article on "equality of women and men" of the Turkish Constitution, efforts for amending Juvenile Protection Law, Law on Disabled People, Law on Protection of the Family and the Regulations on Martyr's Families and Veterans as well as enacting the Law on Institution of Human Rights and the Law on Combat Against Discrimination, are being carried on.

As per the article stating that "the State shall take protective measures against all kinds of abuse and violence towards children", which was added to the Turkish Constitution, the legislation on "Safeguard for Aggrieved of Violent Crime" will be regulated and the necessary amendments to the Law of SHÇEK and International Law on Kidnapping will be realized to this extent.

2- Implementation and Statistics

Following are stated in the "Main Objectives" part of the 9th Development Plan (2007-2013) which was prepared by State Planning Organization;

- Poverty and inequality in income distribution will be reduced permanently with policies of sustainable growth and employment, education, health and working life. It will be provided for the individuals who have the risk of social exclusion and poverty to take part in the social and economic life and their standards of living will be enhanced.
- The transfer policies will be activated through providing redistribution of income in favor of the poor. In this context, it will be ensured that the system of social security will have the improving effect on income distribution by providing assurance for every segment of society against social risks.
- It will be supported that the educational needs of the girls especially in rural, disabled and children of the low-income families will be met and access of these people to education will be facilitated.

- The programs aimed at the family, which is the ideal environment for child-care and upbringing, will be extended.
- It will be ensured that all the parties, particularly the central and local administration and NGOs, will operate in a coordinated way for implication of policies against poverty and social exclusion and for services like education, housing and employment intended to these policies.

In the “Medium Term Program (2011-2013)” part;

- Priorities and targets include improvement of income distribution, extending the family training programs within the scope of alleviating poverty and social inclusion, struggling intensively with violence against women and children, improving the quality of protective and rehabilitative services for the children in need of care and protection, making the necessary regulations in related legislations in the framework of amendments made in the Constitution by the Law no. 5982 intended for women, children, old and disabled people and family .

Following goals and measures are given in the “Program for the year 2011” part;

- The family allowance which is being paid for the spouse will be raised by 20 TRL in both January and July, also it will be ensured that the contracted staff will benefit from the family allowance.
- 2 million tons of coal in 2010 and 2,1 million tons of coal in 2011 will be provided by Turkish Coal Enterprise (TKİ) to be distributed to the poor families.
- The effectiveness of family training studies and family supporting services which are prepared to protect the unity of family, raise the awareness and support will be enhanced.
- The extending of Pre-Marital Training will be ensured through using “Family Training Curriculum”.
- Providing of settling for migrant families and families whose properties are expropriated will continue. The service of settling will be activated through new financing models by cooperating with beneficiaries in mass settling.

General Directorate of Family and Social Research (ASAGM) was established with the Law no. 5256, to make studies on determination of social problems, protect the unity of family and enhance the social and economic welfare of the family.

Projects are carried out by the aforesaid establishment through cooperation with related institutions, universities, local authorities and NGOs. It is envisaged that the “Research on Turkish Family Structure” which is the largest research directed towards the family (12.280 house) and first of which was conducted in 2006 will be repeated in 2011. It is considered that this research will be repeated quinquennially so as to obtain regular and comparable data on families.

“Local Family Workshops” titled “Regional Approach to Family Problems” are realized by ASAGM between 2009 and 2010. Representatives of related institutions, local authorities, universities and NGOs attended to these workshops which cover 12 regions. A report covering the results and offers of these workshops was published. Also “Family Training Curriculum” intended to the educational needs of families was prepared by another study conducted between 2009 and 2010 and this curriculum was submitted to the use of related parties.

Project supports and social welfare activities like food and natural disaster aids are provided for the needy people via province and district foundations by General Directorate of Social Assistance and Solidarity (SYDGM). In this context financial aid amounting to 1.797 million TRY and 2.379 millions TRY was provided by SYDGM for the years 2008 and 2009 respectively.

On the other hand in-kind and financial aid is provided by SHÇEK for the needy people and families, particularly for the children in need of protection. While the amount of financial assistance per capita provided by SHÇEK was 218.06 TRL in the first half of 2010, it's recorded as 225.89 TRL in the second half. By the end of August 2010, in-kind and financial aids of 71.75 million were realized to total of 28.716 people in accordance with the Regulations on Assistance In-Kind and Financial Assistance.

Marriage, maternity, child and education allowances are provided for the workers through collective labor agreements in Turkey. In accordance with the "Group Collective Labor Agreements" (2008-2010) signed between the Turkish Confederation of Employer Associations (TİSK) and three worker trade unions;

- Marriage allowance for once for the worker who gets married,
- Maternity allowance for female worker or male worker in case of his wife's giving a birth,
- Child allowance in certain amounts for each child of the worker every month,
- Education allowance for worker's children who continues their secondary and higher education

are provided.

In accordance with the afore-mentioned agreements, a member is entitled for 7 days of paid leave when he/she gets married.

As it is mentioned in the "1-Legislative Framework" part, the income tax burden on the minimum wage which was 11% before 2008, was reduced gradually by taking the marital and family status of the employee into consideration as a result of the implementation of "subsistence allowance for wage-earners" which was launched with the amendment to the Income Tax Law. The income tax incidence declined to 5.2% for the single and childless employees and 2% for the married employees with two children accordingly. For the married employees with four children, all of the minimum wage is counted as tax-exempt.

Amounts of subsistence allowance for the year 2010 are indicated in the schedule below:

Marital Status	Amount of Subsistence Allowance (TRL/month)
Married with working spouse and 3 children	86,55
Single	54,68
Married with working spouse and 1 child	54,68
Married with working spouse and 2 children	63,88
Married with non-working spouse and 1 child	73,81
Married with working spouse and 2 children	71,08
Married with non-working spouse and 2 children	82,01

and 2 children	
Married with non-working spouse and 3 children	87,48
Married with non-working spouse and 4 children	92,95

As it is stated in the beginning of this section, the information related with the housing services intended to families is submitted in detail in the section related with Article 31 of the Revised Social Charter of this Report.

Conclusions XVII-1 of the ECSR

The Committee concludes that the situation in Turkey is not in conformity with Article 16 of the Charter on the following grounds :

- the lack of a general system of family benefits;
- the manifestly inadequate provision of childcare.

Response to the Conclusions XVII-1 of the ECSR:

Information requested is given in detail in the sections of this Report regarding this Article as well as Articles 7, 17, 27 and 31 of the Revised Charter.

ARTICLE 17: THE RIGHT OF CHILDREN AND YOUNG PERSONS TO APPROPRIATE SOCIAL, LEGAL AND ECONOMIC PROTECTION

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed

Article 17 Paragraph 1

a-to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose

b-to protect children and young persons against negligence, violence or exploitation;

c-to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support

Scope of the provisions as interpreted by the Committee of Social Rights (ECSR)

Right of a child to know his or her origins. Prohibition of discrimination between children born outside of marriage, and children born within marriage.

Establishment and maintenance of an accessible and effective education system compulsory until the minimum age for admission to employment for all children and a mechanism to monitor the quality of education.

Establishment of public child care if necessary for the protection and best interest of the child and of an adequate supervision of the child welfare system. Provision of long term public care primarily in foster families and only if necessary in institutions. Provision of conditions promoting all aspects of children's growth and guarantee of fundamental rights and freedoms for children in institutional care as well as establishment of a procedure for complaining about the treatment in institutions. Prohibition of all forms of violence against children, including prohibition in law of corporal punishment in the home, in school, in institutions or elsewhere and provision of adequate sanctions in penal or civil law.

Establishment of criminal responsibility and criminal procedure adapted to young offenders as regards age of criminal responsibility, length of procedure as well as length and conditions of detention.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular on the number of public and private schools, their geographical distribution in urban and rural areas, average class sizes and the ratio teacher per pupil; figures on primary and secondary school enrolment; on the number of children in the care of the State, the number placed with foster families and in institutions, the number of children per unit in child welfare institutions; on the number and age of minors in pre-trial detention or imprisoned or placed in a disciplinary institution.

1- Legal Framework

1.1 Legal Framework on Protection and Support of Children and Young Persons

With the provision of Article 41 of the Constitution of Republic of Turkey, which regulates the protection of family and issues related to rights of children, the state is bestowed with the obligation to take relevant measures for the protection of family and child, where it says “The state takes required measures and establishes relevant organization in order to ensure peace and wealth of family and in particular protection of the mother and children...Every child enjoys the right to benefit from protection and care, and to engage in and maintain personal and direct relationship with his/her mother and father, unless this is apparently in violation of his/her interests...”

The superior interest of the child has been guaranteed by various provisions of Turkish Constitution. In Article 10 of the Constitution, which stipulates the principle of “equality before law”, it is emphasized that “everyone is equal before laws without any discrimination on the basis of language, race, color, gender, political opinion, philosophical belief, religion, sect and others”, highlighting that measures to be taken towards children, together with other vulnerable population groups, may not be considered as a breach of the principle of equity.

With Article 61, which includes regulations related to those who require special protection in terms of social security, the state has been granted with the obligation to take any measures for integrating children in need of protection to the society, and to make relevant administrative regulations within the frame of such measures. Article 48 related to the protection of youth obliges the state to take measures to ensure development of youth and protect youngsters from harmful habits and ignorance.

Social Services and Child Protection Institution (SHÇEK) has been established by the Law no. 2828 dated 24.05.1983 in order to carry out actions for protecting and supporting children, youngsters and families. Duties of the agency in question are summarized below:

- Empower the family through education, counseling and social aids in order to raise and support children, who are in need of protection, care and help, in families;
- Carry out relevant services for determining such children, and ensure their protection, care, raising and rehabilitation;
- Establish and operate social service agencies for that purpose;
- Establish and operate agencies in order to ensure protection of care of children of working mothers and fathers and workers abroad;
- Develop and implement services and programs required for providing in kind and cash aids for people and families who are in poverty, hardly survive and fail to meet even their fundamental needs.

According to the law in question, it is a principle that the services summarized above should be carried out in their fullness under the supervision and inspection of the state and with the voluntary participation and contribution of civil society organizations and the public. Another fundamental principle is to provide the services in a manner that fits to human honor and dignity.

Pursuant to Articles 22 and 25 of the said law, it is the duty of SHÇEK to care for and raise the vulnerable children, for whom a decision of temporary injunction has been ruled by an authorized court, including those who require special education, until they are of lawful age, and to provide them with education and training and have them acquire a profession. Furthermore, it is possible under Article 23 to have the vulnerable children cared for and raised by a foster family under the supervision and inspection of SHÇEK.

Besides, in Article 3 of the Child Protection Law (CPL) no. 5395, which came into force on 15.05.2007, a person who is not of 18 years of age is considered as a child, even though he/she might have become adolescent at an earlier age. Basic principles to be taken into account for the protection of rights of child have been defined as follows in Article 4 of ÇKK:

- Securing the rights of living, growing, being protected and participating of the child,
- Respecting the interest and well being of the child,
- Not discriminating the child and his/her family for any reason whatsoever,
- Paying special attention to the condition of the child,
- Using the measures of providing care for children in an institution, detaining in an institution and imposing measures that restrict freedom, as the measures of the last resort,

In line with these principles, basic regulations have been enacted in order to ensure that investigation and prosecution processes carried out in relation to children who have fallen into crime or incurred exploitation and negligence, are executed in a child-sensitive way, that the child is not rumped as the second time and that the right to respect the private life of the child is protected.

It is stipulated under Article 16 of the CPL, that the security tasks relevant to children should as a matter of priority be carried out by the child units of the security forces. It became compulsory to keep the child, who is taken into custody, in the child unit of the security force, and in cases where there is no child unit, in places separate from the adults. Pursuant to Articles 29 and 30 of the CPL, prosecution procedures concerning children who fell into crime are executed by child offices of Public Prosecutors. With Articles 15, 22 and 31, the child may keep any of his/her relatives during his stay in security forces, and a social service staff may be present during taking of child's statement or other procedures. With Articles 52 and 236 of Law no. 5271 on Criminal Procedure (LCP) dated 4.12.2004, it was regulated that the child or the victim, who suffers psychological problems as an effect of the crime committed, should be listened as a witness for once in the investigation or prosecution, that his/her voice and images should be recorded during listening, and that a specialist of psychology, psychiatry, medicine or education should be present during this process (unless otherwise is necessary due to clarification of the material fact). This provision aims at avoiding re-listening of children during hearing process and preventing them from experiencing the same treatment. Period of custody for children is limited to 24 hours under Article 91 of the LCP. Pursuant to Article 150 and 239 of CMUK, an attorney is assigned for children who are in the position of suspect or accused, and for aggrieved children, even though there exists no demand for that purpose. Pursuant to Article 185 of CMUK, hearings of suspects who are under eighteen, are held closed.

According to Article 26 of the CPL, lawsuits to be opened against children who have fallen in crime, are heard at juvenile courts and juvenile high criminal courts. Article 5 of Anti-Terror Law 3713 dated 12.04.1991, has been amended with Law 6008 dated 22.07.2010, and it was regulated that children aged 15 to 18 should be adjudicated as regards to terror crime in general high criminal courts in provinces where there are juvenile high criminal courts. Pursuant to Article 21 of the CPL, it was prohibited to arrest children under fifteen for crimes which require imprisonment with an upper limit below five years, and, under Article 18, it was prohibited to use chain, handcuff and similar items on children.

Other legislation related to the care, protection and support of children and youth, is given in the following table.

No	Subject	Scope / Purpose	Relevant Regulation
1	Child in Need of Protection	It specifies provisions pertinent to social services brought to families, children, disabled, elderly and other people in need of care and help, as well as establishment, duties, authorities established to carry out such services.	Law no. 2828 on Social Services and Child Protection Institution (SHÇEK) dated 24.05.1983 Official Gazette (OG): 27.05.1983 / 18059
2	Child in Need of Protection; Child Falling into Crime	It covers provisions related to measures to be taken on children in need of protection, procedures and principles on security measures to be applied for children who fall into crime, as well as establishment, duties and authorities of juvenile courts	Child Protection Law (CPL) 5395 dated 03.07.2005 OG: 15.07.2005 / 25876
3	Child In Need of Protection; Child Falling Into Crime	It covers provisions related to measures to be taken on children in need of protection, procedures and principles on security measures to be applied for children who fall into crime, as well as duties and responsibilities of agencies to enforce such decisions	Regulations on Enforcement of Decisions for Protective and Supportive Measures Taken As Per CPL OG: 24.12.2006 / 26386
4	Child in Need of Protection; Child Falling into Crime	It covers the principles and procedures related to applications to be carried out on children, who are decided to be cared for, are in need of protection and fallen into crime.	Regulations on Principles and Procedures Relevant to Enforcement of CPL OG: 24.12.2006 / 26386
5	Children in Need of Protection	It covers the principles concerning the determination and examination of children in need of protection, adoption of protection decision and relevant measures, as well as duties, authorities and responsibilities of units to carry out these services	Regulations on Adoption and Rescission of Decision for Determination, Examination and Protection of Children in Need of Protection OG: 28.11.1983 / 18235
6	Children in Need of Protection	It covers the nursery schools affiliated to SHÇEK in order to ensure physical, psycho-social and emotional development of children between 0 – 12.	Regulation on Nursery Schools OG: 07.01.1999 / 23576
7	Children Shelters	It covers the children shelters, which are assigned to protect children between 0 – 18, for whom protection and injunction decision is given pursuant to SHÇEK Law 2828 and ÇKK Law 5395, to let them acquire a profession or an occupation, to	Regulation on Working Procedures and Principles of Children Shelters OG: 05.10.2008 / 27015

		monitor and support such children.	
8	Foster Family Service	It covers the principles relevant to selection of foster family, responsibilities of the foster family related to children, their relationships with the administration, processing of the service and payments to be made to the foster family in exchange of such service.	Foster Family Regulation OG: 14.10.1993 / 21728
9	Adoption Service	It covers the regulations relevant to adoption.	Turkish Civil Code (TCC) 4721 dated 22.11.2001 (Articles 305 – 320).
10	Adoption Service	The Convention aims at establishing a collaboration among Contracting Parties in order to provide for protective measures to ensure that international adoptions are done in compliance with the supreme benefit of the child and the basic rights granted to him/her by international law, and to prevent kidnapping and trading of children.	Law no. 5049 on Ratification of Convention on Protection of Children and International Adoption dated 14.01.2004.
11	Adoption Service	It covers the principles and procedures on carrying out mediation activities for adoption of minors in their own countries or for their international adoption.	Bylaw on Execution of Medication Activities for the Adoption of Minors OG 15.03.2009 / 27170
12	Guardianship – Wardship – Inheritance	It covers provisions relevant to enforcement of provisions of TCC 4721 on guardianship, wardship and inheritance.	Bylaw on Enforcement of Guardianship, Wardship and Inheritance Provisions of TCC TCC OG:10.08.2003 / 25195
14	Rights of Children	The Convention covers provisions relevant to rights of children.	Law no. 2054 on Ratification of UN Convention on Rights of Children OG:27.01.1995 / 22184
13	Rights of Children	The protocol covers provisions on protection of children from selling of children, child prostitution and child pornography.	Law no. 4755 on Ratification of Optional Protocol Related to Child Selling Child Prostitution and Child Pornography Annexed to the Convention on Rights of

