

IS FLEXICURITY SUITABLE FOR TURKISH LABOUR MARKET OR NOT?

A THESIS SUBMITTED TO  
THE GRADUATE SCHOOL OF SOCIAL SCIENCES  
OF  
MIDDLE EAST TECHNICAL UNIVERSITY

BY

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IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR  
THE DEGREE OF MASTER OF SCIENCE  
IN  
SOCIAL POLICY

DECEMBER 2010

Approval of the Graduate School of Social Sciences

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## ABSTRACT

### IS FLEXICURITY SUITABLE FOR TURKISH LABOUR MARKET OR NOT?

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Master of Science in Social Policy

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December 2010, 100 pages

Standard employment definitions have begun to change with the impact of globalization and new concepts such as part-time work, freelance, on-call work, temporary work, fixed-term labour contracts have started to be demanded in the labour market. These new definitions which were determined in order to keep pace with new competitive market environment paved the way of new trends in various countries. Flexicurity is one of these trends which is mostly favoured in European Union agenda. The purpose of this thesis is to study whether flexicurity is suitable for Turkish labour market or not while analyzing structure of it as well as Turkish labour market legislations with perceptions of social partners on flexicurity, which has been started to be argued with the accession process of Turkey to the European Union. The thesis observes that there is no homogenous system of flexicurity for European welfare states and if Turkey is analyzed in this framework it takes place in the Mediterranean Welfare Systems of flexicurity paradigm. Some policy recommendations necessary to make flexicurity suitable for Turkish labour market are also given in order to contribute to the conclusion part.

Keywords: Flexicurity, Turkish Labour Market, Social Partners

## ÖZ

### GÜVENCELİ ESNEKLİK TÜRKİYE İŞGÜCÜ PİYASASI İÇİN UYGUN MUDUR?

Hangün, Saime Özlem

Yüksek Lisans, Sosyal Politika Anabilim Dalı

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Ortak Tez Yöneticisi: Yard. Doç. Dr. Kezban Çelik

Aralık 2010, 100 sayfa

Küreselleşmenin etkisiyle iş piyasasındaki klasik iş tanımları değişmeye başlamış; yarı-zamanlı çalışma, serbest çalışma(freelance), çağrı üzerine çalışma(on-call work),geçici iş (temporary work), belirli süreli iş sözleşmeleri gibi kavramlar talep görmeye başlamıştır. Piyasanın değişen rekabet ortamlarına ayak uydurabilmesini sağlayan bu yeni iş tanımları değişik ülkelerde yeni akımlara yol açmıştır. Bu kavramlardan biri olan güvenceli esneklik de Avrupa Birliği gündeminde sıklıkla desteklenmektedir. Bu çalışmanın amacı Türkiye'nin Avrupa Birliği üyelik süreci ile sosyal taraflarca da tartışılmaya başlanan güvenceli esneklik kavramının Türkiye işgücü piyasası için uygun olup olmadığını, kavramın yapısı ve Türkiye işgücü piyasasını kapsayan hukuk çerçevesinde incelemek ve sosyal tarafların kavrama yönelik bakış açılarını ortaya koymaktır. Çalışmanın sonucunda Avrupa refah devletleri göz önünde bulundurulduğunda güvenceli esnekliğin homojen bir sisteme sahip olmadığı ve Türkiye bu çerçeveye dahil edildiğinde işgücü piyasasının Akdeniz Refah Devletlerine yakın olduğu gözlemlenmiştir. Sonuç bölümünde, ek olarak, Türkiye işgücü piyasasını güvenceli esnekliğe uygun hale getirmek için bazı politika önerileri sunulmuştur.

Anahtar Sözcükler: Güvenceli Esneklik, Türkiye İşgücü Piyasası, Sosyal Taraflar

To My Parents

## ACKNOWLEDGMENTS

I would like to express my sincere gratitude to my supervisor Assoc. Prof. Dr. Sibel Kalaycıođlu and co-supervisor Assist. Prof. Dr. Kezban elik for their guidance and support throughout this study.

I would also like to thank to Prof. Dr. Recep Varın, Assoc. Prof. Dr. Ayşe Gündüz Hořgör and Assoc. Prof. Dr. Hakan Ercan for their valuable suggestions and comments.

My deepest indebtedness is to my family for their love and tolerance. I am grateful to them for their encouragement in every phase of my life. Without their love and support, this thesis would not have been completed.

I would also like to express my appreciation to my dear friends and colleagues who always provided me with moral support through the completion of this study. I am thankful to them for their patience and also for their encouragement in times of desperation.

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## **CHAPTER 1**

### **INTRODUCTION**

In order to prevent deficiencies of the market and meet demands of neo-liberalisation, there are some policy attempts by welfare states in which concept of combining flexibility of labour and economic markets with the security of workers. This new approach which will be further examined in this thesis is also on Turkish labour market agenda since it seems, as to policy makers in the government, a tool for increasing competitiveness of Turkish labour market and keep up with the EU accession process for which Turkey is granted the status of candidate country by the Helsinki European Council of December 1999.

The aim of thesis is to evaluate if flexicurity is suitable for Turkish labour market and under which minimum conditions it can be implemented in the context of policy recommendations. To analyze this, perceptions of members of social dialogue process will be kept in mind since they also handle with flexicurity in many platforms. While doing this analysis, it is important to look at from a wide perspective ranging from structure of Turkish labour market to relevant legislations, policy attempts and strategies since all these structures are intertwined.

With this framework, in Chapter II, I am going to deal with what lies behind bringing flexibility and security together in terms of welfare states and transformation of welfare states due to globalization. The conceptual tenets of flexicurity in line with its definitions and approaches, namely “Transnational Labour Market”, “Unified Theory” and “Flexicurity” approaches are also examined to see how flexicurity policies emerged. Since this section is also devoted to analyze what is understood from flexicurity in the literature, piers of flexicurity namely flexibility and security will be examined separately.

Classification of European labour markets in terms of flexibility and security is also handled within this chapter to understand structure of flexicurity.

In Chapter III, a statistical snapshot of Turkish labour market is going to be given in order to understand its structure as well as the deficiencies of the labour market. This examination is also needed to set a ground for social partners and government's perspective on deficiencies of labour market and how flexicurity policies would cure for these deficiencies. Moreover, Turkey's place in flexibility and security classification will also be presented.

In Chapter IV, besides statistical analysis in Chapter III, I am going to analyze related legislations of Turkey in order to present what have been done so far in terms of labour law and social security law and some regulations. In line with Labour Law, the Social Insurance and General Health Care Insurance Law, No.5510 draws a framework of job security and retirement schemes of typical and atypical workers. Only Law No.5510 and some related legislation are included in this thesis since the content of social security legislation is very wide.

Chapter V is going to focus on perceptions of trade unions and employers' associations since they are also included to make the legislative regulations and have their voices on tripartite social dialogue. The analysis is going to be based on articles, official letters and presentations of social partners in seminars. Governmental structures which are policy making institutions in terms of flexicurity policies are also included in this part to understand what main arbiter does.

Last chapter is going to be devoted to answer the hypothesis question of this study which is "Is flexicurity suitable for Turkish labour market?" While answering this question, I am going to recommend some policy alternatives which can be

remedies to overcome the deficiencies in the market as well as be the minimum conditions for implementing flexicurity policies. In other words, needs for transformation of labour market before implementing flexicurity policies are also considered. This thesis will conclude by pointing out that before Turkey implements flexicurity policies there are many areas to be dealt with to solve deficiencies of labour market. Partly arrangements to without contributions of social partners will not be sufficient to solve problems in Turkey.

Method of the thesis is documentary study especially for the trade unions and government's understanding and approach to flexicurity. The subject is discussed by social partners since last decade, therefore their views since 1999 at related seminars, papers, official letters and articles are taken into account as well as government's perceptions in line with policy and strategy papers and press conferences. Most of the documents are dated since 2008, because government documents and strategies took concrete steps from that year. Moreover, 2009 data is taken into account since it is the last yearly data showing the latest structure of Turkish labour market.

## **CHAPTER 2**

### **WHAT IS LYING BEHIND FLEXICURITY?**

The welfare states were emerged as political reactions to socioeconomic changes and social values in the past. With the amalgamation of Fordist type productions and Keynesian economic policies, welfare states emerged after the Second World War.

From the word go, political arrangements of the welfare-state and full-employment policies were considered as strongly complementary. Welfare state aimed to improve the economic security of the individual with life-cycle considerations, while full-employment policies maintain the perpetuity of the welfare state. High rates of employment keep financing the welfare state by boosting the tax base and keeping down the number of beneficiaries of social assistance. On the other hand, various welfare-state arrangements were often aimed to contribute to full employment such as job protection legislation, employment incentives etc. With the implementation of full employment policies in the welfare states, standard employment became universal with blue collar, semi-skilled, full-time male workers with job security. Acceleration in the trade union movements contributed to the standard employment.

Relations between these two have evolved in the history. Actual economic and social developments during the first decades after World War II seemed to support the view of a harmonious, indeed symbiotic, relation between the welfare state and full-employment policies. With the Keynesian point of view, it turned out to be possible to combine full employment with high economic security and a gradually more even distribution of income, which are important ambitions of the welfare state (Lindbeck, 1997). But there is also a need for reproduction of labour market and solve problems of poverty.