			Children, dated 09.05.2002. OG: 28.06.2002 / 24799
15	Children Living and Employed on the Streets	It covers provisions on establishment of Child and Youth Centers by SHÇEK in order to protect children and young people living and being employed on streets against physical, mental and spiritual dangers, to shelter and raise them.	Regulations on Child and Youth Centers OG: 30.09.2001 / 24539
16	Private Kindergartens	The aim is to determine the principles relevant to the establishment and operation of Private Kindergartens and Private Child Clubs owned by real persons and private law legal persons, and procedures related to permissions, opening, operating, staffing conditions, fee rates, inspection and termination of their activities.	Regulations on Establishment, Operation and Procedures of Private Kindergartens and Private Child Clubs OG: 08.10.1996/ 22781
17	Disabled in Need of Care	It covers the people who are certified to be heavily disabled with an official health council report according to disability classification, and who fail to sustain their lives without the aid and care of others due to their inability to sufficiently fulfill the ordinary and repeated requirements of daily life.	Law no. 2828 on Social Services and Child Protection OG: 24.5.1983 / 25868
18	Care and Rehabilitation Centers	It covers social service organizations, which are established to remedy the functional losses of people who fail to comply with requirements of daily life due to their physical and mental disability, to provide them with skills that enable them to be self-sufficient in the society, and to provide continuous care for those who fail to acquire such skills.	Law no. 2828 on Social Services and Child Protection Regulations on Care and Rehabilitation of the Disabled and Family Counseling Services OG: 03.09.2010/ 27691
19	Family Counseling and Rehabilitation Centers	It covers the daytime social service institutions which provide service to disabled children and their families, in order to enable the disabled children to become self-sufficient, to prepare them for school education and to ensure in-family harmony.	Law no. 2828 on Social Services and Child Protection Regulations on Care and Rehabilitation of the Disabled and Family Counseling Services OG: 03.09.2010/ 27691
20	Disability-Free	In Care and Rehabilitation Centers,	Law no. 2828 on Social

	Life Center	disabled people are cared for in detached, single-storey houses with gardens, with an area of 280 square meters, hosting twelve people, comprising of 4 bedrooms each for three persons, living room, kitchen, dining hall, bathroom, toilet, staff room; and also units are provided in the administrative building for the rehabilitation of disabled individuals.	Services and Child Protection Regulations on Care and Rehabilitation of the Disabled and Family Counseling Services OG: 03.09.2010/ 27691
21	House of Hope	House of Hope project covers the initiative wherein the disabled people, who are in suitable condition, are cared for in apartments or detached houses in small groups, enabling them to actively participate in the social life.	Regulations on Care and Rehabilitation of the Disabled and Family Counseling Services OG: 03.09.2010/ 27691
22	Inhouse Care Fee	It covers the financial support for the care of disabled people at home.	Regulations on Determination of Disabled People in Need of Care and Principles of Care OG: 30.07.2006 / 26244
23	Private Care Center	It covers private care centers for disabled people in need of care, to be opened by real or private law legal persons.	Regulation Amending the Regulation on Private Care Centers OG: 30.07.2006 / 26244
24	Protection of Children	It covers the measures to be taken for prevention of honor killings and crime against children and women.	Prime Ministry Circular no. .2006/17 on Measures to be Taken for Prevention of Honor Killings and Crime Against Children and Women, dated 4.7.2006

1.2 Legal Framework on Protection of Family Bond of Child and Right of Child to Know His Origin

Discrimination between children is avoided pursuant to Article 498 of Turkish Civil Code (TCC TCC) 4721, which states “No discrimination may be made on the basis of inheritance among children who are borne without marriage and those who are born in marriage; those who are born without marriage and family bond of whom is established through recognition or by the judge ruling, shall become inheritors from the point of the father in the same status with those who are born in marriage”.

According to Turkish law, the father and mother are jointly responsible from the raising and growth of the child. Article 335 of TCC stipulates that a minor is under the guardianship of his/her mother and father, and that his/her guardianship may not be taken from the father and

the mother, unless there is a legal reason. Provisions of Articles 327, 328 and 339 grant the mother and father the right and duty to take decisions concerning the care and education of the child under their guardianship taking his/her interests into account, to implement such decisions, to cover relevant costs, and to care for a child, who is of full age and is being educated, until his/her education ends. Article 340 bestows upon the father and the mother the duty to educate the child to the extent they can, to provide his/her physical, mental, spiritual, ethical and social development, to protect the child and provide him/her with a general and professional education. Furthermore, pursuant to Article 350, the obligation of the father and the mother to cover the costs of education and caring for the children, continues also after the abolishing of guardianship.

Article 42 of TCC includes provisions related to changes in personal status, in particular the recognition of an extramarital child or ruling by the judge on fatherhood, correction of family bond, adoption or determination of the family bond of a child found, and registration of the same.

According to Article 321 of TCC, the child bears the surname of the mother and the father, if they are married. However, if the mother has two surnames due to her previous marriage, the child bears her maiden surname. Article 231 of Turkish Criminal Code (CC CC) stipulates that to change or hide the family bond of a child is a crime.

In paragraph 4 of Article 28 titled “Process of Recognition” of Population Services Law 5490, it is said : “Recognized children are registered by indicating the name and surname of the father and the identity and registered place information of the mother”.

With the regulative legislation in question, it has become possible for children born outside the marriage to receive the surname of the father the same way as the children born in the marriage do, through recognition and ruling for fatherhood. In relation to non-marriage kinships being inheritors like the marriage kinships from the point of inheritance, Article 498 of TCC states as follows: “Those who are born without marriage and family bond of whom is established through recognition or by the judge, shall become inheritors from the point of the father in the same status with those who are born in marriage”

1.3 Legal Framework on Protection of Children Against Negligence, Violence and Exploitation

Turkish Criminal Code (CC) 5237 stipulates the following:

1.3.1 In paragraph 1/f of Article 77 titled “Offenses Against Humanity”, “Anyone who commits sexual harassment and sexual exploitation of children will be sentenced to imprisonment for minimum 8 years”,

1.3.2 In Article 80 titled “Human Trade” “Persons who provide, kidnap or shelter or transfer a person (s) from one place to another unlawfully and by force, threat or violence or misconduct of power or by executing acts of enticement or taking advantage of control power on helpless persons in order to force them to work or serve for others or to send them away where he is treated almost like a slave, are sentenced to imprisonment from eight years to twelve years and punished with punitive fine up to ten thousand days”

1.3.3 In Article 203 titled “Child Molestation” “Any person who abuses a child sexually is sentenced to imprisonment from three years to eight years”

1.3.4 In Article 104 titled “Sexual intercourse with persons not attained the lawful age” “Any person who is in sexual intercourse with a child who completed the age of fifteen without using force, threat and fraud, is sentenced to imprisonment from six months to two years upon filing of a complaint”

1.3.5 In Article 105 titled “Sexual harassment”

If a person is subject to sexual harassment by another person, the person performing such act is sentenced to punishment from three months to two years upon complaint of the victim

In case of commission of these offenses by undue influence based on hierarchy or public office or by using the advantage of working in the same place with the victim, the punishment to be imposed according to the above subsection is increased by one half.

If the victim is obliged to leave the business place, school or his/her family for this reason, the punishment to be imposed may not be less than one year

1.3.6 In Article 226 titled “Indecency”

Any person who involves in an unlawful act by giving to children any product which contains indecent text, words and images, or shows their contents, reads them or has them read or heard, is punished with imprisonment from six months to two years.

Any person who uses children in production of indecent scenes, words or articles is punished with imprisonment from five years to ten years, and also imposed punitive fine up to five thousand days. Any person who engage in import, duplication, transportation, storage, export of these products, or presents the same to other’s use, is punished with imprisonment from two years to five years, and also imposed punitive fine up to five thousand days

Any person who publicizes the contents of the indecent products where children are used through press and broadcast organs, or acts as intermediary in publication of the same, or lets children to read, hear or see this material is punished with imprisonment from six years to ten years, and also imposed punitive fine up to five thousand days

1.3.7 In Article 227 titled “Prostitution”

Any person who encourages a child to become a prostitute, or facilitates prostitution, or shelters a person for this purpose, or acts as go-between during prostitution of the child, is punished with imprisonment from four years to ten years, and also imposed punitive fine up to ten thousand days

Any person who encourages another person to become a prostitute, or facilitates prostitution, or acts as go-between, or provides place for such purpose is punished with imprisonment from two years up to four years, and also imposed punitive fine up to three thousand days.

The punishment to be imposed by one half in case of commission of offenses listed in the above subsections by anyone of the spouses, antecedents, descendants, brother/sister, adopter, guardian, trainer, educator, nurse or any other person responsible for protection and control of a person, or by a public officer or employee by due influence

As it can be seen from the foregoing provisions, violence and exploitation against children and young people are heavily punished under CC 5237, and the penalties are increased in case that the crimes against children are committed by relatives, those who are in charge of care or by those who use the advantage of working.

2. Implementation

As it was indicated above, SHÇEK is the leading organization which is established to fulfill the tasks of providing assistance to poor and segment of the society, including children and young people, which task was granted to the state under the Constitution, and the services provided by the agency in question are summarized below:

2.1 Care In Own Family: Families of children, who are taken under care and protection in institutions due to economic reasons, are supported as part of a program launched in 2005, and the children are thus provided with the opportunity to be raised in their families or relatives. A total of 30.744 children are cared by their families as of September 2010, including 6.965 children who returned to their families and 23.779 children who are supported in their families without being taken under protection.

2.2 Adoption: This service relates to establishing a child – parent relationship between a child, who is suitable for being adopted, and the family or person who is suitable for adoption, by establishing a legal connection, with special emphasis on the higher interest of the child. This could be used under legal conditions where the child may otherwise be deprived of parental care for a prolonged time. 10.950 children benefited from our adoption services as of September 2010.

2.3 Foster Family: This service covers the children, for whom care could not provided in their own families due to various reasons and who cannot be adopted, being raised under the supervision of the Agency by families or persons, who are in a paid or voluntary status and bear the characteristics of parents. 1.227 children benefited from foster family services as of September 2010.

Foster families are paid for every child they take care of, covering a monthly fee for the caring, education and raising expenditures of children, as well as for educational costs, school service bus costs, transportation costs and pocket money. If necessary, psychological and psychiatric counseling services are provided by specialists from relevant departments of universities for the foster families and the children they take care of. In cases where the foster family fails to fulfill its obligations, that the discord between the child and the foster family could not be remedied despite all professional efforts, and the reason for placing at a foster family ceases to exist, the child is taken back from the family after a social analysis report. In case of the occurrence of other situations wherein the child suffers negligence and exploitation, misconduct or continuance of the foster family becomes inconvenient, the foster family status of the family is terminated.

In cases where it is not possible to provide care at the family, institutional care is provided as the last option.

2.4 Nursery School: These are the social service institutions with the duty to ensure that children aged between 0 – 12 who are in need of protection, and if necessary girls over 12 years old, acquire a healthy personality or good behaviors in a healthy physical, educational and psychosocial development. As of October 2010, there are 4131 children being actually hosted in 78 nursery schools.

As a result of the improvement works carried out on Nursery Schools, the existing units were refined so as to ensure an environment that looks similar to a family environment in terms of physical arrangements and staff assignment; number of children who actually stay in these institutions was reduced as the family care services were emphasized for children, and thus the capacities of these units were decreased, so as to lead to a transformation from a ward structure where children and young people stayed in groups of 20 – 25, with a total capacity of 150 – 200, to Child Houses which provide a peaceful atmosphere with a room structure for 3 – 6 children.

With the new regulation enacted in relation to care and cleaning staff in nursery schools hosting children aged 0 – 6 and 7 – 12, improvement has been made on “care and cleaning” staff employed in nursery school both in qualitative and quantitative terms. In this regard, one caregiver is assigned for every 20 – 25 children staying in our institutions, and in particular a caregiver, who is a graduate of Child Development and Education of Girls’ Vocational Schools, or who holds a secondary degree with certified training in this field, is providing service to every 6 – 8 children at every hour of the day in our nursery schools for 0-6 aged children.

2.5 Orphanage: These are the boarding social service institutions with a duty to protect and care for children aged 13 – 18 who are in need of protection, to let them acquire a profession and be raised as responsible members of the society.

Pursuant to Article 25 of SHÇEK Law 2828, decisions for protection may be extended for children in need of care, who complete their 18 years of age,

- 1-up to 20 years for those who continue secondary education,
- 2-up to 25 years for those who continue higher education.

Children who continue higher education are hosted free in “Higher Education Children Dormitories” of Higher Education Institution, and they receive subventions for meals, school tuitions and as pocket money. All requirements of children kept under protection are covered by the institutions, and psycho-social support service is provided by professional staff in these institutions. As of October 2010, 1726 girls stayed in 41 girls’ orphanages, and 2880 boys stayed in 57 boys’ orphanages.

2.6 – Care and Social Rehabilitation Centers: These boarding social service institutions provide temporary care and protection for children, who experienced emotional, sexual and/or physical abuse, in order to remedy their trauma and/or behavioral disorders due to negative life experiences until the end of the rehabilitation period, and during this period, actions are carried out for regulating their relationships with their families, their close environment and the society. These are structured as separate units for girls and boys aged 7 to 18. As of October 2010, 23 centers were opened for children who are the victims of crime. 362 children benefit from these centers, 22 of which are for girls and 1 of which is for boys.

2.7 Protection, Care and Rehabilitation Centers: These boarding social service institutions provide temporary care and protection for children, who are determined to fall into crime, until the end of the rehabilitation period, and during this period, actions are carried out for regulating their relationships with their families, their close environment and the society. These are structured as separate units for girls and boys aged 7 to 18 7 centers are opened for boys in 13 – 18 age group who fell into crime, and 127 children received service from these centers.

2.8 House of Love: In House of Love, which is new service model comprising of detached houses where 10 – 12 children stay in rooms for maximum three people, children are enabled to enjoy the feeling of belonging and to acquire domestic skills. As of September 2010, there are 1575 children cared for in 20 institutions characterized as Houses of Love, which provide service to 0 – 12 age group.

2.9 Children Shelters: Children shelters, which are part of the new service model, are established in parts of every city, which provide an open social communication and environment suitable for raising children and where people and families, who could demonstrate love and sensitivity towards children in social and cultural terms, live. These house units host 5 to 7 children aged 0 to 18, with a maximum age difference of three between each, in an apartment or detached house setup, aimed at raising our children within the community. Age and gender discrimination is disregarded if the children are siblings. As of September 2010, there are 1124 children cared for in 211 children shelters, which provide service to 0 – 12 age group.

2.10 Family Counseling and Rehabilitation Centers: It covers the daytime social service institutions which provide service to disabled children and their families, in order to enable the disabled children to become self-sufficient, to prepare them for school education and to ensure in-family harmony. As of October 2010, 421 disabled people received daytime care services from 7 family counseling and rehabilitation centers, which provide only daytime care services, and 3 care and rehabilitation centers, which provide both boarded and daytime services. Among these disabled people, number of those in 0 – 18 age group is 233.

2.11 House of Hope: This system covers the initiative wherein the disabled people, who are in suitable condition, are cared for in apartments or detached houses in small groups, enabling them to actively participate in the social life. As of 2010, 1 House of Hope is opened in Izmir, and 1 in Isparta. Each House of Hope provides care for 10 children in 0 – 18 age group, 6 of which are disabled, and for 2 disabled people over 18.

2.12 Special measures are taken for children living and employed on the streets, and actions other than those which are indicated in the part of the report concerning Article 7, are mentioned below.

In our Country, services for children living and employed on the streets, are provided by SHÇEK through “Child and Youth Centers” and “Observatories” established in provinces where this problem is profound. Child and Youth Centers are opened in provinces where the problem of children living /employed on the streets, is severe. Currently 37 Children and Youth Centers and 6 Observatories provide service in 29 provinces overall the country, and the actions carried out by these centers are summarized below:

Studies Towards Children:

- Carrying out mobile street works for the determination of children living and employed on the streets,
- Psychosocial examination and supporting of the families and the children,
- Covering their sheltering, subsistence, clothing and food requirements,
- Informing the children on the importance of education,
- Supporting the education of the children and covering their educational needs,
- Orienting the children towards acquiring a profession,
- Performing workshops which bring revenue,
- Organizing social, cultural and artistic events as well as sport and hobby activities
- Providing treatment and improvement services in relation to health

Health services for children living / employed on the streets, who are alcohol and substance addicts, are provided through institutions of the Ministry of Health (Child and Adolescent Substance Addiction Research and Treatment Center – CEMATEM- and Volatile Substance Addicts Treatment and Rehabilitation Center – UMATEM –).

Studies Towards Families:

Psychosocial support and awareness raising actions are carried out towards the families of children living / employed on the streets. Besides, families who are identified to be in economic poverty, are provided with the opportunity to benefit from social aid services and institutions. Meanwhile, if it is determined that it is possible to return the children back to their families, harmonization works are carried out to ensure that families and children live together.

Studies Towards Society:

For the purposes of increasing social sensitivity and awareness, fliers and posters, which introduce the services provided in institutions, provide information on characteristics of children living and/or employed on the streets, and encouraging voluntary contribution and participation to services, are printed and distributed. Awareness raising activities are carried out for the community on not purchasing any goods and services from children employed on the streets.

New Service Model Applied for Children Living and Employed on the Streets:

A supreme committee has been established in 2004, comprising of the Minister of Interior , Minister of Health, Minister of National Education and the Minister of Justice under the coordination of the Minister of State in charge of Women and Family, with the aim of providing such children with formal education or occupational training, and directing them towards their families or to the institutions and enabling them to become members of the society who are educated or have a job. With the instruction of this Committee comprising of ministers, a cascaded new service model is prepared for countrywide implementation.

New Service Model involves a multisectoral approach which involves saving from the streets the children, who are employed or live on the streets, use substances and are open to any kind of exploitation, orienting them towards formal education and professional training, carrying out their therapies for substance abuse, covering all of their needs including sheltering, catering, clothing, health, education etc., and thus enabling their reintegration with the society. Besides this model also covers measures which prevent the children from being drawn to the streets.

2.13 Free care service is provided by SHÇEK to the children of families, who are in economic poverty, in 0- 6 age group.

Taking into account the fact that the family is the determining factor in the development of a child, family counseling centers provide services with the aim of protecting the integrity of the family, increasing the capacities of family members to cope with and solve domestic problems, ensuring their social living capabilities, improving knowledge and skills concerning a healthy child raising, and providing a balance between freedom, responsibility and social values in the family system. Services and programs carried out by the Ministry of National Education (MEB), such as “My Family Age 0 – 6 Family and Child Education Program” and “Father Support Training Program”, aim at training the society on positive parenthood.

2.14 Other Actions

Actions for preventing violence are carried out by various organizations. Psychosocial support programs are implemented in juvenile penal institutions for arrested and convict adolescents, and trainings for anger control are provided. MEB has implemented a “Strategy and Action Plan” for reducing and preventing violence in educational institutions. Programs implemented include in-service training activities on recognizing, preventing and intervening in violence, effective parental trainings, peer to peer life skill programs, training for students, teachers, families and psychological counselors in places which are under high risk of drugs.

Due to the need for new and immediate actions for violence against women and children, an investigation commission has been established in the Grand National Assembly of Turkey (TBMM) Following completion of its elaborations, this Commission prepared a comprehensive report that sets out the reasons for violence against women and children and measures to be taken, and a Prime Ministry Circular has been issued accordingly.

The purpose of the Peer to Peer Life Skills Training Program for Adolescents is to provide the young people, who participate in the program, with communication skills, self-expression, dispute resolution, stress coping skills and child rights living skills.

Training is provided to relevant occupational groups in order to raise awareness and sensitivity in relation to the obligation of notification in cases of negligence and exploitation.

The aim of the “Project on Conscious Use of Internet and Internet Safety” is to protect children from hazards of internet and to raise awareness on this issue, and multidimensional actions are carried out accordingly.

An investigation commission has been established in the TBMM in 2010 in order to investigate the problems of children, in particular of lost children, and to take relevant measures. Studies carried out by the Commission are ongoing.

3-Statistics

Number of public and private schools and rural and urban distribution (2009 – 2010 educational term)

Primary School

	Number of Public Schools	Number of Private Schools
Urban	11.051	789
Rural	21.380	90
Total	32.431	879

Secondary School

	Number of Public Schools	Number of Private Schools
Urban	7.462	657
Rural	720	74
Total	8.182	731

Average size of classes:
(number of students per class) Primary: 32
Secondary: 33

Students per teacher: Primary: 22
Secondary: 18

Number of students

Number of students	Primary	Secondary
Boys	5.632.328	2.302.541
Girls	5.284.315	1.937.598
Total	10.916.643	4.240.139

Note: 389.948 open primary school students and 601.038 open secondary school students are not included.

Statistics in relation to services provided by SHÇEK as of September 2010, are provided below:

No	Name of the Institution	Current Status in Institutions as of September 2010				
		Number	Capacity	No. of Registered People	Number of People Actually Cared For (Boarding)	Number of People Benefiting from Service (Annual – Daytime)
1	Nursery Schools (0-6)	11	631	671	326	
2	Nursery Schools (7-12)	43	2789	3210	1927	
3	Nursery Schools (0-12)	24	2561	3501	1916	
4	House of Love (0-12) (201 Villa Type House)	20	2093	2115	1575	
5	Children Shelters (0-12)	211	1233		1124	
6	Child and Youth Centers - Boarding	7	233	710		
7	Child and Youth Centers - Daytime	27		6.291		6.291
8	Child and Youth Centers - Daytime	3	61	1223		
9	Observatory	6	92			

10	House of Love (13-18) (69 Villa Type House)	14	735	981	581	
11	Children Shelters (13-18)	65	421	292	249	
12	Boys Orphanages	57	4038	5041	2952	
13	Girls Orphanages	41	2319	3240	1817	
14	Prot. Care and Soc. Rehab. Cntr.	7	237	582	140	
Other Public /Private Institution Care Services				Number	Capacity	Number of People Actually Cared For
15	Private Kindergartens			1616	93.869	43.399
16	Private Care Centers			68	6217	3706
17	Other Women Hostels			21	562	
18	Private Nursing Houses + Other Public Nursing Houses			183	13.251	10.228
Family Care Services				Number		
19	No. of People Using Disabled Home Care Service			271.962		
20	No. of children Returned to Family			6965		
21	No. of Children Supported By Families Not Taken Under Protection			23.779		
22	No. of Foster Families			1085		
23	Children In Foster Families			1227		
24	No. of Children Adopted			10950		
25	No. of Children Using Free Kindergarten Services			966		

Statistics in relation to children placed in prisons and juvenile correction centres:

According to the CPL no. 5395, it is required to establish juvenile courts in every provincial center, and in districts where necessary taking into account such aspects as business capacity and geographical position. As of 2010, there were 59 juvenile courts in 29 provinces. Number of higher juvenile criminal courts hearing severe crimes was 12.

Number of children in criminal correction institutions as of 30.04.2010 was 2519. 173 of them stay in child training units, 685 stay in detached juvenile criminal correction institutions, and 1661 stay in parts of closed criminal institutions allocated for children.

Conclusions XVII-2 of the ECSR

The Committee concludes that the situation in Turkey is not in conformity with Article 17 of the Charter on the grounds that

- corporal punishment in the home is not prohibited;
- the age of criminal responsibility is manifestly too low;
- the minimum length of certain prison sentences for minors is excessive

Response to the Conclusion XVII-2 of the ECSR

The ECSR asks information on which legislation protects children against corporal punishment in homes, schools and institutions. Article 232 of CC states the following: “ (1) Any person who is cruel to the person sharing the same dwelling, is punished to imprisonment from two months to one year. (2) Any person who improperly uses disciplinary power against a person whom he is responsible for his/her growth, education, care protection or training in professional field, is punished with imprisonment up to one year. Besides, according to Article 27 of SHÇEK Law no. 2828, any imprisonment and fine to be imposed to staff of care institutions, who commit any crime to persons cared for and protected by social service institutions, shall be increased by one third. Furthermore, it is indicated in Article 9 of the same Law that any service to children in need of protection, care and support shall be provided in a manner that fits human dignity.

Information about

- Activities related to supporting children living on the streets, rehabilitation of the exploited children and reconciliation with their families,
- care and support services provided in public institutions for children, staff providing such services and physical conditions,

which were demanded in the conclusion, are given under titles “1-Legal Framework” and “2-Implementation” above.

The ECSR requests information as to whether there is any body responsible for monitoring care in institutions, and whether there is any specific procedure for complaining about the care and treatment in institutions and on the conditions under which an institution may interfere with a child’s property, mail, personal integrity, and right to meet with persons close to him. At the stage of admission of any child to any SHÇEK institution for protection and care, information is provided to the child on the purpose of his/her being protected in the institution, the process to be followed, the purpose of the institution, principles of operation, staff on duty, to whom to refer in case of any need, how he/she could reach to tools and instruments needed according to his/her age and developmental stage, daily life and the rules to be complied with, and the child is asked whether there is any issue that should be clarified. Whereas the children may notify the professionals and administrators about all of their requests and complaints, they may write petitions and submit them through petition and complaint boxes.

Besides, care services given in the institutions are carried out by administrators, professionals and care staff and progress is notified to senior authorities via reports. Audits and inspections are carried out regularly at certain intervals by internal auditors pursuant to Total Quality Management System under the supervision of SHÇEK Audit Board.

The ECSR asks for information on legal and other roles of care takers with regard to the care of a child. Services for children kept under protection and care in the institutions are provided by social workers, psychologists, teachers, child development specialists, child educators, nurses, dieticians and qualified staff who are employed through procurement of services, under the supervision and inspection of the administrators. Terms of reference of each staff are indicated in the Regulations of the institution.

The ECSR asks information about the legal procedures in relation to young offenders. Information on this issue is given under titles “1-Legal Framework” and “2-Implementation”, and following information is provided additionally.

Educational status of children in penal institutions is assessed by the education department. Those who are arrested while continuing their formal education are not recorded as absent in their schools in order to ensure the continuity of their education, and they attend the exams from outside. Children who interrupted their education or have not been educated at all are registered in open primary schools, open high schools and open universities and the convict children attend their schools by going outside the institution.

Solutions are provided for psychological and social problems of the children through intervention programs specially developed for children in the psychological assistance service. Besides, in-service trainings are provided in order to develop the knowledge and skills of institutional staff on the issue of working with children.

With the Probation and Assistance Centers and Protection Boards Law no.5402, which entered into force on 20 July 2005, probation system has been established in our country in 134 centers for both adult and child suspects, accused and convicts. The purpose of probation is to correct the behaviors of convicts that lead to crime, prevent them from repeating the crime, follow up the convicts who are released from penal institutions, treat and heal substance addicts, remedy the damage suffered by victims and thus to protect the society.

Pursuant to Article 11 of CPL no. 5395, protective and supportive measures defined in Article 5 of the said Law could be ruled for children who fall into crime and do not have any criminal responsibility. Protective and supportive measures mentioned in the Article in question, covering the counseling measures, educational measures, health measures and sheltering measures, are to be carried out by the Ministry of National Education, SHÇEK, Ministry of Labor and Social Security, Ministry of Health and local administrations.

According to the latest data, a total of 6.292 decrees were ruled about children, and these court decrees relate to various practices, covering 915 judicial controls, 2.761 treatment and probation, 696 optional sanctions, 179 postponements of imprisonment, 1.510 adjournments of proclamation of the ruling, 20 post-release inspections, 2 conditional premature releases, 32 active regrets and 177 other penalties and measures.

Efforts towards improving the regulations and practices in our country as regards to other issues pointed out in the Conclusions, and enabling harmonization with the provisions of the Revised Charter, are ongoing.

Article 17 Paragraph 2

To provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools

Scope of the provisions as interpreted by the ECSR

Provision of primary and secondary education free of charge. Reduction of absenteeism at school and dropout rates regarding compulsory education.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, in particular on the number of children failing to complete compulsory schooling dropping out of education without qualifications and on measures to combat absenteeism

1- Legal Framework

Compulsory and free primary education and the equality of opportunity in education are guaranteed both in the National Education Basic Law no. 1739 (NEBL) and the Primary Education Law no. 222 (PEL).

Article 42 of the Constitution stipulates rights and obligations in relation to education and training. “No one shall be deprived of the right of learning and education... Primary education is compulsory for all citizens of both sexes and is free of charge in state schools...The state shall provide scholarships and other means of assistance to enable students of merit lacking financial means to continue their education. The state shall take necessary measures to rehabilitate those in need of special training so as to render such people useful to society.” These provisions have guaranteed the right and freedom that no person could be deprived of education and training, and stipulated the primary education as a compulsory obligation for all citizens, both men and women.

In the NEBL no. 1739, “right to education, equality of opportunities, continuity” are counted among the basic principles of Turkish national education. Article 4 of the Law in question specifies that educational institutions are open to all without any discrimination on the basis of religion, race, gender, language and belief and that no concession shall be granted to any person, family, group or class, and Article 7 adopts primary education as a right for every citizen. Furthermore, Article 8 of the said Law regulates providing equality of opportunity among men and women, giving required support for successful students who lack material opportunities, and taking special measures for raising children who are in need of special education and protection.

In our country, primary education is compulsory for all men and women citizens, and the term of primary education covers the children in 6 – 14 age group. This age starts from the end of September of the year in which the child is of 5 years of age, and ends in the end of the

educational year in which the child completes 14 and turns 15 years of age. Preschool training, which covers the training of children who are not yet of compulsory primary school age, is optional. Whereas preschool educational institutions could be established as independent kindergartens, these may be in the form of preschool classes in primary schools where required, or application classes of other educational institutions. A regulation prepared by the Ministry of Education (MEB) stipulates where and according to which priorities the preschool educational institutions will be opened. The kindergartens and preschool classes are regulated in the Regulation on Preschool Educational Institutions prepared in this direction, and the kindergarten is defined as the school opened for the training of children between 36 – 72 months of age, and preschool classes are defined as classes opened within the body of formal educational institutions for the training of children between 60 – 72 months of age. In the National Education Council, a decision has been taken in order to launch actions to make preschool education compulsory for children between 60 – 72 months of age. In line with this decision, it was decided by the MEB to carry out pilot practices in various provinces for making preschool training widespread. The scope of the practice in pilot provinces, which was launched in 2009- 2010 educational term, was extended in 2010 – 2011.

According to the PEL, compulsory institutions include primary schools (day schools, boarding schools, boarding primary schools and mobile schools), raiser and supplementary classes and courses, schools and classes to be established for children in need of private education, and optional institutions include preschool educational institutions and supplementary classes and courses. Children, who are in compulsory primary schools age but who are mentally, physically, spiritually and socially disabled, receive special training and education.

At least 15 days in advance of the commencement of courses every year, a chart in three copies is prepared by the neighborhood governors in collaboration with school managers, which demonstrates the identities of children who reach the age of compulsory education in villages and neighborhoods and a copy is delivered to school administrators. The neighborhood governors notify the guardians or head of families for enrolling their children to the school. Children who are in the age of compulsory education but could not be enrolled to the school within a certain period of time, are automatically enrolled by school principals. The student is informed that he/she should continue to the school. If these children still fail to come to the school, they will be deemed as absent students. Ages of children, who have no certificate of birth or have not yet registered at the population records, are determined by the district councils by observing the children and these are thus recorded in the chart of those who reached to the age of compulsory education.

According to the law, equality of opportunity is provided in education to all women and men. In order to ensure that students who hardly afford costs of education continue their education up to the highest educational level possible, free boarding, scholarship, loan and other means are provided. Special measures are taken in order to raise children in need of special training and protection.

Pursuant to the PEL, every guardian or head of family of a student is obliged to ensure regular attendance of the student to the primary education and notify the school administration within three days about any excuse that prevents the student from attending the school. Civil authorities, primary education inspectors and city police are obliged to ensure that children at

primary education age continue primary education institutions and to assist the guardians or heads of families and school administrations, and to take any measures as necessary.

Unless there is any force majeure reason evidenced in writing, school administrations may give permission to students up to 15 days in a year due to such reasons as death and injury in the family, which require the child to stay with his family.