Social policy, on the other hand, is a way to response the needs of welfare state. Economic history shows that the institutional arrangements and social policies which were historically established in the context of the evolving specific capitalist societies depended, to a large extent, on the socio-economic and political background of each. External possibilities and constraints also played a major role (Schmidt and Hersh, 2003, pg 2). With the evolution of welfare states according to changes in socio-economic and political environments, the societal arrangements reached through the trade-offs during the ‘golden age of Keynesianism’ are submitted to pressures calling for adjustment to the perceived or real demands of globalization as well as neo- liberalization. These pressures brought a squeezing system in the social policies of welfare states and made the former US capital–labour accord, the specific Japanese life-long employment system, and the European welfare state at risk (Ibid, pg 80). In the three models, workers have experienced similar fallouts from the implementation of neoliberal policies: frozen or decreasing real wage levels, increasing job insecurity, and intensification of work processes. Also, welfare entitlements have come under increased pressure and, depending on the political balance of power in the specific countries, these rights have been significantly reduced (Ibid, pg 80). Neoliberal globalization made the human commodity to have little control as to where, why and how it will be used or not used (Ibid, pg 83).

Besides, the political forces accepting the thesis of the ‘borderless world’ at the societal level, (*Ohmae, 1990*, cited in Schmidt and Hersh, 2003, pg 15), which is a fundamental element of the globalization discourse including its policy recommendations as imperatives, have been instrumental in imposing ‘a standard framework of requirements on all national capitalisms, so squeezing (to the point of oblivion) the space for a variety of capitalist models, and requiring that the remaining space be occupied by deregulated (that is, by liberal market) capitalisms’(*Coates, 2000, pg. 251* cited in Schmidt et al, 2003, pg 15). The commodification of work has been a determinant component of primitive accumulation which made and makes industrial capitalism possible. As noted by,



among others, Karl Polanyi, this relationship puts workers at the mercy of the demands of capital (Schmidt et al, 2003, pg 19).

By 1970s, due to increasing international economic relations and 1973 and 1979 oil crisis, the miracle of Fordism and Keynesian economy have turned to be a problem where declining economic growth, growing unemployment, aging population, distorting effects of globalization, moreover ascending amounts of public debt were observed.

In line with Esping Andersen's classification of welfare states, demands of capital mostly affected the countries with a male breadwinner model where work is the man's responsibility and woman and children are dependent on the status of the male breadwinner- in other words *Conservative Welfare States*. In these systems, woman is discouraged from the labour market with her care responsibilities. For wage earners, there is a performance principle which describes benefits to be earned through work in order to get entitled for the male breadwinner and woman through marriage or kinship in the nuclear family, in other words, from her father. This system is based on employment relationship of workers to the social insurance system rather than citizenship as in the Nordic welfare states or a proven need as in the liberal ones. In this system, there is a standard employment relationship where work is full-time and carried out as dependent with a single employer whereas the remuneration is higher than subsistence level and employment history is sufficiently long (Bleses and Seeleeb-Kaiser, 2004, p.18). Moreover, the principle of self-administration aims to keep state at arm's length regarding social insurance. Social insurance system is thus mainly funded through payroll taxes and administered through tripartite or bipartite structures involving representatives of unions, employers and the state. This principle is reinforced by subsidiarity where state intervention is the last resort and applicable only when families and communities need its support. Last principle is the embeddedness principle which relates not to individuals but to people depending on their

employment and family status. Occupational differentiation is seen among groups during welfare distribution.

In this system, only ones who are unable to meet this criterion generally as a result of no fault of their own, there is a tax-funded social assistance benefit scheme. This makes a difference in the market, an insider-outsider dilemma, which differentiates the working men from the deserving poor in social policy determination. The second principle is the equivalence principle where the size of the benefit is calculated through the size of the financial contribution that a worker made and indirectly through his wage or salary level. In this system, income security and status differentials are prioritized through the emphasis on the wage replacement function (Daly, 2001, p.81). Since social reproduction is important to maintain the system, another principle, namely horizontal equity, appears which creates a bias towards the families with children when social benefits are distributed. Retired workers also take their advantage from horizontal equity.

With regard to the things mentioned above, the causes of problems as globalization accelerates vary within the welfare system. First of all, conservative welfare system has been trapped by the insider-outsider dilemma as globalization spreads all over the system. Labour market could not catch the accelerating needs of globalization, since it is male-biased and inflexible and has corporatist structure with high non-wage labour costs and job security, high family wage demands from trade unions due to familialistic structure of the welfare system. Moreover, changing production schemes from industry premises to service economy have made a decline in job creation, because this new scheme wanted more flexible, skilled workers. All these have made the labour market differentiate between adult men workers with low levels of unemployment and marginalized workers such as women, young etc. with high levels of unemployment. Because insiders in the

labour market have wanted to protect their status, the inequality gap between these two has widened.

Another point is that globalization not only brings new opportunities, but also creates pressures in economic growth and labour market. Most of the countries in the world are affected by globalization resulting new trends of production techniques, new type of jobs and new demand on skills, flexible working hours etc. on the one hand, increasing unemployment, extended retirement ages, *compulsory* vocational training by active labour market policies to keep up with other competitive workers, less controlled macro-economic policies by governments, global threat to labour standards as a result of footloose production and outsourcing on the other.

In order to cope with deficiencies of globalization, flexibilization of labour market is considered as a kind of remedy to keep up with fast-evolving labour markets. Since labour markets are challenged by globalization and technological advances, there are views like more flexible environment is crucial for the development of labour markets. Some authors also suggest that the standard employment relationship belongs to past and the end of (salaried) work is coming into the scene where high-tech global economy is moving beyond the mass worker while entrepreneurial, managerial, professional and technical elites will be run the formal economy and market value of labour is diminishing and will continue to do so (Rifkin, 1995, pg 236). Moreover, there are also views such as Neumark that new jobs are very different from the old and longer-term full-time employment relationships (Auer and Cazes, 2002, pg.2).

On the other hand, there are also counter arguments like deregulation and flexibilization of labour market would bring poorer working and living standards, flexploitation as well as precarious jobs. According to Gray (2004, p.112), the flexibilization of the labour market has been accompanied by a major increase of

job security and of under-employment in the form of involuntary part-time working. Gray also argues that flexible jobs are often the worst paid which brings flexploitation of workers. Moreover, Muffels claims that the waning of lifetime employment went along with more unstable working careers for men due to the heightened turmoil in the labour market as a result of the internationalisation of the economy or globalisation forces leading to more frequent job changes with more intermittent periods of unemployment, the wake of new forms of temporary work and self-employment (Muffels, 2008, pg 5).

Furthermore, globalisation contributes to a gradual demise of Keynesian economic policies where there is a commitment to maintain full employment by the management of demand for labour (Gray, 2004, p.39). This brought a notion that employment will grow only if labour is sufficiently attractive to employers in terms of its cost, skill and flexibility. ILO (1996, pp. 27-30) opposes this with an argument that “the slight changes reported on job tenure and job separation rates do not support the view that the “job for life” has ceased to exist or that jobs in general have become dramatically more unstable. Contrarily, there is a large core of the workforce still in stable and secure jobs.” Also, in highly flexible labour markets as US according to job satisfaction surveys, job security has a high rank of 50% which means job security constitutes a priority for working people’s demands (Saad, 2009).

Impacts of globalization on labour markets could be examined in more detail by analyzing shifts in economy, production and attitudes of employers and employees together in terms of flexibility and security.

## 2.1. Conceptual Tenets

The conceptual tenets for effects of globalization on labour markets in terms of flexibility and security are “Transnational Labour Market (TLM)” approach, “Unified Theory” and “Flexicurity” approach.

First one is introduced by Günther Schmid in which “the adjustment to asymmetric economic shocks is not due to changes in prices or wage levels (wage flexibility) but to the role of wage-setting institutions (minimum wage, wage bargain, employment protection) by adjustment of the labour input itself through “numerical flexibility”, that is, by adapting the size of the workforce (Muffels, 2008, p.9). Schmid (2009, pg 3) also argues that TLMs are a strategy of ex-ante risk sharing by empowerment which means: First, making transitions pay by extending the social insurance principle beyond unemployment and including especially volatile income risks connected with critical events during the life course. Second, making not only workers fit for the market but also making the market fit for workers by enhancing the capacity of employers and employees to adjust to uncertainties by not only investing in human capital but also by investing in the workplace environment.

TLM approach reflects a new stage of active labour market policy where the basic principles are, first, active solidarity by giving people ‘hands-in’ instead of only ‘hands-out’. In this respect, the “social” stands first for investing in people instead of pure charity common in “liberal” market economies; second for protecting people instead of protecting jobs common in “socialist” economies (Ibid, pg 3). By these policies, institutional bridges between unemployment and employment would be established by non-standard jobs without creating the adverse effects in terms of the income and employment security (Muffels, 2008, p.9).

The second principle is life course orientation by supporting sustainable life-course transitions instead of enforcing job-to-job transitions without consideration of job quality. This time the “social” stands first for the individual right to a career instead of pure workfare in “liberal” market economies; second for autonomy in choosing jobs instead of directing people into jobs common in “socialist” economies (Schmid, 2009, pg 3).