Those who reach to primary education age but do not continue to any compulsory education institution may not employed, either on paid or non-paid basis, in any private workplace or under any title whatsoever. Those who certify that they continue to primary education may be employed at such places, provided that legislation pertinent to the employment of children is complied with and the work shall be done outside class hours. Children, who are in primary education age and continue compulsory primary education institutions, may not be admitted to any private courses, except those which are indicated in the law and permitted by the MEB to be opened.

According to İÖEK, children who cannot come to school due to reasons such as disease, flood, snow, earthquake and fire, shall be excused. Guardians or heads of families of children, who fail to send their children to school, fail to meet the deadline given for enrollment, transfer their address and fail to notify this accordingly, do not notify school administrations in a timely manner about the absenteeism of the child, shall be reported by the school administration to village governors and other civil authorities. Such a situation shall be notified to the guardian or head of family by the village governors and civil authorities within three days. It is notified in the communication to be submitted that, in case that the child is not sent to the school other than for reasons acceptable by the school, an administrative fine will be imposed. The administrative fine shall be imposed to the guardian or head of family of the student, who fail to send the child to the school despite the notice sent by the village governor or the civil authority, for each day on which the child is determined to be absent by school administration. Administrative fine shall also be imposed to those who refrain from responding the questions to be asked by school administrations and civil authorities, or who make false declarations.

2. Implementation

Projects and programs implemented in our country to encourage attendance of children and young people to schools are as follows:

2.1 “Let’s Girls to School Campaign (Girl’s Access to Education Project)” was launched by the MEB in 2002 in order to ensure gender equality in education. This project targets not only to increase training opportunities for girls, but also to systematically abolish all obstacles that prevent girls from continuing to school and demonstrating their success. “ Let’s Girls to School Project” focuses on girls among children who, though being at the age of compulsory education, are deprived of the right of education, so as to provide them with access to quality education.

In its first year, the project focused on 10 provinces in East and South East Anatolia regions, where the schooling rates of girls are low. In the first year of this stage, actions were taken to increase capacities of district / province and school administrators and to provide campaign organizations, and with further steps and the support of provinces to the campaign, it became a community-wide activity. Under the campaign, 350 thousand students, around 240 thousand of whom were girls, were schooled in the four years after 2003.

2.2 An initiative was launched with the collaboration of the MEB and the UNICEF titled “Determining the Reasons for Failure to Timely Enroll to Primary Education in Most Problematic Regions and Provinces and Developing Strategies for Ensuring Timely Enrollment”. This research was carried out for the purposes of determining the dimensions and characteristics of the problem of failure to timely enroll, setting out the profiles of households which fail to timely enroll their children, researching the reasons of the problem and based on these findings developing strategies for the solutions of the problem. Qualitative and quantitative research techniques were used in the research. Ten provinces included in the scope of the research were determined according to Address Based Population Registry System, e-school data and net schooling rate at age 6 were calculated for 2007 – 2008.

2.3 Raiser Classes Learning Program is carried out with the collaboration of the MEB and the UNICEF. Under the scope of this program, children in 10 – 14 age group, who are in compulsory education age, could not complete their education together with their peers due to various reasons, have never enrolled to school or are frequently absent, are provided with competencies to continue together with their peers and thus their attendance is ensured. 11.154 girls and 6.712 boys were included in the program within the scope of the initiative, and 15.450 students in total completed the program and were integrated to education.

2.4 The MEB Primary Education General Directorate and the UNICEF have carried out a situation and needs analysis on school dropout and absenteeism. At the end of the research, functional definitions of absenteeism were made and the Gradual Absenteeism Management Model, Risk Assessment Needs Form and Action Plans were developed. The purpose of the Gradual Absenteeism Management Model is to ensure early recognition and assessment of in-school absenteeism in accordance with specified definitions of absenteeism and to carry out suitable customized interventions, and follow up accordingly, for the aim of ensuring regular attendance of students to school and preventing dropouts, A status determination and needs analysis were carried out in order to determine the content of a training program for teachers and school administrators in order to early detect, monitor and intervene in the children under the risk of absenteeism and dropout.

2.5 Provincial Access to Education Status reports were prepared in order to inform civil authorities and provincial education administrators on access to primary education and attendance indicators, share data on access to primary education which will constitute sources for problem oriented strategies, and to have them see the improvements.

2.6 A Remedial Education Project is being carried out by MEB with the support of the UNICEF under the scope of an EU Project in order to integrate the children in 10 – 14 age group, who have never enrolled to or dropped out from the school, to the education system.

2.7 The Law on Execution of Penal and Security Measures aims at enabling the convicts, who stay in open penal institutions and child educational institutions, to benefit from formal and non-formal education, and those who stay in closed penal institutions to take advantage of formal education. In line with this provision, convict and arrested children in penal institutions are provided with the opportunity to benefit from informal education.

2.8 Pursuant to Law no. 5378 on Disabled People, educational costs of all children in need of special education, have been covered by the MEB since 1st June 2006, regardless of whether they have any social security.

2.9 Children with disabilities are enabled to continue their regular schools with the integration training; “Training Program for Primary School Children With Intermediate Learning Disability” and “Applied Education Program” are carried out for children with mental learning disabilities, and Education Program and Occupational School Training Program are provided for autistic children. In Family Counseling and Rehabilitation Centers, services are provided for disabled children and their families in order to let them become self-sufficient, prepare them for school education and ensure their domestic integrity.

2.10 Various educational supports are provided in order to support the school attendance of children of families with economic problems. Educational subvention is granted by General Directorate of Social Aid and Solidarity to poor families for their children in primary and secondary education at the beginning of each educational term, and their schools requirements, such as uniforms, bags and stationary, are covered. 1.5 million students on average benefit from educational aids. With the mobile education practice in primary education, which was launched when primary education was increased to 8 years, lunch support is provided for students who are carried to centers where the schools are located. Mobile education, which is free for primary school students, is also applicable to secondary school students, though secondary school is not compulsory.

2.11 Initiatives are launched for making preschool education compulsory with the notion that impacts of preschool education on psychosocial and cognitive development of the child, are significant. In the 9th Development Plan covering the 2007 – 2013 period, the target was to keep schooling rate in preschool education at 50 %. In this direction, for the aim of reaching this target in annual programs, measures are adopted for using visual and audible tools of communication in order to make widespread the mobile and summer kindergarten practices in preschool education, to benefit from the opportunities of information education, and to increase the level of social consciousness.

2.12 The “Primary School at Hospital” model has long been applied in our Country for children at primary education age who could not continue to school due to prolonged diseases. The purpose in hospital primary school model is to ensure that sick children receive appropriate treatment while they keep up with educational and training activities.

2.13 A guide was prepared for education inspectors for monitoring access and attendance in order to ensure that primary education strategies and policies are communicated to school administrations with the support of education inspectors, to increase awareness of school principals and teachers on education through education inspectors, to develop their capacities for ensuring attendance, and to share among schools, districts and provinces the best models developed by schools. The guide comprises of the following sections: “Right to education”, “Gender equality”, “School culture”, “Changing roles of parents”, and “Modern approaches in education”. Besides a 5-day interactive training program was designed in order to raise awareness among education inspectors on ensuring access and attendance, and seminar was provided to around 2000 education inspectors in this scope.

2.14 Questions which the parents of new students may ask, and responds to such questions were compiled. The book, which is published online, comprises of 11 sections, including the

purpose and acquirements of primary education, enrollment to school, beginning of the school, social activities in the school, success in school, disciplinary practices in the school, participation of the guardian, guidance and counseling services in schools, special education, and violence in the school, and around 110 questions.

2.15 The UN has launched through the UNICEF the “Child-Friendly School” project in Thailand in 1997 on the quality in education. A project similar to that one was launched in our Country in 2002 -2003. Although it was revised over time and its named was transformed into “Primary Education Institutional Standards”, its basic philosophy remained the same. Based on the Child-Friendly School standards and indicators in the guides prepared in 2003 and 2006 within the scope of Child-Friendly School Project, the Primary Education Institutional Standards draft document was developed in 2007 with a participatory approach. This document will be an effective tool for efficiently using the resources, remedying the differences of quality among schools according to the standards specified, and converting schools into center that produce policies.

2.16 Under a protocol signed between Social Assistance and Solidarity General Directorate of the Prime Ministry and the MEB, complimentary educational subventions are provided under the scope of Conditional Cash Transfer in every part of our country with the aim of creating a social security network which targets at full access of children of families, who are in the poorest segment of the population, to elementary education services. In this scope, needy families received educational subventions every month, with the condition that they ensure regular attendance of their children to the school. Amounts of grants given to girl students and to those who continue secondary education are kept higher in order to increase schooling rate among girls and to boost the rate of transition from primary to secondary education. 1.5 billion TRL (1 billion USD) has been transferred as educational aid to 11.586.275 children in primary and secondary education from 2003 to March of 2010.

3-Statistics

Number of students who dropout before completing compulsory education.

PRIMARY EDUCATION

Reason for Dropout	No. of Dropouts		
	Total	Boys	Girls
Enrolled to Open Primary Education	661	403	258
Exceeded the Age of Education	100354	41.889	58.465
Due to Health Reasons	3339	1.260	2.079
Died	2559	1.293	1.266
Relocated Abroad	38057	19.795	18.262
TOTAL	144.970	64.640	80.330

SECONDARY EDUCATION

Reason for Dropout	No. of Dropouts		
	Total	Boys	Girls
Left formal education due to other reasons	38.834	24.306	14.528
Left formal education intentionally	91.953	58.811	33.142
Not graduated	337	200	137

Left formal education due to losing the right of education	128.222	91.600	36.622
Failed to use the right of education	30.186	19.148	11.038
Died	351	239	112
Relocated Abroad	1.256	663	593
TOTAL	291.139	194.967	96.172

Information on measures to prevent school absenteeism is given under the title “Implementation” above.

ARTICLE 19: THE RIGHTS OF MIGRANT WORKERS AND THEIR FAMILIES TO PROTECTION AND ASSISTANCE

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake;

Article 19 Paragraph 1

to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;

Scope of the provisions as interpreted by the European Committee of Social Rights (ECSR)

Free assistance and information services should be made available to persons wishing to emigrate and/or immigrate. Steps should be taken to prevent misleading propaganda relating to emigration and immigration

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide figures, statistics and up-to-date information concerning the methods/procedures of sending and receiving migrant workers for employment purposes.

The procedures and principles of regulating the employment of foreigners in Turkey and the work permits which shall be granted to them were determined by the Law on The Work

Permits of Foreigners dated 27.02.2003, no. 4817 and its “Implementing Regulations” dated 29.08.2003. The legislative provisions are implemented meticulously.

In this context, the information on employment of foreigners is published on the website of the Ministry of Labour and Social Security of the Republic of Turkey (www.csgb.gov.tr) in 5 languages (Turkish, English, Russian, Arabic and Chinese) which will help especially in obtaining accurate information for the foreigners who will work in Turkey.

The working conditions, wages, social rights and official telephone numbers in force majeure conditions are stated in the standard labour contract prepared both in the mother tongue of the foreigners who will work in the fields subject to human trafficking (entertainment sector, in the workplaces such as clubs) and in Turkish.

On the other hand, as a result of “The Project on the Institutional Capacity Raising on Fight Against Human Trafficking” which was completed in July 2007 with the coordination of General Directorate of Security of the Ministry of Interior within the programme of Turkey-EU Financial Cooperation, the Second National Action Plan (SNAP) was prepared. The general objective of the SNAP covers reaching international standards to eliminate human trafficking in Turkey, strengthening the related institutions, complying with EU acquis, promoting the strategy to fight against human trafficking and the implementation of sectoral action plans. The activities on this issue are going on.

Article 19 Paragraph 2

to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;

Scope of the provisions as interpreted by the ECSR

Measures should be taken to facilitate the departure, journey and reception of migrant workers and their families

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide figures, statistics and up-to-date information concerning the methods/procedures of sending and receiving migrant workers for employment purposes.

The related provisions of bilateral labour agreements signed with various countries by our Country concerning the travel and reception of the migrant workers and their families still survive. Moreover, since the qualified personnel mainly make up the legal foreign labour force in our Country, the services for their journey and welcoming are borne by the claimant employers.

With regard to human health and medical care services, Public Health Law no. 1593 dated 24.04.1930 stipulates that all measures have to be taken by the State for the people living within national borders for letting them live in a healthy environment and for the protection of their health without any discrimination. Furthermore, the provisions of the European Convention on Social and Medical Assistance dated 1953 which was ratified by our Country on 01.01.1977 are implemented effectively.

Article 19 Paragraph 3

to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;

Scope of the provisions as interpreted by the ECSR

Co-operation between social services in emigration and immigration countries should be promoted

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide figures, statistics and up-to-date information concerning the methods/procedures of sending and receiving migrant workers for employment purposes.

The studies on asylum and immigration within the framework of the activities started with the EU accession process, accelerated as of 2003. As a result of a Twinning Project which was supported by EU and completed in 2005 with the consortium of Denmark and the United Kingdom, the National Asylum and Immigration Action Plan, which will prepare the accession process in the management of immigration, was completed. The implementation of the national action plan of the EU integrated border management strategy was adopted in 2006.

Since January 2007, “The Project of Technical Cooperation in the field of Migration”, funded by Ankara Agency of International Organization for Migration (IOM) and Embassy of United Kingdom, has been implemented, and the Ministry of Interior of the Republic of Turkey takes an active role as the implementing institution. The main objective of the project is to facilitate the dialogue and cooperation between Parties in order to let the EU acquis be

understood conceptually in the field of migration. In the framework of the activities of the above mentioned project, capacity development activities are being realized in order to harmonize policy makers and local practitioners with the legal norms and policies of the EU acquis; thus a more effective migration management is targeted. Seminars are being organized in order to increase public investments by awareness raising in capacity development, the EU acquis and National Action Plan.

Furthermore, new units are being established concerning migration researches within universities in our country. Some of them which are considered to be pioneer are indicated below:

— The Migration Research Programme of Koç University (KÜGAP): It was established within Koç University in İstanbul in cooperation with Zurich Population, Migration and Environment Fund in 2004. The main objective of this programme is to improve the research capacity of the migration problems. The aforesaid programme realizes multidisciplinary and interdisciplinary researches concerning different aspects of migration.

—Migration Research Center of Bilgi University (BÜGAM): It is Turkey's first research center which was established in 2002.

—Blacksea and Central Asia Cooperation Center of Middle East Technical University (ODTÜ-KOAİM): The center, which was established in 1992 deals with global migration about East Mediterranean and Eurasia today. It is a project related with security and the changes in human rights in Europe. The main objective of this project is to reinforce the international cooperation about migration between the EU and the countries in the above mentioned region.

The other international actors and the features of cooperation where international cooperation was realized were summarized below:

— The IOM : The organization which has been operating in Turkey since 2004, provides people oriented technical support and research opportunities for the Turkish Government in illegal migration and combating with human trafficking. IOM offers technical aid services in many fundamental issues about migration such as increasing opportunities for legal migration, the health conditions of migrants and remittances.

—International Labour Organization (ILO): The regional office of ILO in Ankara, Turkey contributes about the implementation and follow-up of technical cooperation programmes in order to realize international labour standards, the policy and programmes of ILO. The center is also an important information center in this field.

Other important actors which cooperation on migration was realized are: The Delegation of European Commission, International Catholic Migration Commission (ICMC), the Office of the United Nations High Commissioner for Refugees (UNHCR), World Bank, the United Nations Children's Fund (UNICEF), United Nations Development Programme (UNDP) and United Nations Population Fund (UNFPA).

United Nations Population Fund carries out studies with IOM within the framework of migration especially in improving protective health services for migrants and gender equality.

Within the framework of the relations of our country with these institutions and organizations, cooperation activities about migrants are also realized.

On the other hand, in accordance with Article 6 of the Regulation on “The Education of the Children of Migrant Workers” which was published in the Official Gazette dated 14.11.2002, No. 24936 cooperation between related countries is envisaged.

Article 19 Paragraph 4

being regulated by laws or regulations or, being subject to supervision of administrative authorities for such legal workers in his own country; to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;

a- to recognise the right of workers to a remuneration, other employment and work conditions,

b- to benefit from the opportunities which the union membership and collective bargaining provide,

c- to treat workers not in less favor from his own citizens in accommodation;

Scope of the provisions as interpreted by the ECSR

Migrant workers should not be treated less favourably than nationals in respect of employment, trade union rights and accommodation. States party should prove the absence of discrimination in these areas, direct or indirect, in terms of law and practice, and should inform of the practical measures to remedy it

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

3) Please provide figures, statistics and up-to-date information concerning the methods/procedures of sending and receiving migrant workers for employment purposes.

With the introduction of the Law no.4817 on The Work Permits of Foreigners dated 27.02.2003, within the framework of Article 48 of the Constitution of the Republic of Turkey stating that “Everyone has the freedom to work and conclude contracts in the field of his/her choice without any discrimination. Establishment of private enterprises is free.”, the issues concerning the foreigners’ employment in Turkey were regulated.

In Article 8 of Turkish Civil Code there is a general statutory provision that “Every person is entitled to a vested right. Accordingly, all the persons are equal in using rights and fulfilling obligations within the legal limits.”

In terms of the Labour Law (LL) no. 4857, the foreigner residing in Turkey have the same rights as the Turkish citizens in all matters such as working hours, overtime, paid and unpaid leaves, severance pay and dismissal notices, the right to collective agreement, conclusion of a contract or its termination.

Furthermore, in order to ensure concluding the processes concerning the work permit requests of foreigners objectively and rapidly, assessment criteria were determined in accordance with Article 13 of the Implementing Regulation of The Work Permits of Foreigners No. 4817.

In the above mentioned assessment criteria, an obligation of being the amount monthly wage declared to be paid to the foreigner by the employer on equal footing with the foreigner’s duty and competence. In addition, sub limits of the amount of wages which will be paid to the foreigner are set, provided that they shall not be lower than the minimum wage in effect as of application date.

Besides, foreigners receive the same wage with the Turkish citizens. There is no discrimination between the Turkish citizens and the foreigners in this regard. According to Article 5 of the LL no lower wage cannot be set for an equal or equivalent job on the grounds of sex.

In Articles 53 and 54 of the Chapter 3 entitled “Social and Economic Rights and Duties” of Part 2 entitled “Fundamental Rights and Duties” of the Constitution of the Republic of Turkey, “Workers and employers have the right to conclude collective bargaining agreements in order to regulate reciprocally their economic and social positions and conditions of work.

In accordance with Article 51 of the Constitution, workers and employers have the right to form labour unions and employers’ associations without prior permission.

According to Article 20 of the Trade Unions Act, foreigners may join a trade union since there is no nationality condition in order to be a union member.

According to Article 56 of the Turkish Constitution, everyone has the right to live in a healthy, balanced environment. It is the duty of the State and citizens to improve the natural environment, and to prevent environmental pollution. There is no discrimination between Turkish citizens and foreigners in benefiting from health care services according to the Constitution. Again, in Article 50 of the Constitution, it is stated that everyone has the right to rest and leisure and there is no privilege in this regard.

In the first chapter of Part 2 entitled “Fundamental Rights and Duties”, and under the title of “Social and Economic Rights and Duties” of Chapter 3 of the Constitution, the rights in Chapter 2 in essence involve fundamental rights and freedom such as personal and domicile inviolability, freedom of residence and movement, property and inheritance rights, right to work and social security. In using these rights, the foreigners residing in the country have the equal rights except the limitations concerning public security and principle of reciprocity

Since there is no particular regulation concerning working conditions in our legislation in terms of foreigners holding a work permit and residing legally in our country, whether the regulations both in the LL no. 4857 and in other related legislation are respected or not, are checked during inspections carried out by the inspectors meticulously in terms of all employees, without any discrimination between the Turkish citizens and the foreign employees.

On the other hand, Turkey has ratified International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 27th September 2004 which was adopted by the UN General Assembly as the Resolution 45/158 of 18th December 1990. Turkey is committed to grant advanced rights for the migrants within the scope of human rights with this Convention providing fundamental human rights for all migrant workers, equal treatment in employment for migrant workers and their family members with the citizens of the host country, the necessity of preventing illegal migration and human trafficking without taking into account their status.

In this context, moreover, “European Convention on the Legal Status of Migrant Workers” which aims to regulate the legal status of migrant workers in a way that they shall not be at a lower level which the citizens of the receiving country are subject to, has been ratified on 25th December 1979, and International Convention on the Elimination of All Forms of Racial Discrimination on 16th September 2002 which aims to improve and encourage human rights and fundamental rights and freedom for all without distinction as to race, sex, language or religion.

Article 19 Paragraph 5

to ensure for such employees existing legally in their own country not subject to a less favorable treatment than their own citizens in terms of payroll taxes, dues and contributions which should be paid for those who are employed;

Scope of the provisions as interpreted by the ECSR

Migrant workers should not be treated less favourably than nationals in respect of employment taxes, dues and contributions

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide figures, statistics and up-to-date information concerning the methods/procedures of sending and receiving migrant workers for employment purposes.

In accordance with Article 13 of the Implementing Regulations of the Law No. , the amounts of wages which shall be paid to the foreign worker was determined provided that they shall not be less than the existing minimum wage as from the date of application in assessment criteria and it was ensured that the tax and contribution deductions to be taken prorata. Through including all the foreigners holding a work permit in our social security system, they

were ensured to benefit from health and social security rights. Therefore, they were protected from being subjected to a less favorable treatment.

In the previous form of item (a) of paragraph 2 of Article 3 entitled “Uninsured Persons” of the Social Insurance Act No. 506 repealed by the Law of Social Insurance Institution No. 4958, social insurance benefits are provided in cases of work accidents, occupational diseases, sickness, and maternity without the request of the insured person about the foreign nationals working on a service contract in Turkey, who are the nationals of a country having no bilateral social security agreement. Upon the written request of some of these persons, they are subject to invalidity, old-age and survivor’s insurance starting from the pay day after the date of request. With the amendment made in the above mentioned Law, the foreign workers working on a service contract are also subject to all insurance branches without any request.

Since the provisions of repealed Law of Social Insurance Institution No. 506 were valid (in force) during the reference (report) period between 1.1.2005 – 31.9.2008, according to Article 2 entitled “Insured Persons” of the aforesaid Law, those who are employed by one or more employer on a service contract were deemed to be “insured” and there is no distinction in terms of being a foreign national or not with regard to being insured. In accordance with the provision of this Article, migrant workers who are deemed to be insured were provided to be subject to equal treatment in terms of implementing the provisions on contributions of the Law.

Since the provisions of Social Insurance and Universal Health Insurance Law (SIUHIL) no. 5510 were valid (in force) during the reference (report) period between 1st October 2008 to 31st December 2009, according to Article 4 entitled “Insured Persons” of the aforesaid Law, foreign nationals working on a service contract were deemed to be insured except those who are the nationals of a country with which international social security agreement was concluded based on reciprocity principle. As per this provision migrant workers who are also deemed to be insured were subject to equal treatment in terms of application of the provisions on contribution of the above mentioned Law.

Article 19 Paragraph 6

to facilitate family reunification of a foreign employee allowed to reside in the country so far as possible;

Scope of the provisions as interpreted by the ECSR

Migrant workers, who have been permitted to establish themselves in the territory, have the right to be (re)joined by their family. The ‘family of a foreign worker’ is understood to mean at least the worker’s spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide figures, statistics and up-to-date information concerning the methods/procedures of sending and receiving migrant workers for employment purposes.

During the process of EU membership negotiations, within the framework of National Programmes for the adoption of EU acquis within the scope of Part 24 entitled “Justice, Freedom, Security”, a “Draft Migration and Asylum Road Map” was prepared in line with the objectives determined in the National Action Plan of Asylum and Migration of Turkey by the “Office of Legislation on Asylum and Migration and Administrative Capacity Development and Application” introduced by taking into account Acquis Adjustment Programme adopted in 2007, 9th Development Plan (2007–2013), Asylum and Migration Strategy Documents dated 2003 and National Action Plan on Asylum and Migration dated. During the implementation of objectives determined in “National Action Plan of Asylum and Migration of Turkey”, family reunification also takes place among the Turkish legislation which has to be adjusted to the EU acquis.

Age limit is not sought for family reunification in practice in our country. Besides there is no regulation under the name of family reunification in the Law No. 5683 regulating residence permits, other regulations in the aforesaid Law facilitate family reunification. The rule of “determination of the period of residence permit taking into account the request of the applicant” in Article 8 of the aforesaid Law is applied regardless of age limit and the period of residence permit for the claimant foreigners with a view to family reunification. The commitment of the migrant worker on residing legally in the country and accepting family members is considered sufficient. Besides, there are limitations on family reunification and these limitations were summarized below:

a) Health reasons

Access to the country is not limited except serious special diseases that risk public health. This applies for all foreigners. However, since a foreigner who will come to Turkey with a view to family reunification shall be protected by his/her family in Turkey, prevention of access to the country can not be discussed as long as there is no serious risk of public health and a commitment of treatment of the family .

b) The condition of domicile

In the application in our country, it is sufficient that the domicile which the migrant worker lives in is an ordinary domicile in the conditions of Turkey. The details such as the number of rooms and width of the domicile are not determinant. Therefore, there is no procedure of refusal of a family reunification because of the structure of the domicile. Application is carried out on the basis of confirmation of the information concerning the address.

c) The condition of being well off

The level of being wealthy is applied by taking into account minimum living standard in the country. By taking into consideration that the migrant workers are generally in limited and low income groups, undertaking of a living of family members by migrant worker is seen sufficient. However, both the migrant worker and his/her family are warned taking into consideration the possibility of illegal employment.

On the other hand, in accordance with Article 8 of the the Law on Population Services no. 5490 foreigners who are granted residence permit for at least 6 months for any purpose are registered to Foreigners File and they are supposed to declare every sort of population events to the Directorate of Population. In this context, the registration of foreigners given residence permit for at least 6 months for any purpose in Turkey, is made according to the provisions of the “Law on Population Services No. 5490” and the “Regulations on "Recording of the Population of the Foreigners Residing in Turkey” (Articles 4/g and 5/1) on the basis of the aforesaid Law and they are given an identity number.

The number of foreigners having address registration in the system recorded in Foreigners File as of 22nd November 2010 was 28.533. The distribution of foreigners given residence permit in Turkey according to their nationalities was shown in the following chart .

**FOREIGNERS GRANTED RESIDENCE PERMIT IN TURKEY
(Except Touristic Visits)**

NATIONALITY	EMPLOYEE	STUDENT	RESIDING DUE TO VARIOUS REASONS	TOTAL	NATIONALITY	EMPLOYEE	STUDENT	RESIDING DUE TO VARIOUS REASONS	TOTAL
AFGHANISTAN	33	1.418	5.630	7.081	PHILIPPINES	152	15	310	477
GERMANY	1.044	418	9.583	11.045	PALESTINE	21	399	377	797
UNITED STATES OF AMERICA	1.500	371	4.287	6.158	FINLAND	48	30	128	206
ANDORRA	1		1	2	FRANCE	729	109	1.232	2.070
ANGOLA	1	14		15	GABON	3	5	4	12
ANTIGUA-BARBUDA					GAMBIA		37	7	44
ARGENTINA	15		28	43	GHANA	5	36	11	52
ALBANIA	64	660	400	1.124	GAYRI MUNT.	3	14	85	102
AUSTRALIA	101	21	303	425	GUINEA	6	93	29	128
AUSTRIA	186	49	620	855	GUINEA BISSAU		3		3
AZERBAIJAN	698	3.900	5.977	10.575	GRENADA				
AZERBAIJAN (AHISKA)		6	4.014	4.020	GUETEMALA		2	3	5
BAHAMAS	1	1	3	5	GUIANA				
BAHRAIN	1	1		2	REP.OF SOUTH AFRICA	59	23	82	164
BANGLADESH	7	64	26	97	GEORGIA	292	578	1.257	2.127
BARBADOS	1			1	HAITI		22	8	30
WESTERN SAMOA			2	2	STATELESS		2	778	780
BELARUS(WHITE RUSSIA)	105	25	572	702	CROATIA	48	8	46	102
BELGIUM	137	38	989	1.164	INDIA	263	30	312	605
BELIZE	2	8	3	13	NETHERLANDS	213	88	1.324	1.625
BENIN	4	2		6	HONDURAS	2		11	13
BHUTAN			1	1	HONG KONG		1	4	5
UNITED ARAB EMIRATES	1	6	2	9	IRAQ	178	865	5.574	6.617
BOLIVIA			2	2	IRAQ (THE TURKMEN)	4	23	1.304	1.331
BOSNIA and HERZEGOVINA	45	194	242	481	UNITED KINGDOM	924	151	7.855	8.930
BOTSWANA		1		1	IRAN	247	2.193	4.277	6.717
BRASIL	104	16	160	280	IRELAND	61	5	223	289
BRUNEI	1	5	2	8	SPAIN	210	217	378	805
BULGARIA	455	1.460	14.364	16.279	ISRAEL	38	88	77	203
BULGARIA (TURKISH ORIGIN)	33	370	3.530	3.933	SWEDEN	97	32	261	390
BURKINA FASO		13	2	15	SWITZERLAND	35	9	354	398
BURUNDI	1	20		21	ITALY	414	146	893	1.453
CAPE VERDE					ICELAND	4		19	23
ALGERIA	29	20	131	180	JAMAICA	2	4		6
DJIBOUTI	1	43		44	JAPAN	273	43	638	954
CHAD		26	2	28	CAMBODIA		11	5	16
CZECH REPUBLIC	46	84	131	261	CAMEROON	15	26	20	61
CHINA	2.562	430	1.045	4.037	CANADA	216	33	418	667
CHINA (EAST TURKISTAN)	1	48	43	92	QATAR			2	2
DENMARK	96	17	1.522	1.635	KAZAKHSTAN	254	1.068	1.983	3.305

EAST TIMOR					KAZAKHSTAN (MESKHETIAN)	1	2	3.985	3.988
DOMINICAN REPUBLIC	1		10	11	KENYA	38	155	30	223
DOMINICA		1		1	CYPRUS	1	7	3	11
EQUATOR	3	1	14	18	KIRGHIZSTAN	267	1.125	1.722	3.114
EQUATORIAL GUINEA		1		1	KIRGHIZSTAN (MESKHETIAN)			1.579	1.579
EL SALVADOR	1			1	KIRIBATI			1	1
INDONESIA	460	264	192	916	COLOMBIA	13	18	47	78
ERITREA	1	2	36	39	ISLAMIC REP.OF COMOR		29	2	31
ARMENIA	6	4	216	226	CONGO	6	64	16	86
ESTONIA	13	31	66	110	REP.OF KOREA (SOUTH KOREA)	180	74	1.127	1.381
ETHIOPIA	9	73	49	131	PEOPLE'S REP.OF KOREA (NORTH.KOREA)			17	17
MOROCCO	77	76	366	519	COSTA RICA	3		3	6
FIJI					KUWAIT	5	1	12	18
COTE D'IVOIRE	4	16	7	27	TURKISH REP.OF NORTHERN CYPRUS	13	7	146	166
NORTHERN MARIANA ISLANDS					SAINT-LUCIA				
CUBA	15	7	44	66	SAN MARINO				
LAOS					SAO TOME and PRINCIPE				
LESOTHO		4		4	SENEGAL	38	34	15	87
LATVIA	21	24	154	199	THE SEYCHELLES		2		2
LIBERIA	2	2	5	9	SERBIA and MONTENEGRO	93	339	300	732
LIBYA	23	74	136	233	SIERRA LEONE	2	9	6	17
LIECHTENSTEIN			1	1	SINGAPORE	11	1	21	33
LITHUANIA	55	123	183	361	SLOVAKIA	82	47	99	228
LEBANON	34	70	107	211	SLOVENIA	24	26	29	79
LUXEMBOURG	2		8	10	SOLOMON ISLANDS				
HUNGARY	57	79	162	298	SOMALI		24	374	398
MADAGAS (MALAGASY)		27	1	28	SRI LANKA	5	6	31	42
MACAU	6	24	20	50	ST.CHRISTOPHER NEVIS				
MACEDONIA	68	442	598	1.108	ST.VINCENT and GRENAD		4	1	5
MALAWI		29	2	31	SUDAN	20	110	113	243
MALDIVES		22		22	SURINAME	1		2	3
MALAYSIA	14	16	26	56	SYRIA	77	552	3.442	4.071
MALI	1	18	2	21	SAUDI ARABIA	10	13	52	75
MALTA	1		7	8	SWAZILAND				
MARSHALL ISLANDS					CHILE	7	2	20	29
MAURITIUS	4	9	3	16	TAJIKISTAN	35	230	202	467
MEXICO	24	9	77	110	TANZANIA	2	184	30	216
EGYPT	66	36	196	298	THAILAND	217	30	213	460
MICRONESIA					TAIWAN	5	3	12	20
MONGOLIA	31	1.015	84	1.130	TOGO		4	2	6
MOLDOVA	245	311	2.832	3.388	TONGA				
MONACO			2	2	TRINIDAD-TOBAGO	2		2	4
MAURITANIA	1	8	8	17	TUNISIA	76	22	101	199