Blau and Kahn’s “Unified Theory”, on the other hand, renders impacts of globalization by predicting the growth in earnings inequality across countries according to the source of the earnings and employment problems of the less-skilled. Skill-biased demand shifts pave the way of a strong tendency for wage inequality to increase across the developed world. This should be the case even in countries with strong institutional protections for the least skilled, since skill-biased demand shifts that dominate changes in supply will produce rising relative wages for the most skilled (Howell, 2002, pg 4). The theory indicates to the constraints on labour market flexibility as a primary cause of high unemployment.

The other approach namely, “Flexicurity Approach” aims to bring flexibility and security together to satisfy the employees and the employers, as well as concern with the targeted vulnerable groups such as women, disabled, the young and the aged in the society. The concept was launched in the Netherlands during the preparation of the *Dutch Flexibility and Security Act* which came into force in 1999 (Seifert and Tangian, 2007) (Wilthagen, 1998) (Wilthagen and Tros, 2004). In flexicurity strategy<sup>1</sup>, flexibility and security should not be seen as opposites but

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<sup>1</sup> The European Council emphasizes on the need of a strong European flexicurity strategy in which a well-balanced package of principles on flexicurity, based on the creation of good employment and enforcement of the European model. These principles concern:

- the need of flexible qualified workers
- measures against insecure work and malpractice
- removal of labour market segmentation and the attention transferral from job security to work security

as mutually supportive labour market components. The strategy showed eye-catching success in certain countries like Netherlands and Denmark. Besides its success, it is not a single solution to labour market deficiencies and there are also counter arguments especially on the flexibility pillar in European Union as well as in Turkey<sup>2</sup>. ILO also contributes to the issue by emphasising decent work and balance between flexibility and security since “Protected mobility by sound labour market policies might result in real ‘flexicurity’ (adaptability for firms and security for workers) and become a common objective of both sides of industry while also reconfirming an enhanced role for the State” (Auer et al, 2006, pg 21).

## **2.2. Concept of Flexicurity**

It is important to understand what lies beneath the concept of flexicurity before dealing with flexicurity policies.

Flexicurity is composed of flexibility and security which diversifies to more specific terms. First of all, flexibilisation refers to a process of examining employment rules and regulations to establish if they are overly restrictive and if their abolition would lead to a better adjustment of labour supply and demand (Blanpain et al, 2006, pg 1).

Moreover, The European Foundation for the Improvement of Living and Working Conditions states that “As flexibility appears to be an appropriate concept to describe corporate management practices in a fast-changing work environment, it

- 
- partnership in the guidance of changes
  - gender equality and equal opportunities for everyone
  - implementation of national paths for social dialogue
  - a macroeconomic framework for growth and jobs

<sup>2</sup> These counterarguments are especially propounded by Trade Unions in many publications, meetings which will be dealt with in Chapter V.

is equally important to assess the impacts of such corporate practices on working conditions”( Goudswaard and De Nanteuil, 2000, pg 4).

In general means, “labour market flexibility shows the speed of adjustment to external shocks or, in other words, how quickly a labour market reacts to the changing macroeconomic conditions (Eamets and Paas, 2007, pg 42). To be more specific, there are four types of labour market flexibility defined in OECD studies (1999) which are functional flexibility, wage flexibility, internal numerical flexibility, external numerical flexibility:

- Functional flexibility shows the employer’s ability to move their employees from one task to another, reflecting their mobility within the enterprise.
- Wage flexibility shows the employer’s ability to change their employees’ wages according to changing economic conditions as well as labour market conditions.
- Internal numerical flexibility points out employer’s ability to determine the number and distribution of working hours without changing number of employees.
- External numerical flexibility means the employer’s ability to adjust the number of employees to the current needs of production, namely easy hiring and firing of the workers.

The decomposition of labour market flexibility is based on two axes. First one measures numerical versus functional flexibility and second one measures internal versus external flexibility:



Table 1: The Decomposition of Labour Market Flexibility

	Numerical (Quantitative)	Functional (Qualitative)
Internal	Internal-numerical flexibility: adjustability of working time (overtime, part-time, weekend working, irregular/variable hours) <i>Temporal/financial flexibility</i>	Internal-functional flexibility: improvement of operating efficiency, reorganization of production methods and labour content (job rotation, multitasking, making workers responsible for planning, the budget, etc.) <i>Functional/organisational flexibility</i>
External	External-numerical flexibility: temporary and part-time employment, hiring and firing regulations, wage flexibility (fixed duration, temporary, work on call, etc.) <i>Numerical/contractual flexibility</i>	External-functional flexibility: ability of firms to diversify their production (subcontracting, use of freelance labour) <i>Productive/geographical flexibility</i>

Source: Eamets and Paas, 2007,p.43; Vielle and Walthery, 2003, p.8

Moreover, there is another type of flexibility, namely externalisation flexibility which is the employer's ability to order some works from external workers or firms with commercial contracts instead of employment contracts (Vielle and Walthery, 2003, p.8). Distance working, tele-working, outsourcing are the examples of this type.

Secondly, social security is the second important component of flexicurity which joins social protection with the flexibility of the labour market. It includes legislations of protecting employees against socially recognized conditions such as poverty, old age, disability, unemployment etc. Social security also refers to "social insurance where people receive benefits or services in recognition of contributions to an insurance scheme"(Eamets and Paas, 2007, pg 50). That insurance scheme also covers income maintenance like pensions, disability

benefits etc. as well as service providing such as health care. According to Wilthagen, Tros and Van Lieshout (2003) terms of security related to labour market flexibility and flexicurity are job security, employment security, income security and combined security which are as follows:

- Job security is the certainty of retaining a specific job with a specific employer (Ibid, pg 4). This is guaranteed by the protection of employees against dismissals and against significant changes in working conditions. This is the main subject of employment protection legislation (Eamets and Paas, 2007, pg 51).
- Employment security is the certainty of remaining in work (not necessarily with the same employer) (Wilthagen et.al., 2003, pg 4) . This means the availability of jobs for the dismissed and unemployed corresponding to their qualification and previous working conditions. This also includes the protection against arbitrary dismissal, regulations on hiring and firing, imposition of costs on employers etc (Standing, 1999, pg 52). Moreover, the employability of job seekers can be improved by life-long professional training which can be offered both by employers and by training programs within active labour market policies (Eamets and Paas, 2007, pg 51).
- Income security is the income protection when paid work ceases (Wilthagen et.al., 2003, pg 4). According to Standing (1999, pg 52), it is the protection of income through minimum wage machinery, wage indexation, comprehensive social security, progressive taxation etc.
- Combined security is the certainty of being able to combine paid work with other social responsibilities and obligations. This form of security cannot be traced back to the other forms of security (Wilthagen et.al., 2003, pg 4). This type of security also explained as work-life balance, work-family balance, including flexible working hours, part-time retirement and leave facilities (Tros, 2004, pg 5).

According to Wilthagen (1998) and Wilthagen and Tros (2004), defining flexibility and security together gives a notion of “a degree of a job, employment, income and “combination” security that facilitates the labour market careers and

biographies of workers with a relatively weak position and allows for enduring and high quality labour market participation and social inclusion, while at the same time providing a degree of numerical (both external and internal) functional and wage flexibility that allows for labour markets (and individual companies) timely and adequate adjustment to changing conditions in order to maintain and enhance competitiveness and productivity” (cited in Muffels, 2008, pg 12).

After introducing what flexicurity is in theory, it is important to see practical applications of flexicurity in European Union labour markets where it is commonly favoured on EU agenda (EU Commission, 2010).

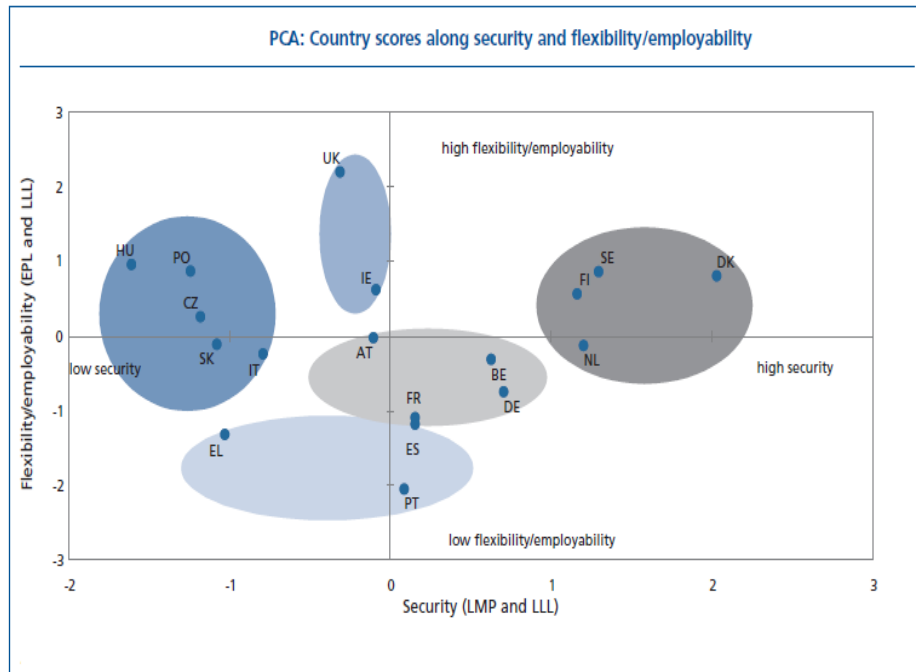
### **2.3. Categorization of European Welfare States According to Flexicurity**

In order to analyze implications of flexibility and security in EU countries, EU Commission classified Member States<sup>3</sup> in particular systems according to an analysis, namely Principal Component Analysis, which aims to evaluate how different variables are associated with each other. “Principal Component Analysis (PCA) is carried out on a selected number of labour market indicators to identify the main dimensions/ axes that characterise flexicurity systems; secondly, the factor scores or the coordinates of the PCA (corresponding to the axes that explain most of the overall variation in the data) are then used as a basis for clustering countries into different groups/systems” (EU Commission, 2006, p.102). Following PCA, another categorization, namely Clustering Analysis (CLA), is used to group Member States which have similar labour market regulations and structures.