MOZAMBIQUE		16	1	17	TUVALU		1		1
MYANMAR-BUR	3	47	9	59	TURKMENISTAN	79	2.735	1.440	4.254
NAMIBIA	1	2	2	5	TURKMENISTAN (MESKHETIAN)		2	162	164
NAURU					UGANDA	2	43	13	58
NEPAL	3	5	5	13	UKRAINE	1.535	344	3.684	5.563
NIGER	3	15	6	24	URUGUAY	66	1	18	85
NIGERIA	22	274	189	485	JORDAN	55	219	208	482
NICARAGUA					VANUATU			1	1
NORWAY	44	6	559	609	VATICAN				
OMAN			2	2	VENEZUELA	6	2	26	34
CENTRAL AFRICAN REP.		5	5	10	VIETNAM	3	22	16	41
UZBEKISTAN	198	221	1.530	1.949	YEMEN	1	100	27	128
UZBEKISTAN (MESKHETIAN)		3	1.042	1.045	NEW ZEALAND	42	7	96	145
PAKISTAN	57	245	217	519	GREECE	161	917	3.954	5.032
REPUBLIC OF PALAU					GREECE (ISKAT)	1	2	202	205
PANAMA		1	5	6	ZAIRE				
PAPUA NEW GUINEA					ZAMBIA		4	2	6
PARAGUAY			2	2	ZIMBABWE	2	2	3	7
PERU	3	4	22	29	MONTENEGRO	23	115	128	266
POLAND	155	376	411	942	KOSOVO	24	513	176	713
PORTUGUESE	34	41	91	166					
ROMANIA	188	116	866	1.170	MISC.		5	2	7
RWANDA		7	1	8					
RUSSIAN FEDERATION	2.069	745	9.524	12.338	TOTAL	19.351	29.266	128.327	176.944
RUS. FED.(CHECHENIAN)		3	403	406					

Article 19 Paragraph 7

to ensure for such employees residing legally in their own country not to be subject to a less favorable treatment than their own nationals in terms of judicial procedures identified in this Article;

Scope of the provisions as interpreted by the ECSR

Migrant workers should not be treated less favourably than nationals in respect of legal proceedings

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide figures, statistics and up-to-date information concerning the methods/procedures of sending and receiving migrant workers for employment purposes.

The nationals of the Contracting Party in bilateral and multilateral agreements concluded by our country are accepted to benefit from legal aid. Namely;

There are regulations on legal aid in Hague Convention on Civil Procedure dated 1954, European Convention on Submitting Legal Aid Requests dated 1977, UN Convention on Collecting Maintenance Creditors Abroad dated 1956, Hague Conventions on the Rights of the Child dated 1958 and Recognition of Decisions on Maintenance Creditors dated 1973 which the Republic of Turkey is a Party to.

Besides, legal aid provisions take place also in legal aid agreements which Turkey concluded with many countries.

Turkey ratified “European Convention on the Legal Status of Migrant Workers” on 25th December 1979 with the Law no. 2257 which aims to regulate legal status of migrant workers in every subject about living and working conditions in a way that they shall not be at a lower status than the nationals of the receiving country are subject to. In the 2nd paragraph of Article 26 of the Convention governing the right of application to the court and administrative authorities, Contracting Parties are obliged to provide legal aid to the migrant workers which is equal to the procedure applied to their own nationals.

In the Turkish law, it is possible for the person who has the right to open a case to be exempted from court fee and expenses temporarily via legal aid which he/she could not afford due to economic reasons.

In the 1st paragraph of Article 465 of the Code of Civil Procedure no. 1086 it was adjudicated that if the persons, who are completely or partially unable to pay the necessary expenses, prove that they are right in their claims and defenses or in the application to the execution or precautionary measures may benefit from legal aid. In the 2nd paragraph of the aforesaid article, reciprocity was envisaged for the foreigners to benefit from legal aid.

Article 19 Paragraph 8

to ensure such workers residing legally in their own country not to deport unless they endanger national security or violate public benefit or behave disorderly;

Scope of the provisions as interpreted by the ECSR

States party are prohibited to expel migrant workers lawfully residing within their territories unless they endanger national security or offend against public interest or morality

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide figures, statistics and up-to-date information concerning the methods/procedures of sending and receiving migrant workers for employment purposes.

It is possible for the migrant worker to reside legally in our country with a work permit. Since Article 7 of the Law no. 5683 on Residence and Travels of Foreigners identifies the conditions in which the residence permit may be rejected, necessary researches are made in

the work permit requests. Those who endanger public security, act against public benefit or behave disorderly are not granted residence permit.

The residence of migrant workers was guaranteed within the scope of Article 149 of the same Law.

In Article 19 of the Law no. 5683 which also regulates the procedures on deporting it says: “The foreign persons, whose residence is considered to be contrary to the public security, the politics and governmental requirements are invited to leave Turkey within the specific time given. At the end of this time, the persons who have not left Turkey may be driven out of Turkey.”; whereas in the 1st paragraph of Article 21 there is a provision stating that “The Ministry of Interior has the power to award driving out of Turkey decision explained in the law.” According to these articles, deporting of a foreigner is realized at the end of a separate and special supervision concerning each event and person by the Ministry of Interior if necessary.

A provision in Article 59 of the previous Turkish Criminal Code no. 5237 states that “After execution of the sentence, the court may adjudicate immediate deportation of a foreigner who is sentenced to imprisonment for a period of two years or more due to committed offense.”

This time, by being repealed by the Article 59 of the Law no. 5328 dated 31.03.2005 “Concerning the foreigner sentenced to imprisonment due to having committed an offense, being released on probation and completed the execution of his/her sentence, the case is reported immediately to the Ministry of Interior to be assessed concerning deporting procedures.” a more flexible and advanced application was envisaged in the possibility of deporting. Moreover, a more advanced application objectives were given place in “National Action Plan of Asylum and Migration of Turkey” prepared in 2005 about deporting.

Article 19 Paragraph 9

to allow such workers to transfer their wage and savings they afford within legal limitations;

Scope of the provisions as interpreted by the ECSR

Migrant workers have the right, within legal limits, to transfer to their country of origin such parts of their earnings and savings as they may desire

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide figures, statistics and up-to-date information concerning the methods/procedures of sending and receiving migrant workers for employment purposes.

Within the framework of the principles identified in the section entitled “Provisions on “Invisible Transactions” of the Circular No. 1-M of Central Bank of the Republic of Turkey which came into force by being published in the Official Gazette no. 20918 dated 3rd July 1991 concerning the Decision No. 32 on Protecting Turkish Currency and the Communiqué

no. 91-32/5 on the aforesaid Decision and in accordance with 25/H.3 Article of the above mentioned section; it is free for the persons who have migrated to Turkey and are working in the workplace or independently or engaged in an independent business to transfer their wage and earnings as in exchange or in Turkish currency.

As a result of the regulations within the scope of liberalization of Exchange Legislation, there is no restriction for the migrant workers in transferring their wage and savings they afford as of 3rd July 1991

Article 19 Paragraph 10

to take independent working migrants into the scope of protection and assistance provided by this Article in terms of their implementation;

Scope of the provisions as interpreted by the ECSR

States party must extend the protection and assistance provided for in this Article to self-employed migrant workers, insofar as such measures apply

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide figures, statistics and up-to-date information concerning the methods/procedures of sending and receiving migrant workers for employment purposes.

From among those who work on their name and behalf in Turkey, those who work independently under Turkish regulations and who reside in Turkey, excluding ones which reside abroad and are subject to the social security regulations of that country, have the same rights with those who work independently as Turkish citizens.

Also, if foreigners reside in Turkey, they may request assistance from social institutions (Social Assistance and Solidarity Foundation, Municipalities, Red Cross, Non-governmental Organizations, etc.) as if they are Turkish residents.

Article 19 Paragraph 11

to encourage and facilitate for accepted working migrants and their families to teach either Turkish language or other national languages;

Scope of the provisions as interpreted by the ECSR

States party should promote and facilitate the teaching of the national language of the receiving State to migrant workers and their families

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide figures, statistics and up-to-date information concerning the methods/procedures of sending and receiving migrant workers for employment purposes.

According to Article 30 of the International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families which was ratified by our Country on 27th September 2004, the children of the migrant workers have equal rights in terms of access to education as the citizens of that State. The provisions of Articles 43 and 45 of the same Convention, impose States the obligation of taking any measures in order to teach the local language first, so as to adapt the children of the migrant workers to the education system.

By the Article 122 of Turkish Criminal Code No. 5237, discrimination has become an offense. According to the provision, “Some physical and negligent behaviours committed by discriminating on grounds of language, race, colour, gender, disability, political ideas, philosophical beliefs, religion, sect or other reasons” shall be prohibited. This provision prohibited discrimination not only for the persons representing the State, but also for private natural and legal persons. The article clearly prohibited preventing exercising or benefitting from a service and rejecting exercising a service offered to the public.

In this context, the information on “work permits of foreigners” are published on the website of the Ministry of Labour and Social Security of the Republic of Turkey (www.csgb.gov.tr) in 5 languages (Turkish, English, Russian, Arabic and Chinese) which will help especially in obtaining accurate information for the foreigners who will work in Turkey.

Article 19 Paragraph 12

to encourage and facilitate for the working migrant’s children teaching mother tongue as convenient as possible;

Scope of the provisions as interpreted by the ECSR

States party should promote and facilitate, as far as practicable, the teaching of the migrant worker’s mother tongue to the children of the migrant worker

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide figures, statistics and up-to-date information concerning the methods/procedures of sending and receiving migrant workers for employment purposes.

As per the provisions of the “Regulations on the Education of the Migrant Workers’ Children” published in the Official Gazette no. 24936 dated 14th November 2002, the problems on the education and training of the migrant workers’ children were solved. In this context, Article 6 of the above mentioned Regulations adjudicated cooperating with the related countries, Article 8 organising courses to teach mother tongue for the children, Article 10 letting the children benefit from scholarships and Article 13 taking necessary measures of school managements, guidance and research centers for the social integration of the children.

ARTICLE 27: THE RIGHT OF WORKERS WITH FAMILY RESPONSIBILITIES TO EQUAL OPPORTUNITIES AND EQUAL TREATMENT

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake?

Article 27 Paragraph 1

1. to take appropriate measures:
 - a. to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;
 - b. to take account of their needs in terms of conditions of employment and social security;
 - c. to develop or promote services, public or private, in particular child day care services and other childcare arrangements;

Scope of the provisions as interpreted by the European Committee of Social Rights (ECSR)

Paragraph 1:

- a. Persons with family responsibilities must be provided with equal opportunities in respect of entering, remaining and re-entering employment, in particular in the field of vocational guidance, training and re-training.
- b. The needs of workers with family responsibilities must be taken into account in terms of conditions of employment and social security. Legislation or collective agreements shall regulate the length and organisation of working time, as well as how non-working periods due to family responsibilities are taken into account for pension rights.
- c. Child day care services and other childcare arrangements must be available and accessible to workers with family responsibilities.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

1- Legal Framework

In Turkish legal system, there exists no provision impeding or complicating the employment of women. However, there exist some efforts which are considered to favour the women in working life and urge the women to enter and continue to exist in the working life.

1.1- The Constitution

Article 10 of the Constitution states that “every person is equal before law without any distinction of language, race, colour, gender, political belief, philosophical belief, religion, religious sect and similar”. In parallel with this general equity principle, Article 55 foresees “... gaining a fair wage in accordance with the work they perform...”; the right to work of every person is ensured in Article 49. In Article 50, in addition to these general equity principles, it is stated that women would be especially protected regarding to employment conditions.

As observed, there exists no discriminatory article regarding with gender equity in the Constitutional Law and the women is especially protected. However, in today’s modern and global world, within the framework of international law norms and criteria which our country is a party, this is a necessity. In this regard, changes in our Constitutional Law are also being discussed. For instance, the principle of equity of spouses in the family has also been accepted with the amendment of the Constitution in November 2001.

1.2- Employment Legislation

1.2.1- As explained in detailed way in the 7 Article of the Report regarding Revised Social Charter, the employment conditions of the workers in Turkey are set out in the Labour Law (LL) no. 4857. The LL regulates employment with labour contract in general and does not include any provision which depends on gender discrimination or which may be disadvantageous to female workers. Therefore, no provision which may be contradictory to the LL and damage gender equity regarding the wages, weekends, paid and non-paid leaves, annual leave, determination of working periods, taking measures of health and safety, severance pay and termination of labour contract can exist in a labour contract or collective labour agreement.

In addition to the fact that female workers can benefit from the general provisions granting rights to employees with legislation regulating working life in our country as well as men workers, there exist special provisions in the LL regarding protection of female workers. These protective provisions can be listed as below;

1.2.1.1- In Article 72 of LL no. 4857 , putting men under the age of 18 and of women at any age into work underground and underwater is prohibited.

1.2.1.2- Article 73 of the LL prohibits employing children and young workers at night in industrial works. In the Law, working of female workers over the age of 18 at night in industrial works as per the provisions of regulation regarding works of industry at night shifts has been enabled.

1.2.1.3- Putting women to work under conditions which may cause physical and genetic harm is prohibited both in national and international legislation. According to the Article 85 of the LL, works which are classified as heavy and dangerous work and kinds of heavy and dangerous works in which women, and children who are over the age of 16 but under the age of 18 can be put to is regulated in the Regulations on Arduous and Dangerous Works.

1.2.1.4- Not benefiting from severance pay in the case of resignation (quitting by oneself) is a basic principle foreseen in the LL. However, with the amendment made to the LL in 1983,

women are enabled to benefit from severance pay in the case that they get married. This exceptional provision has been embraced as protecting female workers and marriage.

1.2.1.5- Article 17 of the LL regulates the pre-notified termination of labour contract by employee and employer. Article 25 regulates the termination of labour contract without pre-notification by employer and Article 24 regulates the termination of labour contract without pre-notification by the employee. Protection of female workers regarding the termination of labour contract in case of birth and pregnancy is provided both in article 17 and article 25; the start of notification period in the case of termination is stipulated to start after the completion of maternity leave. In the situated practice, acts on the contrary of this rule against female workers require “bad intention” damages in addition to other statutory damages.

1.2.1.6- According to article 74 of LL, working of women in the last 8 weeks before birth and next 8 weeks after birth, totaling a period of 16 weeks is prohibited. Female workers who gave birth can have a non-paid leave up to 6 months according to the appropriateness of work at the workplace following the paid birth-leave.

1.2.1.7- In article 88 of the LL, the types and periods of works in which pregnant and breastfeeding women are foreseen to be regulated with the Regulation.

- In accordance with the article 13 of the Regulations dated 14th July 2004 stating the working conditions of pregnant women and breast-feeding women , employing these women in arduous and dangerous works is prohibited.
- It is required to establish a nursing room and keep it running, and to give 45-minutes of rest twice-a-day for breastfeeding women for workplaces employing 100-150 female workers.
- Workplaces employing more than 150 “female” workers are required to establish daycare for children between ages 0-6. If the day-care centre for children is further than 250 meters from the workplace, the employer is obliged to provide transport.

1.2.2- In accordance with Press Labour Law no. 5353, women journalists are considered to be on leave starting from the seventh month of pregnancy until the end of the second month after giving birth.

1.2.3- Public Health Law no. 1593 provides provisions protecting workers both covered by labour law and also workers not covered by labour laws. This Law, which was put into effect in 1930, is the first law providing special protective provisions for women in working life. This Law prohibits pregnant women from working for 3 weeks in general and special establishments, such as factories and plants, before and after giving birth. The Law further provides two breaks for thirty minutes each during working hours for breastfeeding during the first six months following the completion of three-week leave period following the birth. The “breastfeeding permission” as stated above is established in accordance with this provision.

1.2.4- Civil Servants Law (CSL) no. 657 provides special provisions for women employed as civil servants and those employed in state institutions and organizations. There exists no discriminatory provision regarding the rights of women and men or disadvantageous to women. There exist special and some general provisions protecting women employees in this Law. In accordance with these provisions, it is ruled that pregnancy leave of 8 weeks before birth and another 8 weeks following the date of birth of the child and providing breastfeeding

permission for one and a half hour per day for 6 months following the end of this leave shall be provided to female workers.