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<sup>3</sup> PCA/CLA analysis is carried out for 18 countries which are EU Member States other than Luxembourg, Cyprus, Malta, Slovenia, Lithuania, Latvia and Estonia, Bulgaria and Romania.

According to the analysis, countries are classified in line with Esping-Andersen’s “three worlds of welfare capitalism”, identifying the liberal, the social-democratic, and the conservative welfare systems where Mediterranean welfare system and Eastern European welfare systems are also added.



Source: European Commission, 2006, pg 106

Figure 1: Categorization of EU Member States with respect to Flexibility and Security

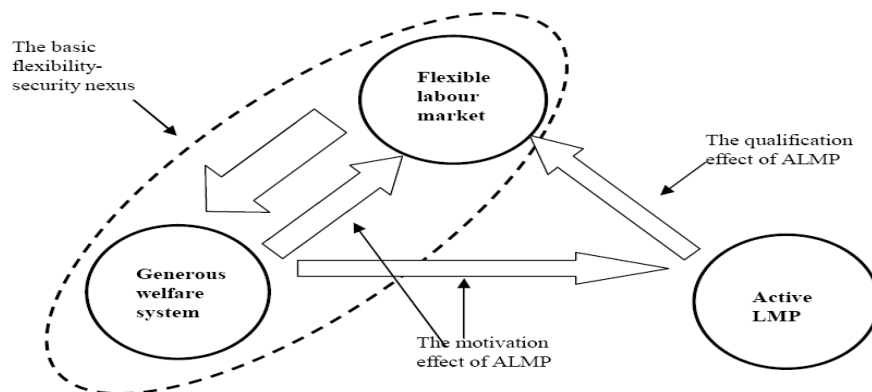
For liberal welfare state regimes, for instance the UK and Ireland, there are a high degree of flexibility in terms of looser employment protection legislation, relatively low level of security by intermediate-to-low level of spending on Labour Market Policies and low level of taxation.

The Continental system, or in other words for conservative welfare states involving Germany, Belgium, Austria and France, there are intermediate-to-low

level of flexibility in labour market with intermediate-to-high level of security, and intermediate-to-high level of taxation.

The Mediterranean system, covering Spain, Portugal and Greece, has low level of flexibility with relatively low level of security, but there is no clear pattern on taxation. European Commission did not include Italy in the Mediterranean system while classification as Commission argues that Italy is frequently considered as an inflexible country and has significantly deregulated the use of temporary contracts over recent years (late 1990s and early 2000s), which yields a reduction in its overall EPL indicator and drives the classification of Italy in a group with an inter-mediate level of flexibility (Ibid, 2006, pg 107). Instead Italy is included in Eastern European system where there is an insecure, intermediate to-high level flexible labour market with intermediate to-high level of taxation.

Denmark, the Netherlands, Sweden and Finland constitute the Nordic welfare system with high security combined by intermediate-to-high level of flexibility, and intermediate-to-high level of taxation. First two countries are considered as the best practices of flexicurity. Denmark has a labour market where collective agreements are providing a high degree of flexibility within the parts of labour market regulations with a collective bargaining system providing security (Kaj Andersen and Mailand, 2005, p.23). In other words Danish model is a “Golden Triangle” where flexible labour market coincides with generous welfare system supported by active labour market policies.



Source: Bredgaard et al., 2005, p. 8

Figure 2: Danish Flexicurity Model as Golden Triangle

On the other hand, the Netherlands had, in contrast to Denmark, a rather restrictive system for dismissal of permanent employees, which has induced enterprises to increase flexibility in the workforce by hiring groups of temporary workers on fixed-term contracts (Madsen, 2006, p.3). These “atypical” workers have a lower level of social security (e.g. rights to unemployment benefit, pensions and holidays) and a lower level of employment security than the permanent staff (Ibid, p.3). The flexicurity strategy in the Netherlands can also be demonstrated most clearly by the already described legislation and policy on external flexibility and work security, namely *Dutch Flexibility and Security Act*. According to the Act, some flexibility is brought to the Dutch labour market as:

Table 2: Main Aspects of Dutch Flexibility and Security Act

Flexibility	Security
<ul style="list-style-type: none"> <li>- Adjustment of the regulation of fixed term employment contracts: after 3 consecutive contracts or when the total length of consecutive contracts totals 3 years or more, a permanent contract exists (this used to apply to fixed-term contracts that has been extended once)</li> <li>- the obligation for Temporary Work Agencies (TWAs) to be in possession of a permit has been withdrawn. The maximum term for this type of employment (formerly 6 months) is abolished as well.</li> <li>- The notice period is in principal 1 month and 4 months at maximum (used to be 6 months).</li> <li>- The Public Employment Service (PES) dismissal notification procedure has been shortened and employees are no longer required to</li> </ul>	<ul style="list-style-type: none"> <li>- Introduction of 2 so-called presumptions of law which strengthen the position of atypical workers (regarding the existence of an employment contract and the number of working hours agreed in that contract); the existence of an employment contract is more easily presumed</li> <li>- a minimum entitlement to three hours' pay for on-call workers each time they are called in to work</li> <li>- regulation of the risk of non-payment of wages in the event of there being no work for an on-call worker: the period over which employers may claim that they need not pay out wages for hours not worked has been reduced to six months</li> <li>- a worker's contract with a TWA is considered a regular employment</li> </ul>
<p>file a pro forma notice of objection to the Regional Director of the PES in the event of dismissal on economic or financial grounds in order to substantiate a claim for employment benefit</p>	<p>contract; only in the first 26 weeks are the agency and the agency worker allowed a certain degree of freedom with respect to starting and ending the employment relationship</p> <ul style="list-style-type: none"> <li>- special dismissal protection has been introduced for employees engaged in trade-union activities</li> <li>- dismissal cases at the district court (so-called rescission cases): the judge must check whether or not it is prohibited to terminate the employment contract with an employee, e.g. in the case of employees on sick leave; in the latter case the employer has to produce a re-integration plan for the employee to enable the judge to assess the feasibility of reinstatement.</li> </ul>

Source: Wilthagen, 2004, pg 3

After introducing what flexicurity is, its practical implications and best practices, structure of Turkish labour market as well as related legislations will be examined. Moreover, Turkish labour market's place in this categorization will also be stated.



## **CHAPTER 3**

### **STRUCTURE OF TURKISH LABOUR MARKET IN TERMS OF FLEXIBILITY AND SECURITY**

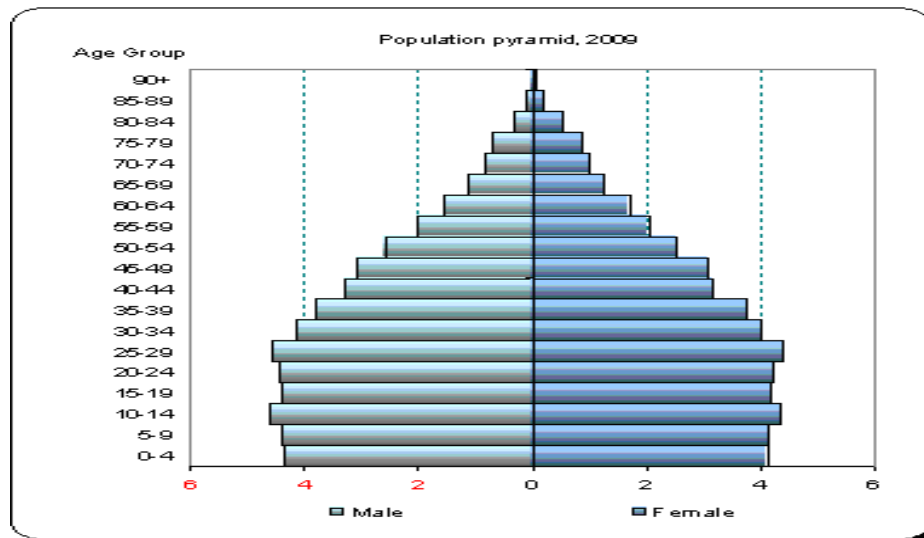
Turkey is facing serious challenges in the labour market due to her young and growing population, low labour market participation rates, high unemployment and undeclared work as well as economic growth without employment. Aiming to join with the European Union (EU) has also initiated lots of pressures concerning adaptation to the criteria of the EU during the process of negotiations. Besides, Turkey competes with other markets like China and India in terms of low wages, high efficiency and low production costs. Therefore, there are attempts of government to overcome these challenges and adapt to competitive markets by determining an employment strategy in corporation with social partners, academia, NGOs etc. In line with EU membership process, Turkish labour market agenda also met other possible solutions and approaches by European Union to inefficiencies in these markets such as flexicurity.

To speak of the countries that flexicurity policies were implemented gives an impression of facilitating labour market participation of women and young people as well as supporting formality. Therefore, before evaluating that flexicurity policies can be implemented in Turkish case, it is necessary to analyze structure of Turkish labour market in terms of population, women's, young people's labour market participation and situation and undeclared work.

To grasp Turkish labour market dynamics, firstly it is necessary to deal with Turkish population dynamics. According to TURKSTAT, Turkey is a developing country with a population of 72,561,312 people as of the end of 2009 where 50.3 percent of the total population are male (36,462,470 people) and 49.7 percent are female (36,098,842 people). The accelerating rate of increase in the population

will be expected to slow down since annual population growth rate was 17 percent in 1990, 13.8 percent in 2000 and is 11 percent in 2010. Moreover, it is expected to rise by 8.8 percent in 2020 and 7.4 percent in 2025. More strikingly, the share of working age population (15-64 years of age) is increasing in Turkey. Proportion of the population between 15 and 64 years of age is 67 percent in 2009 where 26 percent of the population of Turkey is in the age group of 0-14, and 7 percent is in the age group of 65 and over.

TURKSTAT statistics also figures that the median age of the population in Turkey is 28.8 which proves its young population and a “demographic window of opportunities”. While the median age is 28.2 for males, it is 29.3 for females. The median age for population living in province and district centres is 28.7; that of the village population is 29.1.



Source: TURKSTAT, Address Based Population Registration System Population Census Results 2009, Number 15, 25 January 2010 available at <http://www.tuik.gov.tr/PreHaberBultenleri.do?id=6178>

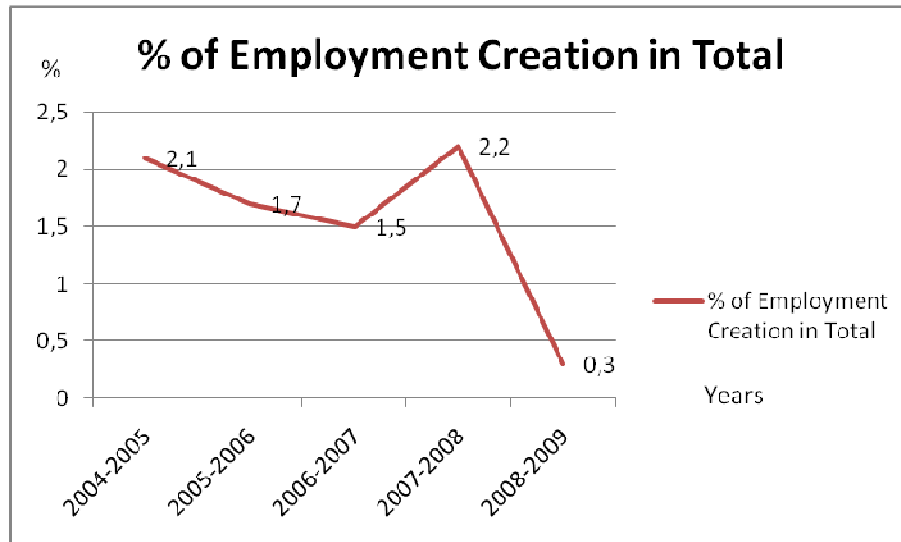
Figure 3: Population Pyramid of Turkey, 2009

On the other hand, increase in the labour force is higher than the increase in non-institutional population. As compared to 1.1 percent increase in the non-

institutional population, labour force increased by 3.9 percent in 2009 compared to the previous year. Due to the limited job creation and economic crisis, unemployment rate is on rise (11 percent in 2008 and 14 percent in 2009).

The long-term labour market characteristics of Turkey will be determined by its growing labour force with a decreasing rate which will in turn create a problem if there will be no sufficient education and skill level of working population and decent jobs for people.

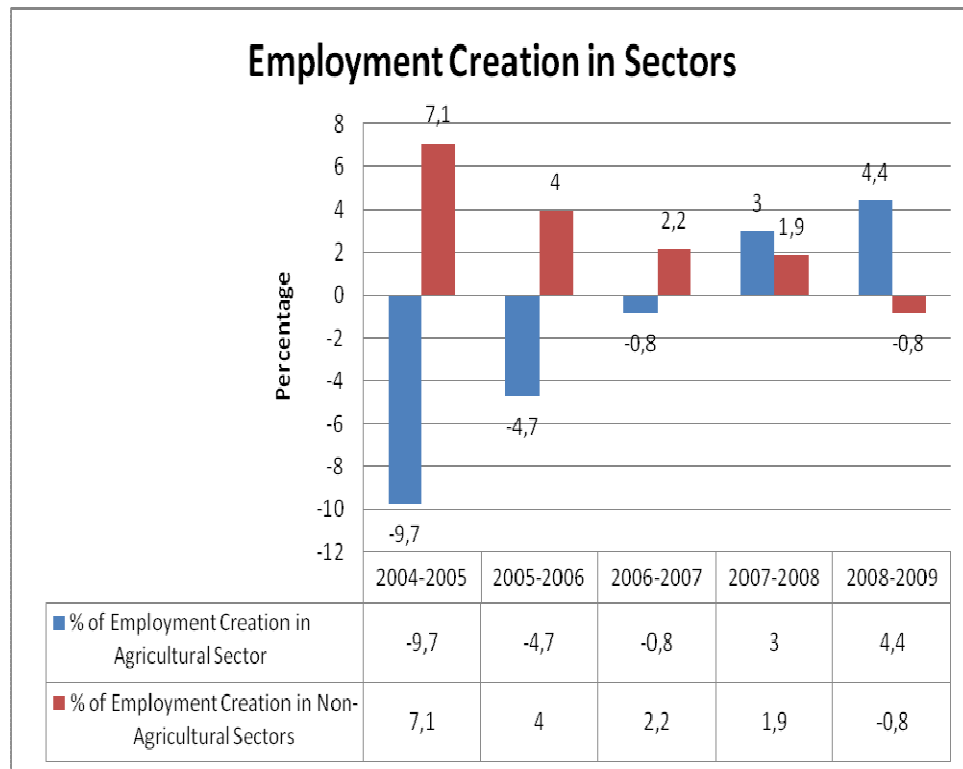
Analyzing employment status shows that job creation in non-agricultural sectors has decelerated; in response to 224.000 new employments in agriculture, 140.000 jobs were lost in non-agricultural sectors in 2009.



Source: Author's calculations from TURKSTAT Statistics, [http://www.tuik.gov.tr/PreTablo.do?tb\\_id=25&ust\\_id=8](http://www.tuik.gov.tr/PreTablo.do?tb_id=25&ust_id=8)

Figure 4: Employment Creation in Turkey with respect to years (2004-2009)

Although stabilizing in time, agricultural dissolution and the shift of the labour force from agriculture to service sector is continuing except for 2009.



Source: Author's calculations from TURKSTAT Statistics, [http://www.tuik.gov.tr/PreTablo.do?tb\\_id=25&ust\\_id=8](http://www.tuik.gov.tr/PreTablo.do?tb_id=25&ust_id=8)

Figure 5: Employment Creation in Turkey with respect to sectors (2004-2009)

Young rural migrants keep coming to urban areas and they fuel the informality in the labour market, men in seasonal construction and sometimes tourism, women in informal clothing and textiles and sometimes tourism (Majcher-Teleon and Bardak, 2010, pg. 10). Moreover, gradual de-ruralisation of Turkey and decline of the household sector are likely to maintain substantial shares of women outside the regular labour market in the short and medium terms (Breeuwsma et al., 2009, pg. 7).

On the other hand, as can be inferred from Table 3 below, the gaps between both sexes for the labour force participation and employment rate and youth employment rate are remarkably wide in Turkey whereas unemployment rates are somewhat not different.

Table 3: Labour Market Indicators, 2005-2009 (%)

	Turkey				
	2005	2006	2007	2008	2009
Labour Force Participation Rate (15-64)	46,4	46,3	46,2	46,9	47,9
-Female	23,3	23,6	23,6	24,5	26
- Male	70,6	69,9	69,8	70,1	70,5
Employment Rate (15-64)	41,5	41,5	41,5	41,7	41,2
-Female	20,7	21	21	21,6	22,3
- Male	63,2	62,9	62,7	62,6	60,7
Unemployment Rate	10,6	10,2	10,3	11	14
-Female	11,2	11,1	11	11,6	14,3
- Male	10,5	9,9	10	10,7	13,9
Youth Employment Rate (15-24)	30,2	30,3	30,2	30,3	28,9
-Female	19,4	19,3	19,3	19,8	19,3
- Male	41,6	41,8	41,5	41,3	39
Youth Unemployment Rate (15-24)	19,9	19,1	20	20,5	25,3
-Female	20,5	20,6	20,8	21,2	25
- Male	19,5	18,3	19,6	20,1	25,4

Source: TURKSTAT, [http://www.tuik.gov.tr/PreTablo.do?tb\\_id=25&ust\\_id=8](http://www.tuik.gov.tr/PreTablo.do?tb_id=25&ust_id=8)

Since there is high level of unemployment especially for women and young people, there is an urgent need of employment creation for these groups.