1.3. Social Security Legislation

1.3.1- Social Insurance and Universal Health Insurance Law no. 5510, , provides protective provisions under the maternity insurance whilst excluding all discriminatory provisions.

In this regard,

- Insurance holder women and their baby before and after the birth receive health assistance and they are entitled to receive allowance for disability for service.
- nursing aid is provided to the insured women or insured men's spouse.
- In the scope of subclause (a) of clause one of Article 4, insurance holder women working with a labour contract (4/a) can have the unpaid leaves after the completion of sixteen-week maternity leave or eighteen-week maternity leave for multiple gestation up to six months included within the service period, insurance holder women who are government employees (4/c) can have the unpaid leaves, up to 12 months, after the completion of maternity leave included within the service period.

1.3.2- In Provisional Article 7 added to the Unemployment Insurance Law no 4447 by the Law no. 5763 on Amendments to the , incentive has been introduced for increasing the employment of women and young people. It is stated that the employer's premium of women over the age of 18 and men between ages 18 and 29 employed in addition to the existing workforce shall be paid gradually in a five-year period from the Unemployment Insurance Fund.

1.4- Miscellaneous Legislation

1.4.1- First sentence of clause 3 of Article 9 of Principals Regarding Employment of Contract Employees has been amended by the Council of Ministers Decree no. 2009/14799 as,

“Paid maternity leave of a total of 16 weeks (eight weeks before and eight weeks after childbirth) shall be granted to women contract employees.” and the below sentence has been added to the same clause:

“Allowance for disability for service paid by Social Security Organization due to maternity leave shall be deducted from the wage of the insurance holder.”

1.4.2.- Measures to be applied for increasing employment of women and providing equality of opportunity has been specified in the Circular no. 2010/14 of the Prime Ministry which has been published in the Official Gazette no. 27591 and dated 25.05.2010. In accordance with the LL provisions, it is stated that “Obligation to establish nursery and daycare center in state institutions and privately-owned enterprises will be fulfilled and duly-inspected.

1.4.3- In accordance with the Social Services and Child Protection Institution Law no. 2828, the establishment, running, transfer and inspection of Private Nurseries and Daycare Centers and Special Children's Clubs to be opened by private or corporate persons is performed by General Directorate of Social Security and Child Protection Agency. Children of working

parents between ages 0-6 are admitted to centers. The detailed information about this issue is given in the 17 Article of the Report regarding Revised Social Charter.

1.4.4- In Article 191 of the Civil Servants Law no. 657, it is stated that “Nurseries and social facilities may be established for Civil Servants where deemed necessary.”

2- Implementation

In the “Main Objectives” Chapter of the 9th Development Plan: “Equality of opportunity shall be established for women, youngsters, long-term unemployed people, handicapped and former convicts facing difficulties in the labour market. Access of women to childcare and other care services shall be facilitated in order to increase the involvement of women to workforce and employment. Programs providing experience for young people in the labour market shall be developed. To increase the involvement of women in economical and social life, employability shall be increased by developing training opportunities directed to them.”

The 9th Development Plan, Year 2008 Program under the heading of “Improving Distribution of Income, Social Inclusion and Fight Against Poverty”: “Provision of 3/2: Unpaid maternity leaves shall be re-disposed as parental leave in the context of “Priority 3: Involvement of women to economical and social life shall be increased and social awareness shall be increased to prevent violence against women.” has been introduced.

Legislation preparation studies are still in progress in the Grand National Assembly of Turkey commissions.

The 9th Development Plan, Year 2011 Program, in line with “Improving Distribution of Income, Social Inclusion and Alleviating Poverty”: In regards with “Priority 86. Family education programs shall be extended, alleviating with violence against women and children shall be executed more intensely, quality of preventive, protective and rehabilitating services regarding disadvantaged children shall be improved”, measure of “Efficiency of family support services and family education studies for protection of unity of family and, raising and supporting awareness shall be increased.” has been introduced.

In this regard, it has been provided in the Prime Ministry Mandate numbered 2010/14 on Increasing Employment of Women and Establishing Equality of Opportunity that “Equality of opportunity of women-men shall be protected in the studies of Province Employment and Vocational Education Boards and participation of a representative from non-governmental organizations acting on “women” shall be established to these boards.”, “Focus on professional ability education for partners featured for women employment in accordance with labour market analyses performed on province-basis by Province Employment and Vocational Education Boards shall be established. Reports including the activities and their results regarding this subject shall be sent to National Monitoring and Coordination Committee each year in January.” and “All common-public education activities and vocational education programmes run by Public Education Centres, for Family Consulting, General Directorate of Turkish Employment Organization and local authorities shall also be planned in coordination with non-governmental organizations so that human rights of women, education and employment possibilities, consultancy during job search processes and guidance services are included.”

Furthermore, “Social Gender Equality National Action Plan (2008-2013)” has been prepared by General Directorate of Status of Women in cooperation with related state institutions and organizations. In chapter titled “Women and Economy”, which is one of the eight main titles in this Action Plan, objectives in the direction of developing women’s economical status, strategies for each objective and institutions/organizations responsible for realizing these strategies and to be cooperated with, have been stated. In this Action Plan, strategies of “Increasing employability of women by education, vocational education, entrepreneurship training, adult education and active workforce programmes in line with the necessities of the labour market and also meeting with social and psychological consultancy state institutions and providing education on building self-confidence, conflict resolution etc.” and “extending employment-guaranteed vocational courses for women whilst considering the local characteristics” have been determined. In accordance with each problem area regarding the realization of target strategies have been established are being monitored closely by Chairmen of General Directorate of Status of Women or Deputy General Director under the coordination of KSGM (General Directorate of Status of Women(KSGM).

The aim of the Project on “Promoting Gender Equality in Working Life”, which was put into implementation by the Ministry of Labour and Social Security (ÇSGB), is to harmonize the Turkish legislation in line with the EU Acquis and to increase the capacity of institutions which are responsible for the implementation of the relevant legislation.

Project duration is 18 months. The contract was signed in August 2010 and the Project activities started on 27th September 2010.

As the first output of the Project, the existing directives related to gender equality in labour life and the decisions of the ECJ will be analyzed thoroughly by experts working for ÇSGB

The main laws to be analyzed by the experts include: the LL no. 4857, the CSL no. 657 SIUHIL no. 5510, as well as the relevant secondary legislation.

Three workshops will be organized to promote gender equality in labour life. A conference will be organized to create a platform and to ensure exchange of information between the academic circles and the MoLSS and other beneficiaries concerning gender equality education and gender equality on the work floor in Turkey.

Experts from all beneficiaries, social partners and NGOs will be brought together and all the activities accomplished in Turkey and the approaches will be supported by best practices from Europe.

Within the framework of inspection programs run by Work Inspection Board Office Directorate, inspections shall be performed to control whether the legislations in accordance with the LL no. 4857 and other laws relating to working conditions of women are respected. During the inspections performed by the labour inspectors, statistics of which are given in the section concerning Paragraph 1 of Article 7 of the Revised Charter, this issue has strictly been handled. Behaviours and practices violating the LL have been fined and other enforcements, cited in the said Law, have been applied.

Article 27 Paragraph 2

to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;

Scope of the provisions as interpreted by the ECSR

Paragraph 2: Legislation, collective agreements or the practice shall regulate the possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

1- Legal Framework and Implementation

Current relevant legislation are enshrined in the Paragraph 1 of this article.

In this regard; within the scope of the “Draft Bill of Law on Amendment of Civil Servants Law and Labour Law” that is present in the agenda of Grand National Assembly of Turkey, the issues on equalization of unpaid childcare leave after birth to 12 months, sharing of unpaid childcare leave between mother and father as parental leave, breast-feeding permission for 3 hours in the first 4 months and 1.5 hours for the next 6 months following the paid maternity leaves of worker and civil servant female and right to choose the hour of breast-feeding permission to the mother, are envisaged.

In accordance with article 74 “*Employment and maternity leave in case of maternity*” of Labour Law (LL) no. 4857; it is essential that female workers are not to be worked for a total of 16 weeks (eight weeks before birth and eight weeks after birth). In case of multiple gestations, two weeks are added to the eight-week period before birth. However, in the case that the medical condition allows, female worker may work at the workplace at will until three weeks to the birth with the approval of a medic. In this case, the periods for which the women worked shall be added to the period after the birth. The above-mentioned periods before and after birth may be increased considering the medical condition of the worker and the characteristics of the work performed.

Further, in accordance with Turkish legislation, unpaid leave up to six months following the completion of the sixteen months or eighteen months in the case of multiple gestations shall be given if requested by the worker. This leave is not considered in the calculation of paid

annual leave. A total of one and a half hour of breast-feeding permission per day is given to female workers with children under the age of one. The worker herself has the right to determine in which hours and how many times a day this permission shall be used. This permission is considered as daily working hour. “Regulations on Working Conditions of Pregnant or Breast-feeding Women and Breast-feeding Rooms and Day-care Centres” also includes provisions in parallel to the LL.

In article 66 of “*Conditions counted as working duration*” of the LL, it is provided that breast-feeding periods are to be counted as working hours. Regarding the worker after childbirth and breast-feeding worker, according to the Regulation, the employer, in accordance with article 88 of the LL, determines the types and periods of works for the pregnant and breastfeeding mother.

In accordance with article 104 “Violation of job design” of the LL ; administrative fine is envisaged to employers or employers’ representatives who employ female workers during the mentioned periods after birth or who do not grant the unpaid leave.

In Article 105 titled “Violation of provisions regarding occupational health and safety” of the LL ; administrative fine is envisaged to employers or employers’ representatives violating the provisions of “Regulations on Working Conditions of Pregnant or Breast-feeding Women and Breast-feeding Rooms and Day-care Centres.”

In accordance with article 108 of Law numbered 657, unpaid leave up to 12 months following the completion of paid leave is given to women civil servants who gave birth, upon their request.

“Regulations on Working Conditions of Pregnant or Breast-feeding Women and Breast-feeding Rooms and Day-care Centres” effective as of being published in the Official Gazette no. 25522 dated 17th April 2004 states that female worker after childbirth and breast-feeding workers cannot work for more than seven and a half hours per day. For breast-feeding workers to be employed at works stated in the Heavy and Hazardous Works Regulation, medical report stating that it is appropriate for the female worker to be employed shall be obtained from the workplace doctor, workplace common health unit, worker’s health dispensary or where none of these are available, the closest Social Security Agency, Healthcare Centre, Government or municipality doctors following the completion of the eight-week period after birth and before start of work. Worker who is found to be prejudicial to work in heavy and hazardous works with a medical report cannot be employed in these works for the first six months after birth. Total of one and a half hour of breast-feeding permission is granted to female workers with a child under the age of one. The worker herself determines during which hours and in how many segments this permission is to be used. The employer shall also apply workings in shifts due to the characteristics of the work, the fear of losing one’s job, job load and similar stress factors and psycho-social and medical factors affecting the worker personally into account.

Female worker after childbirth and breast-feeding worker is informed regarding the assessment performed and measures to be taken for health and safety at the workplace. The employer changes the working conditions and/or the working hours of the worker temporarily to prevent the worker to be exposed to these risks when the assessment results reveal a safety or health risk on breastfeeding of the worker. If customization of working conditions and/or

working hours is not technically or practically possible, the employer shall take the necessary measures to transfer the worker to another job.

As per Article 15 titled “*Sickness and maternity condition*” of Social Insurance and General Health Insurance Law numbered 5510; the sickness and disabilities of the insured women or of insured man’s non-insured spouse, women having income or wage due to her own work or non-insured wives of men having income or wage due to his own work due to gestation and maternity in the period starting with gestation until the end of first eight weeks after birth and first ten weeks after birth in the case of multiple gestation, are considered as maternity condition.

Article 16 titled “*Rights from occupational accident, occupational illness, sickness and maternity insurance*” of the same Law provides that daily temporary allowance for disability from maternity insurance to the insurance holder shall be paid in relation to disability periods due to sickness or maternity conditions. In the same article, it is provided that nursing benefit shall be paid from maternity insurance to insured women or insured man for his non-insured spouse, insurance holders employed by one or more employers with a labour contract and insurance holders working on their own account and behalf without a labour contract, women having income or wage due to their own work or non-insured woman’s spouse earning a wage on the basis of the tariff, effective as of the date of birth, to be determined by the Agency Committee and approved by the Minister on the condition that each child is alive. Furthermore, nursing benefit shall be paid to insurance holders (insurance holder women or insurance holder men whose spouse will benefit from maternity insurance) having the right for nursing benefit whose insurance period is over if they have a child in three hundred days starting from the date of end of insurance period on the condition that premiums for at least 120 days in the last fifteen months before birth have been paid.

In accordance with Article 41 titled “*Periods Which Insurance Holder Can Become Indebted*”; unpaid birth or maternal leaves of insurance holders as per this Law, insured woman’s (who is employed by one or more employees with a labour contract) off-work condition as per labour contract for not more than two years for only two times on the condition that the child is alive, shall be counted as insured periods on the condition that the insurance holder or their beneficiaries apply in writing and that the premiums to be calculated over 32% of the daily income to be determined by the insurance holder within the daily income minimum and maximum limits based on the premiums as per article 82 is be paid within one month.

Article 27 Paragraph 3

to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.

Scope of the provisions as interpreted by the ECSR

Family responsibilities must not constitute a valid ground for termination of employment or hampering career development. Courts or other competent bodies should be able to award a level of compensation that is sufficient both to deter the employer and proportionate the damage suffered by the victim.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

1- Legal Framework and Implementation

In accordance with Article 18 titled “*Attribution of termination to a valid reason*” of the LL no. 4857, the employer terminating the fixed-term employment contract of a worker having the length of service of at least six months in a workspace employing more than thirty or more workers shall attribute the termination to the proficiency of the worker or behaviour or necessity of the work. In the rest of the article, it is stated that family obligations cannot be considered as a valid reason for termination. The worker whose labour contract has been terminated due to the mentioned reasons has the right to file a re-employment lawsuit within a month of the notification of termination to the worker. When it is ordered by the court that the termination is based on an invalid reason, the employer shall be under the obligation to employ the worker within one month. If the employer does not employ the worker who applied within 10 working days, the employer shall be obliged to pay the worker a compensation equal to four to eight months’ salary. The employer shall also be obliged to pay up to four months’ salary and benefits for the period up to the time when the decision has become final.

In accordance with Article 17 titled “*Termination within a period*”, the worker shall be paid for three times of the notification period where their contract is terminated with misuse of the termination right in areas outside of the application area of article 18. Payment in lieu of notification shall also be made if the notification obligation has not been fulfilled. In this regard, termination due to family obligations shall be considered as bad intention by the court.

According to the provisional Article 7 of the Unemployment Insurance Act no 4447; for women over the age of 18 and under the age of 29 and women over the age of 18 without any age condition ; in the first year 100 %, in the second year % 80, in the third year 60 % , in the

fourth year 40 %, in the fifth year 20 % of Employer's shares of insurance premium, calculated on the basis of the minimum limit of the earning taken as a basis for contribution, mentioned in the Articles 72 and 73 determined in accordance with the article 78 and of the Law no. 506, is paid from the Unemployment Insurance Fund.

The "Draft Bill on Amendments to the Civil Servants Law And the Labour Law" prepared by the Ministry of State in charge of the Women and Family and envisaging the grant of unpaid leave after childbirth to their spouses as well as to the female civil servants and workers and grant of unpaid leave in the case of adoption has been presented to the Presidency of the Grand National Assembly of Turkey (TBMM).

The above-mentioned Draft Law, along with International Labour Organization (ILO) Conventions, has been prepared for compliance with European Union's;

- 1) "Instructions on Measures Encouraging Improvement of Occupational Health and Safety of Pregnant Women, Women after Childbirth or Breast-feeding Workers" numbered 92/85 EEC,
- 2) "Framework Agreement of Leave due to Family Reasons (Parental Leave)" numbered 96/34 EEC.