Moreover, there is a challenge of increasing number of labour force participation rates for urban youth, especially women, since their rates are likely to increase from their current low levels due to urbanisation (Ercan, 2007, p.31).

In the literature, main factors affecting women's labour market participation and employment have been defined as economic factors, the existence of women friendly policies, most important of which are harmonisation of work and private life policies as well as part-time work opportunities, educational attainment of women and cultural factors affecting women's paid work (Lim, pp.203-205). With regard to Turkish labour market, the low and decreasing participation of women in the labour force is due to cultural barriers preventing women's labour participation, the decline in employment in agriculture in general and migration from rural to urban areas where employment opportunities for women are still limited (Vos, 2008, pg 2) (TISK, 2009).

Another barrier for women's participation to labor market lies behind the public provision of child care, which is highly limited. As a result, almost all formal child care is provided by the market at high costs, and almost all informal child care is provided by parents, grandparents and/or both. With the prevalence of private child care places in urban areas, families who can afford high prices can take up formal care while others should either depend on relatives or cease to work, as part-time work is not widespread in Turkish labour market.

With regards to cultural factors, studies on women's labour market behaviour in Turkey reveal that gender culture and traditional perceptions towards gender roles are crucial determinants of low labour market participation of Turkish women. The gendered division of labour in which men are encouraged to take up full-time work and the women are encouraged to do the caring work, labour market participation of married women is found to be negatively related with the number of children in empirical studies (World Bank, 2009). Unmarried women first seek

a job with health and pension benefits whereas childcare benefits are important for married women to enter the labour market. For low-skilled women in urban areas the probability of participation is around 32% (for married women with no children) and declines significantly down to 15% during their first pregnancy (Uraz et al, 2010, pg.8). Apart from those, educated women who had a career before getting married often leave their jobs upon giving birth of the first child. A highly-skilled woman in an urban area who has never been married before, works 43% of the time, a married woman in the same category works 54% of the time before her first pregnancy and 56% of the time during her first pregnancy (Ibid, pg 7). After the first child, the likelihood of these highly-skilled women to be working drops by 15 percentage points down to 41% and does not recover again in consequent years(Ibid, pg 7).

Labour force participation figures by marital status also reveal this point; employment rates are 36.2% for single, 24.3% for married and 45.8% for divorced and 9% for widow women (TURKSTAT, data refers to 2009)<sup>4</sup>.

Education has been regarded as one of the most important determinants of employment, especially for women, in the literature. Women's educational attainment has increased substantially especially since 1990s in Turkey<sup>5</sup>.

Low educational attainment of the labor force leads to low labor productivity and thus low wages on the one hand, and a mismatch between skills demanded and supplied in productive sectors on the other. Thus, skills deficiencies create bottlenecks in the effective functioning of the labour market.

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<sup>4</sup> TURKSTAT, Labour force participation statistics by marital status  
[http://tuikrapor.tuik.gov.tr/reports/rwservlet?isgucudb2=&ENVID=isgucudb2Env&report=iko\\_ora\\_n\\_web\\_tur\\_2000.RDF&desformat=html&p\\_tur=1&p\\_kod=1&p\\_c1=2&p\\_yas=15&p\\_yas1=999&p\\_x=medeni\\_durum&p\\_x1=1&p\\_x2=2&p\\_x3=3&p\\_x4=4&p\\_x5=5&p\\_x6=6&p\\_x7=7&p\\_x8=8&p\\_x9=9&p\\_x10=10&p\\_x11=11&p\\_x12=12&p\\_x13=13&p\\_x14=14&p\\_YIL1E=999999](http://tuikrapor.tuik.gov.tr/reports/rwservlet?isgucudb2=&ENVID=isgucudb2Env&report=iko_ora_n_web_tur_2000.RDF&desformat=html&p_tur=1&p_kod=1&p_c1=2&p_yas=15&p_yas1=999&p_x=medeni_durum&p_x1=1&p_x2=2&p_x3=3&p_x4=4&p_x5=5&p_x6=6&p_x7=7&p_x8=8&p_x9=9&p_x10=10&p_x11=11&p_x12=12&p_x13=13&p_x14=14&p_YIL1E=999999)

<sup>5</sup> TURKSTAT, Educational Attainment Statistics,  
[http://www.tuik.gov.tr/VeriBilgi.do?tb\\_id=14&ust\\_id=5](http://www.tuik.gov.tr/VeriBilgi.do?tb_id=14&ust_id=5)

Unemployment among the educated and those who have skills reveal the mismatch between skills demanded and supplied. As Table 4 indicates, unemployment rates increase as education level increases, except for college and faculty graduates. Highest unemployment is among high school graduates.

Table 4: Educational Composition of the Labour Force (%), 2009

	Labour Force Participation Rate	Unemployment Rate
Illiterate	18.8	8
-Female	15	3
-Male	37.1	17.6
Less than high school	45.8	13.9
-Female	21.8	11.4
-Male	69.1	14.7
High school	52	18
-Female	30.4	26.3
-Male	69.1	15.1
Vocational high school	65.4	15.6
-Female	39.1	25.9
-Male	81	12.7
Higher Education	78	12.1
-Female	70.8	16.3
-Male	83.1	9.6

Source: TURKSTAT, Labour Force Statistics  
[http://www.tuik.gov.tr/VeriBilgi.do?tb\\_id=25&ust\\_id=8](http://www.tuik.gov.tr/VeriBilgi.do?tb_id=25&ust_id=8)



On the other hand, women with a low level of education generally work in low paid and low productive jobs. Together with the high costs of child care, low wages of women reinforce the rationale for staying at home and engaging in care rather than being employed. In 2009<sup>6</sup>, 12.1 million of the 19.4 million women out of the labour force stated domestic work and child care as the main reason for not being in the labour force. Strikingly, the 20.3 percent of these women<sup>7</sup>, those living in urban areas<sup>8</sup>, possess the qualifications to be able to participate in the labour force with an education of at least secondary school. The welfare loss caused by traditional gender roles and limited availability of child care (which is also related with the assumption of a female carer at home) in urban areas and by low skilled women who migrated to cities is evident in Turkish case. In other words, also understood from Table 5, besides mental and physical problems, education, economic transformation from agriculture to services, and traditional division of work by gender, which leaves child care responsibility solely to women, explain most of the variance in mothers' and women's employment behaviour in Turkey.

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<sup>6</sup> TURKSTAT 2009 data, [http://www.tuik.gov.tr/VeriBilgi.do?tb\\_id=25&ust\\_id=8](http://www.tuik.gov.tr/VeriBilgi.do?tb_id=25&ust_id=8)

<sup>7</sup> TURKSTAT 2009 data, [http://www.tuik.gov.tr/VeriBilgi.do?tb\\_id=25&ust\\_id=8](http://www.tuik.gov.tr/VeriBilgi.do?tb_id=25&ust_id=8)

<sup>8</sup> It is also argued that by dissolution of agricultural sectors, women who were working as unpaid family workers could not find jobs in urban which made them discouraged and get out of the labour market. (<http://www.atonet.org.tr/turkce/bulten/bulten.php3?sira=529> )

Table 5: Reasons of Women not Participating in Labour Force By Years (2007-2009) (%)

Reasons	2007	2008	2009
Housewife	62.3	62.4	62.1
Disabled, old, ill etc	10.5	11	11
Education/Training	8.2	8.5	9.4
Not seeking a job, but available to start (discouraged and other)	4.8	5.2	5.9
Retired	3.6	3.5	3.9
Working seasonally	1	1.2	0.3
Other	9.6	8.2	7.1

Source: TURKSTAT [http://www.tuik.gov.tr/VeriBilgi.do?tb\\_id=25&ust\\_id=8](http://www.tuik.gov.tr/VeriBilgi.do?tb_id=25&ust_id=8)

Another group of workers that is affected by deficiencies of labour market are young people since they are generally unqualified and low skilled workers. Entry on the labour market for these people is difficult because of various reasons. One reason is the poor connection between vocational and occupational training and the demands of the labour market. Young people with a lower educational level access the informal sectors (e.g. home-based work, street sales), because jobs do not require training or capital (Breeuwsma et al., 2009, pg 10). Most of the young people are not wanted to get hired due to their lack of skills. In practice this leads to a problem –for both employer and worker- in terms of sustainability: as entering the labour market is difficult, it is even more difficult to keep this first time job for most of the unqualified young workers.

Another chronic problem in Turkey labour market is informality and undeclared work. In 2009, 43.8 percent of the employed were working as not registered to institution due to their main jobs. This situation is getting worse for women (58.3 percent) when compared to men (38.3 percent)<sup>9</sup>.

One of the striking features of employment in Turkey is the share of undeclared work. Turkey has both flexible (informal) segment and a secure (formal) segment in its labour market (Ercan, 2007, pg.32). One of the important reasons for increasing rates of informal work lies behind the insufficient creation of formal jobs (Özşuca, 2003, pg 60).

According to TURKSTAT statistics (2009), the ratio of employment status of persons who are not registered to any social security institution due to main job to the number of employed is 43.8 percent. This ratio increased to 68 percent in rural whereas 30.8 percent in urban areas.

Among 1990s, regardless of sex, ratio of employed without being registered to the social security system was approximately 25 percent (Ibid, pg 60), however this ratio increased to 30 percent in the end of 2009. The share of persons who did not have any social security in agriculture decreased from 87.8 percent to 85.8 percent and that in non-agriculture increased from 29.8 percent to 30.1 percent compared to 2008.<sup>10</sup>

For non-agricultural sector, 29.7 percent of men are working without being registered to the social security system whereas it is 31.3 percent for women. With

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<sup>9</sup> TURKSTAT: [http://www.tuik.gov.tr/VeriBilgi.do?tb\\_id=25&ust\\_id=8](http://www.tuik.gov.tr/VeriBilgi.do?tb_id=25&ust_id=8)

<sup>10</sup> TURKSTAT, Annual Results of Household Labour Force Survey, 2009  
<http://www.turkstat.gov.tr/PreHaberBultenleri.do?id=6198>

regard to agricultural sector, 76.9 percent of men are working without being registered to the social security system whereas it is 96.2 percent for women.

Among undeclared workers in agricultural sector, non-paid family workers constitute the biggest share with 50.6 percent, own account workers are the second with 39.1 percent, regular employees and casual employees with 8.9 percent and employers with 1.2 percent.

For non agricultural activities; undeclared work is more prevalent among regular employees and casual employees (61 percent), self-employed (26.2 percent), unpaid family workers (7 percent) and employers (5.5 percent) respectively.

According to TURKSTAT database (2009)<sup>11</sup>, for establishments where 1-4 employees are employed, informal employment rate is 68.8 percent, for 1-9 employees are employed it is 65.5 percent, for 1-25 employees it is 60.8 percent, for 25-49 employees 2 percent and for 50+ employees it is 1.1 percent. Since Labour Law No 4857 covers establishments employing more than 30 workers, informality among these establishments are very low, but very high for establishments which are not covered by Labour Law.

To give a snapshot, Turkish labour market has a segmented structure with high informality with flexibility and too secure formality with low participation rates of women and high level of unemployed young. If one wants to categorize Turkey in terms of flexicurity diagram as mentioned in previous chapter, it is observed that

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<sup>11</sup> TURKSTAT database, Employed according to size of the firm and informal employment [http://tuikrapor.tuik.gov.tr/reports/rwservlet?isgucudb2=&ENVID=isgucudb2Env&report=istihdam\\_web\\_tur\\_top\\_2000.RDF&desformat=html&p\\_tur=1&p\\_kod=2&p\\_yas=15&p\\_yas1=999&p\\_x=isyeri\\_buyuk&p\\_y=kendi\\_kayitli\\_kod&p\\_x1=1&p\\_x2=2&p\\_x3=3&p\\_x4=4&p\\_x5=5&p\\_x6=6&p\\_x7=7&p\\_x8=8&p\\_x9=9&p\\_x10=10&p\\_x11=11&p\\_x12=12&p\\_x13=13&p\\_x14=14&p\\_y0=0&p\\_y1=1&p\\_y2=2&p\\_y3=3&p\\_y4=4&p\\_y5=5&p\\_y6=6&p\\_y7=7&p\\_y8=8&p\\_y9=9&p\\_y10=10&p\\_y11=11&p\\_y12=12&p\\_y13=13&p\\_y14=14&p\\_YIL1E=2009](http://tuikrapor.tuik.gov.tr/reports/rwservlet?isgucudb2=&ENVID=isgucudb2Env&report=istihdam_web_tur_top_2000.RDF&desformat=html&p_tur=1&p_kod=2&p_yas=15&p_yas1=999&p_x=isyeri_buyuk&p_y=kendi_kayitli_kod&p_x1=1&p_x2=2&p_x3=3&p_x4=4&p_x5=5&p_x6=6&p_x7=7&p_x8=8&p_x9=9&p_x10=10&p_x11=11&p_x12=12&p_x13=13&p_x14=14&p_y0=0&p_y1=1&p_y2=2&p_y3=3&p_y4=4&p_y5=5&p_y6=6&p_y7=7&p_y8=8&p_y9=9&p_y10=10&p_y11=11&p_y12=12&p_y13=13&p_y14=14&p_YIL1E=2009)

Turkey takes place in the Mediterranean group which consists of Spain, Italy and Greece (Ercan, 2007, pg. 49). Moreover, Turkey has a pool of former agricultural workers, almost all service sector employees and almost all women workers as unregistered or unorganized components of employment picture (Ibid, pg 48). The reasons of this structure also vary within the law as employment protection legislation which will be more examined in the next chapter. Moreover, the low level of unionization in Turkish labour market and crawling social dialogue mechanisms have as a matter of course their impacts on flexibility and security. Therefore trade unions' perspective to the flexicurity will be more elaborated in fifth chapter.

## CHAPTER 4

### LEGISLATION AND INSTITUTIONAL STRUCTURE WITH REGARD TO FLEXICURITY

One of the most relevant aspects of the multidimensional concept of labour market flexibility is employment protection legislation<sup>12</sup>. Employment Protection Legislation refers to the entire set of regulations that place some limits to the faculties of firms to hire and fire workers, even if they are not grounded primarily in the law, but originate from the collective bargaining of the social partners, or are a consequence of court rulings. It also covers in particular, provisions favouring the employment of disadvantaged groups in society, determining the conditions for the use of temporary or fixed-term contracts, or imposing training requirements on the firm, affect hiring policies, while redundancy procedures, mandated pre-notification periods and severance payments, special requirements for collective dismissals and short-time work schemes influence firing decisions (Barone, 2001). According to Eamets and Masso (2004), it includes employees' protection against dismissals, limitations on the use of temporary forms of employment, regulation of working hours, but in a broader sense also health and safety, protection of employees in less favourable conditions. World Bank (2002) categorizes rigid and flexible markets as

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<sup>12</sup> Freeman (1993) stated two counter arguments to these regulations as “distortionist” and “institutionalist”. The distortionist view emphasizes the advantage of market processes and argues that strict Employment Protection Legislation (EPL) increases dualism of the labour market by favouring insiders, increases effective labour costs, discourages hiring and impedes adjustment to economic shocks. In order to avoid adverse labour-market outcomes, some trade-off has to be made probably between employment security and labour market flexibility. Institutional approach emphasizes that labour regulations are needed to circumvent the weak bargaining power of employees in employment relationships, inadequate insurance against the risk of unemployment, to moderate effects of downswings in aggregate demand and to enhance investments in human capital (and thus productivity growth). For further information, please see <http://ftp.iza.org/dp1147.pdf>

Table 6: The Employment Protection Continuum

RIGID OR PROTECTIVE	FLEXIBLE OR UNREGULATED
Fixed-term contracting restricted	Unrestricted fixed-term contracting
Temporary agency work restricted	Unrestricted temporary agency work
Hiring standards	No hiring standards
Employer dismissal rights restricted	Unrestricted dismissal rights
Substantial severance and advance notice required	No severance or notice required
Substantial administrative requirements for layoffs	Simple administrative procedures

OECD also classifies countries with its EPL statistics by strictness of employment protection – overall where Turkey is in the first rank with 3.72<sup>13</sup>. To give a projection of this statistic into the legislations, it is needed to examine Labour Law and Social Security Law in detail.

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<sup>13</sup> The OECD indicators of employment protection are synthetic indicators of the strictness of regulation on dismissals and the use of temporary contracts. For more information and full methodology, please see [www.oecd.org/employment/protection](http://www.oecd.org/employment/protection). Here methodology version 1 included since it is an unweighted average of the sub-indicators for regular and temporary contracts. The indicator for regular contracts does not include items on maximum to make a claim of unfair dismissal and the indicator for temporary contracts does not include items on authorisation and reporting requirements for Temporary Work Agencies (TWAs) and equal treatment for TWA workers. Since there are no TWAs in Turkey, Version 1 is included in this thesis.

#### 4.1. Flexibility and Job Security in Labour Law

Compared to previous Labour Law (No 1475), Labour Law (No 4857) brought new regulations on flexible work, workplaces and employment procedures like employer and sub-employer relations for adapting global market demands.<sup>14</sup>

First of all, Article 2 paragraph 6 and 7 shapes relations between employer and sub-employer. This issue brings flexible workers for employers for adapting technology and defer their sub-works to the subcontractors. According to the Article, *“The relation established between an employer who assumes work from another employer in auxiliary works regarding the good or service production or in some part of the main works requiring expertise due to technologic reasons as a requirement of the enterprise and the work and employs its workers assigned for this work only in the work assumed in that business and the employer from which it assumes the work is called main employer – sub-employer relation.”*

Secondly, definition of part-time workers has entered to the legislation which permits external flexibility. According to Article 13, *“When the normal weekly work time of the worker is established substantially less than an equivalent worker employed on a full-time labour contract, such contract is a part-time labour contract.”*<sup>15</sup> Furthermore, this worker *“cannot be subjected to any procedure different than a full-time equivalent worker”*<sup>16</sup> merely on the grounds

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<sup>14</sup> A tripartite commission, consisting of academicians appointed by the government, TİSK, and the three trade unions (TÜRK-İŞ, HAK- İŞ and DİSK) prepared the 2003 Labour Act. In spite of the original consent to respect the final text, the unions lobbied for changes during the passing of the Act in the Parliament.