With this Draft Bill;

- 1) Sub-clause 3.(e) of article 18 (Attribution of termination to a valid reason) of LL is revised as leaves envisaged in article 74 and in periods in which female workers are forbidden to be worked and leaves starting from the date on which the consent of the mother and father of the child has become absolute or the date permission is granted from custody agencies in the case of adoption, and leaves of the male worker due to birth of child or adoption are considered in the invalid reasons for termination.
- 2) With the revision of second paragraph of sub-clause (b) of (I) titled "health reasons" of first clause of Article 25 "Employer's right to immediately terminate the contract with a justified reason" of LL , it is provided that the labour contracts of female workers in the case of pregnancy or birth or adoption and of men workers due to leaves in the case of the spouse's giving birth or adoption cannot be terminated.
- 3) With the revision on article 74 of LL ;
 - Unpaid leave right up to six months upon request has been granted to the spouse of the woman worker who gave birth.
 - In the case that a child at the maximum age of three is adopted, unpaid leave right up to six months for the woman worker or the spouse of the woman worker separately upon request has been granted for the day-care of the child. The same rights have been granted to the civil servants working as per Law numbered 657 who gave birth or adopted, or worker spouse of the civil servant woman.
 - The request for unpaid leave shall be notified to the employer in writing at least 30 days before the start of the requested leave.
 - It is envisaged that the worker on the leave of maternity or adoption shall be started to work under the same conditions as the previous work or a similar work after the completion of the leave.

- Breast-feeding leave granted to female workers has been increased to three hours from one and a half hours in the first six months after birth and permission for one and a half hour has been maintained for the next six months.
- It is forbidden for female workers to be employed at night following the determination of their pregnancy with a medical report and breast-feeding workers cannot be employed at night during the six-month period following the birth.
- In the occurrence of emergency family reasons such as sickness and accidents where the worker shall be readily available, it is provided that the worker can be granted unpaid leave up to two days on the condition that it is in writing.

Furthermore, parallel revisions have been made in the related articles of the CSL no.657.

The above-mentioned Draft Bill is still in the agenda of relevant commissions of the TBMM.

A new provision has been added by the Law no. 2869 to the 1st Paragraph of Article 14 of the LL titled “Severance Pay”. According to the added provision, female worker is entitled to severance pay, if she “terminates the labour contract with her own will, within one year after the date of marriage”. In the Grand Chamber of the Supreme Court decision, this right is construed as “...adopted with aim of protecting the unity of family and it is a legal opportunity for the women in the consideration that working life cannot be maintained along with marriage properly. If a woman working in a workplace has resigned by receiving her severance pay by the use of the right provided by the Law, it cannot be mentioned that she has lost the right to work in the coming periods....”

On 11th November 2010, an announcement regarding the Employment Package prepared for increasing employment and fighting unemployment was made by the Government. In the mentioned Package, extension of encouragement regarding employment of female workers to increase employment of women is envisaged.

ARTICLE 31: THE RIGHT TO HOUSING

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

Article 31 Paragraph 1

to promote access to housing of an adequate standard;

Scope of provisions as interpreted by the European Committee of Social Rights (ECSR)

The Parties shall guarantee the right to housing of everyone, especially the vulnerable. Definition of adequate housing shall be made by law. The term ‘adequacy’ should be understood as structurally strong, safe in terms of hygiene and health, comfortable and right of property (right of using) legally reinforced. Public administration should take necessary measures to provide adequate housing and prevent long term waiting periods for accessing to adequate housing.

Efficiency of access to adequate housing shall be protected by law. Legal transactions shall be put under guarantee. Opportunity for legal remedy shall be provided objectively and with reasonable cost for the tenant or property user, in case of disagreement.

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information to demonstrate effective access to adequate housing, including the length of waiting periods.

1. Legal Framework

The right to adequate housing for citizens is guaranteed principally with the Constitution of the Republic of Turkey. Article 56 of the Section VIII headed “Health, the Environment, and Housing” states that “Everyone has the right to live in a healthy, balanced environment. It is the duty of the state and citizens to improve the natural environment, and to prevent environmental pollution. To ensure that everyone enjoys their lives in conditions of physical and mental health and to secure cooperation in terms of human and material resources through economy and increased productivity, the state shall regulate central planning and functioning of the health services. The state shall fulfill this task by utilizing and supervising the health and social assistance institutions, in both the public and private sectors...” Article no. 57 in the same section headed “Right to Housing” states “The state shall take measures to meet the

need for housing within the framework of a plan which takes into account the characteristics of cities and environmental conditions and supports community housing project.”

Main purpose of the “Public Work Law” (IMK) no. 3194 dated 03/05/1985, is to ensure that the construction of residential areas and the development in these areas are in line with plans, science, health and environment requirements.

Plans prepared within the zones either under responsibility and control of municipalities or not, in terms of municipality and public work legislation, and public or private buildings to be constructed as well, are subject to the law mentioned above.

Planning scales regarding residential zones are specified in the mentioned Law. Plans are classified as “regional plans” and “public work plans” in terms of surface area and aims; public work plans are classified as “land use plan” and “public work application plan”.

According to the “Public Work Law”, regional plans prepared to determine socio- economic development trends, development potential of residential areas, sectoral targets, distribution of activities and infrastructures, are to be prepared or made prepared, by State Planning Organization, when required.

Public Work plans include land use plans and “public work application plans”. In line with decisions on regional plan and environmental plan, public work and public work application plans within municipality boundaries are prepared or made prepared by the respective municipality, and enter into force by the approval of the Municipal Council. The plans are announced to the public for one month, at the announcement placements determined by Municipality.

Plans to be prepared outside the area of responsibility of the municipality are prepared or made prepared by governorate or its respective body, and enter into force when they are approved by the governorate. A copy of the finalized public work plan is sent to the Ministry of Public Works and Settlement.

Ministry of Public Works and Settlement is entitled to construct, and approve the following, by informing the respective municipalities and other administrative bodies, and cooperating, when necessary:

- a. Public work plans and related modifications of infrastructure, superstructure and transmission lines, relevant to public buildings and energy facilities,
- b. Plans or modifications to be made for application of Law on Shanty or mass housing, or due to disasters affecting public life,
- c. Total or a part of metropolitan public work plans related to more than one municipality, public work and settlement plans related to the places, where railway or roads exist at or nearby, or with an airport, or airline or seaway connection.

Buildings and principles about buildings are stated in the fourth section of IMK. The law also includes explanations about establishment of independent certified architecture and engineering offices, their scope of authority and responsibility, as well as classification of the mentioned offices.

“Mass Housing Law” no. 2985 dated 02/03/1984, regulates procedures and principles to be met by housing constructors, development of industrial construction techniques, and tools and equipment in line with circumstances and equipment in the country, and the support to be given by the state, in order to meet the need of housing in Turkey.

“Housing Development Administration” (TOKI) is established by the same Law, the main duties of “Housing Development Administration” are stated as follows:

- a. Issuing internal and external bonds and any kind of stocks with or without state guarantee,
- b. Deciding upon receiving credits from foreign or internal resources,
- c. Taking actions aimed at ensuring participation of the banks in financing the housing; providing banks with credit to this end; and establishing procedures relevant to enforcement of this provision,
- d. Supporting the industry related to housing construction or those who are involved in this field,
- e. Contributing to the housing construction companies, established in priority regions for development in particular,
- f. To help all sorts of research, project, and undertaking operations made by agreement when necessary.

However, since the date of establishment of TOKI, the priorities through the context of the solutions of housing and urbanization problem have been changed. This required TOKI to be engaged in all aspects of the housing and urbanization problem.

Within this framework, by the amendments made by the law No: 4966 dated 06.08.2003, new duties were added to the Housing Development Administration Law numbered 2985 which sets the duties of TOKI. The new duties are as follows:

- Establishing companies related with housing sector or participating in those that have already been established (by the law on 05/05/2004, numbered 5162).
- Granting individual and mass housing credits; granting credits for projects intended for improvement of rural architecture, transformation of squatter areas, preservation and restoration of historical and regional architecture; and making interest subsidies for all such credits, where deemed necessary.
- Developing projects both in Turkey and abroad directly or through the agency its participations; carrying out or appointing others to carry out applications for housing, infrastructure and social facilities.
- Implementing or appointing others to implement profit-oriented projects to ensure sources to the benefit of the Administration.
- Building, promoting and supporting construction of housing units as well as social facilities and infrastructures in locations where disasters take place, if considered necessary.

Besides, with the latest legal regulations, TOKI is authorized to takeover state lands free of charge, by the proposal of the Minister of Finance and the Minister it is affiliated with, and the approval of the Prime Minister.

According to the “Municipal Law” No: 5393 dated 03.07.2005, in addition to other duties, municipalities are also authorized to public works, house construction and related services in their own jurisdiction.

According to the Statutory Decree Concerning the Organization and the Functions of the Ministry of Public Works and Settlement No: 180 dated 13.12.1983, meeting the housing and infrastructure needs of the country and taking the required measures are among the duties of the above-mentioned ministry.

The above-mentioned ministry is also in charge of improving building cooperation under the authority given by the Cooperatives Law No: 1163.

The goal of the “Law Concerning Construction Inspection” No:4708 dated 29.06.2001 (The Official Gazette: No: 24461 dated 13.07.2001) is; to carry out project and construction inspection for qualified constructions to be made which conform to construction plans, engineering, craft and health rules and standards, to arrange procedures and principles regarding construction inspection, in order to provide the security of life and property.

“The Property Law” No: 634 dated 23.06.1965 sets the property rights which will be built up in the sections of a completed construction such as floor, house, workplace.

“The Anti-squatting Law” No: 775 dated 20.07.1966 aims to recover, liquidate the unlicensed constructions built contrary to current legislation and to prevent the building of new shacks. In the “Cooperative Law” no. 1163 dated 24/04/1969, It is promoted that cooperatives are set up in order for people to meet their needs with mutual help and solidarity including housing.

The “Settlement Law” no. 5543 dated 19/09/2006 draws the rights and responsibilities of immigrants, migrants, and people whose places have been expropriated by the state.

2- Implementation

Besides finding a solution to problems of housing and urbanization arising due to fast growing population and urbanization rate, in order to increase productivity, decrease unemployment and apply housing policy TOKI has been established and to financially support housing, other than from the general budget “Mass Housing Fund” has been set up. The main function of this administration is to carry into effect the clauses of the articles 56 and 57 of the constitution, by encouraging the construction of housing so that everyone could have a housing conforming to safe and adequate conditions.

The efforts started by TOKI in order to realize the foreseen provisions are still continuing. In this concept, especially to meet the housing needs of citizens with low and medium incomes, TOKI has put into force a wide range housing initiative across country.

TOKI has been constructing houses on its own properties and has been putting up these housing options for sale by providing loans. As a result, while the need for strong, superior, eligible and safe housing is met, planned urbanization is also achieved.

On the other hand, in the Ninth Development Plan, Program for 2010: “ Increasing the Life Standards of Cities and Providing Sustainable Development” has been determined as prior

policy and the preparation of “Sustainable Urban Development and Action Plan” until the end of June 2010 by the Ministry of Public Works and Settlement has been anticipated.

Besides this, in the “Strategy and Action Plan” determining policies and actions for solving legal, technical and administrative problems to create healthy, safe and balanced cities, has been anticipated.

In addition, in Turkey’s context of “EU Acquis Harmonization Program” (2007-2013) announced April 2007 High Council of Planning decision related to approval of Integrated Urban Development Strategy and Action Plan for Sustainable Urban Development” has been anticipated.

In this context, by the Ministry of Public Works and Settlement, “2010-2023 Integrated Urban Development Strategy and Action Plan” (KENTGES) has been accepted by the High Council of Planning and has been published in the Official Gazette of 4th January 2010. The application of measures foreseen in this mentioned document are monitored and executed by the Ministry of Public Works and Settlement.

The main aim of KENTGES is to draw a roadmap to increase the level of livability, quality of space and living, and to enforce economic, social and cultural structures.

3- Statistics

According to the data collected by TOKI, between January 2003 – November 23, 2010, the construction of 460,387 houses had been materialized in 81 provinces, 800 districts and 1,820 construction sites by the aforementioned institution.

Apart from housing, the construction of 646 schools (19,334 classrooms, infant, primary and high schools), 650 sport halls, 36 libraries, 391 trade centers, 91 hospitals, 83 health centers, 59 dormitories and hostels, 21 children shelters, 15 wellness centers for handicapped persons and 311 mosques was started and finished to a large extent.

387,445 houses, which constitute 85 % of the total houses that TOKI have built, have the characteristics of “social housing”. Among these, 197,237 houses were allocated to low- and mid-incomers, 123,299 to low-incomers and poor peoples, 53,547 to shanty-house transformation projects, 13,311 to disaster victims, and 4,501 to the residents of the 35 villages that were determined in line with the necessities. As is seen, 30 % of the houses of TOKI aimed to fulfill the needs of the low-incomers and the poor peoples.

The number of the houses construction of which had been finished is as below.

Years	The number of the houses
2003	616
2004	7,419
2005	24,252
2006	38,296
2007	63,109
2008	84,205

Article 31 Paragraph 2

To prevent and reduce homelessness with a view to its gradual elimination.

Scope of the provisions as interpreted by ECSR

Action to prevent categories of vulnerable people from becoming homeless and gradually reduce homelessness, towards its elimination. Reducing homelessness implies the introduction of emergency and longer-term measures, such as the provision of immediate shelter and care for the homeless as well as measures to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness

Existence of procedures to limit the risk of evictions and to ensure that when these do take place, they are carried out under conditions which respect the dignity of the persons concerned

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information on the number of homeless, emergency and longer-term measures for homeless, as well as evictions

There is lack of exact statistics for homeless persons in the official records. It is observed that the number of the homeless persons in the country is not too high due to the strong family ties of the population.

Various services are rendered for shelter of the homeless persons by the local administrations.

Article 31 Paragraph 3

To make the price of housing accessible to those without adequate resources.

Scope of the provisions as interpreted by ECSR

An adequate supply of affordable housing must be ensured: through the appropriate measures for the provision of housing of an adequate standard, and through housing allowances, which is an individual right. Legal remedies must be available in case of refusal of the allowance

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide statistics or any other relevant information on construction of social dwellings and housing allowances (number of applicants and of recipients, criteria to fulfil to benefit from the allowance)

1- Legal Framework

The base arrangement concerning this issue is “Law on the Amendment of Various Laws Concerning Housing Finance” numbered 5582 and dated 21.02.2007.

On the other hand, “Capital Market Law” (SPK) numbered 2499 and dated 28.07.1981 regulates and controls the safe, transparent and resolute operation of the capital market and the protection of the rights and the benefits of the account owners in order to sustain effective and widespread participation of the population in economic development through the investment of possessions to stocks and shares. According to the paragraph (A) of the article 38 of the law, housing finance means; providing consumers credits for housing, letting the housings off to consumers through leasing and providing credits for consumers through home equity line of credit.

The banks, which provide credits directly for consumers or provide leasing services with the intent of housing finance, and the leasing or financing companies, which were deemed appropriate by Banking Regulation and Supervision Agency (BDDK) for services on housing finance, are called housing finance institutions.

While Undersecretariat of Treasury is authorized for determining the procedures and principles of insurance contracts related to housing finance by taking into consideration of the opinions of the Association of the Insurance and Reinsurance Companies of Turkey, Ministry of Industry and Trade is entitled to specify the procedures and principles of the refinancing the credits for housing finance by receiving opinions of Banks Association of Turkey.

2) Implementation

In each mass housing project run by TOKI, sale conditions are decided given the features of project and solvency of target group followed by provision of loan to the house under construction in order to sell using variable price index.

Stipulating prerequisites and sale conditions for the purpose of reaching the people who truly need housing, it is placed the utmost importance on implementation of appropriate sale policies on the social housing projects particularly directed to poor and people in the low and middle income brackets.

The prices of the houses sold in the context of projects are determined disregarding the interest and by only taking the cost of production into account. In addition, subsidized applications are carried out. In this model executed by TOKI, for people within the low income range, 10 to 40% of the value of housing is taken as advance payment, taking into account the solvency of the target group. The remaining part is spread into installments for 36 to 240 months.

In applications of TOKI after 2003, poor and low income groups were taken into the target, and new house owning schemes with low or no advance payments and maturities up to 240 months were developed. Advance payments are not taken for TOKI projects regarding poor people.

Besides, in projects regarding poor people and people with low incomes taking into account the solvency of the target groups, the payment of installments are started after the turnkey date. In TOKI projects regarding medium income groups, the payment of installments are started, by the month following the signing of the contract.

For the segment above poor people and people with low income, no support is given as it doesn't coincide with the reasoning of social state. For these reasons, poor people and people with low income who are not able to own housing in present market conditions are supported by "social housing projects". Projects, regarding middle and high income groups, with high sale possibility are carried out in pursuit of finding financial resources for above mentioned social housing projects. In this context, in order to create financial resource, a total number of 72.942 housing has been constructed of which 51.245 are built by Emlak Konut Real Estate Investment Trust Inc. in association with TOKI and 21.697 by TOKI.