<sup>15</sup> By Law of Working Hours related with Labour Law No 4857, which is published in the Official Gazette No: 25425, dated 06/04/2004, states in Article 6 that part-time works are defined as 2/3 times of equivalent works with full-time contracts.

<sup>16</sup> According to Article 13/III: An equivalent worker is one employed full-time in the business for the same or a similar work. In case no such worker exists at the business, a worker employed on an



*that his/her labour contract is a part-time one, unless a reason justifying such discrimination exists*". Wage and other benefits of that worker are determined according to the proportion to the employment time compared to the full-time equivalent worker. This also gives an opportunity to the part-time workers to pass to full-time job in case there is a vacancy or vice versa. Moreover, Article 5 states the equal treatment of workers based on part-time contracts that *"The employer can not treat part-time worker against full-time worker and definite-term worker against indefinite-term worker differently unless on founded reasons"* and favours the part-time workers for unequal treatment as *"In case of contradiction to the provisions ... in the business relation or termination, the worker can demand the rights that he/she has been deprived of besides an appropriate indemnity equivalent up to four months' wage."*

Thirdly, temporary labour relation is also introduced to Turkish labour legislation. This regulation gives the employer an area of movement as flexibility by establishing temporary labour relation. Article 7 regulates that this kind of relation occurs *"when the employer temporarily transfers a worker for employment on the condition that it is within the holding or in another business subsidiary to the same group of companies or in works similar to the worker's current work, provided that he/she receives the written consent of the worker at the time of transfer"*. In this case, *"while the labour contract continues, the worker becomes liable to perform the work that he/she has undertaken under such contract for the employer with whom a temporary labour relation has been established."*

Duration of this labour relation is restricted to six months and its labour contract can be renewed maximum two times when required.

The wage paying liability is attributed to the first employer. But *"the employer with whom a temporary labour relation has been established is responsible for the*

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indefinite-termed labour contract in the said line at a business with conforming conditions and undertaking the same or a similar work is taken into consideration.

*unpaid wage, worker supervision liability and social insurance premiums of the worker during his/her employment by him/her together with the employer.”* Moreover, for other rights and obligations, the Law regulates as: *“Unless otherwise understood from the temporary contract of the worker, the arrangements in this Law regarding other rights and obligations of the worker are applied to his/her relation with the employer with whom a temporary labour relation has been established, as well.”*

To protect workers and prevent misuse of the legislation, the Article forbids establishing temporary labour relation within six months from the date of dismissal in workplaces where workers are dismissed in mass.

Fourthly, in the context of freedom to determine type and forms of work, new types of contracts entered into the legislation. Article 9 states that *“Labour contracts may be made with full-time or part-time, with probation period, or in other types with respect to forms of work.”* There is also an opportunity to conclude definite and indefinite-termed labour contracts. Due to Article 11, definite termed labour contracts give the employer a flexibility to dismiss the worker at the end of the period. This regulation also protects workers by stating that *“Definite-termed labour contract cannot be made successively more than once (in chain) without any founded reason. Otherwise, the labour contract is considered as indefinite-termed from the beginning”* and employers by *“Chain labour contracts based on founded reasons maintain their features of being definite-termed.”*

Article 12 also contributes to protection of the worker as *“Any worker employed on a definite-termed labour contract cannot be subjected to a different treatment compared to an equivalent worker employed on an indefinite-termed labour contract merely on the grounds that his/her labour contract has a definite term, unless a reason justifying discrimination exists.”* Like the part-time workers, Law

states that *“divisible benefits regarding the wage and money payable to a worker employed on a definite-termed labour contract based on a certain period of time are given in proportion to the period that the worker has worked. When the length of service in the same business or enterprise is sought for benefiting from any working condition, the seniority taken as a basis for the equivalent worker<sup>17</sup> employed on an indefinite-termed labour contract is applied for a worker employed on a definite-termed labour contract, unless a reason justifying the application of different seniority exists.”*

Fifthly, like part-time work, on-call employment has entered into the legislation. Article 14 states that *“The labour relation where it is agreed through a written contract that the action of working shall be performed when worker is required in relation with the work undertaken by him/her is a part-time labour contract based on on-call work.”*

The article restricts weekly working hours to 20 hours unless the parties determine different. The worker is protected by his/her entitlement for the wage either he/she is employed or not during the time determined for on-call employment.

The employer should make such a call at least four days in advance of the work time of the worker, unless otherwise agreed while the worker is obliged to fulfil the action of working upon call observing the time condition. *“Unless a daily working period is agreed in the contract, the employer has to employ the worker during at least four consecutive hours for each call.”*

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<sup>17</sup> According to Article 12/III: Equivalent worker is the worker employed on an indefinite-termed labour contract at the business in the same or a similar work. In case no such worker exists at the business, a worker employed on an indefinite-termed labour contract in the said line at a business with conforming conditions and undertaking the same or a similar work is taken into consideration.

Labour contract with probation period is another flexibility regulation. Article 15 proves that this kind of condition can be included in the labour contract by maximum two months. But there is a possibility to extend this period to four months by collective labour agreements. Employer's and worker's flexibility lies behind the termination of the contract without the need for a notification period and without indemnity within the probation period. Worker is protected by his/her entitlement to the wage and other rights for the days that he/she has worked.

On the other hand, termed termination (Article 17) gives both parties to terminate indefinite-termed labour contracts under certain conditions<sup>18</sup>. If not obeyed, these conditions create a protection to other party since terminating party is obliged to pay an indemnity equal to the wage pertaining to the notification period.

The worker is also protected since *the employer may terminate the labour contract by paying the wage pertaining to the notification period in advance*.

If there is a misuse of the right of termination by the employer, the worker<sup>19</sup> is paid an indemnity equal to three times of the notification period. In the calculation

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<sup>18</sup> Labour contracts are considered to be terminated;

- a. Two weeks after the notification of the other party for workers who have worked less than six months,
- b. Four weeks after the notification of the other party for workers who have worked between six months and one and a half year,
- c. Six weeks after the notification of the other party for workers who have worked between one and a half year and three years,
- d. Eight weeks after the notification of the other party for workers who have worked more than three years.

These periods are minimum periods and can be extended through contracts.

<sup>19</sup> This worker is paid an indemnity equal to three times of the notification period in case the labour contracts of workers not covered by article 18, 19, 20 and 21 where these articles cover the workers with at least six months of service at a business employing thirty or more workers.

of the indemnities payable under this article and the wage payable in advance for notification periods, the benefits of the worker arising out of the contract and the Law that are in cash or can be measured in cash are considered in addition to the wage.

Articles 18, 19, 20 and 21 are mainly based on job security. Article 18 states that “*Any employer who terminates the indefinite-termed 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 behaviours of the worker or the requirements of the enterprise, business or work.*” and gives the conditions which do not constitute a valid reason for termination<sup>20</sup>. Termination grounding on valid reasons should be written clearly and definitely by the employer (Article 19). “*The indefinite-termed labour contract of a worker cannot be terminated on grounds regarding the behaviour or efficiency of that worker without receiving his/her defence against such claims. However, the employer’s right for termination under the requirements of indent (II) of Article 25 is reserved*<sup>21</sup>”. Moreover, worker has the right to assert and object against notice of termination which obliges employer to prove that the termination is

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<sup>20</sup> Particularly the following issues do not constitute a valid reason for termination:

- a. Membership in a trade union or participation in union activities out of work hours or within work hours with the consent of employer.
- b. Being the trade union representative of the business.
- c. Application to administrative or judicial authorities against the employer for seeking the rights arising out of laws or the contract or participation in a proceeding already instituted on this issue.
- d. Race, color, sex, marital status, family obligations, pregnancy, birth, religion, political opinion and similar reasons.
- e. Not coming to work during the periods set forth in article 74 and when it is prohibited to employ woman workers.
- f. Temporary absence from the business during the waiting period set forth in indent (I), sub-indent (b) of Article 25 due to illness or accident.

<sup>21</sup> These are the cases contradicting to rules of ethic and goodwill and similar cases.

based on a valid reason (Article 20).” *If he/she alleges that the termination is based on another reason, the worker is obliged to prove such allegation.*” This burden of proof protects the employer. Furthermore, Article 21 justifies the protection of the worker that *“in case the employer does not assert a valid reason or the court or special arbitrator decides that the asserted reason is not valid and the termination is decided to be ineffective, the employer is obliged to employ the worker within one month. If the employer does not employ the worker within one month upon his/her application, the employer becomes liable to pay an indemnity equal to minimum four and maximum eight months’ wage to the worker.”*

Similar with the previous Labour Law No.1475, Article 24 gives the right to the worker and Article 25 to the employer an immediate termination on justified grounds. Both articles state that both parties can terminate the labour contract with definite or indefinite term before the expiry of its period or without waiting for the notification period in the certain cases based on health reasons, cases contradicting to rules of ethic and goodwill and similar cases and force major<sup>22</sup>.

On the other hand, Labour Law regulates working period of the workers by Article 63 to maximum forty five hours a week in general aspect. Such period is applied by equally assigning it to working days of the week unless otherwise agreed. Moreover, employer has the internal flexibility to assign working days of the week without exceeding eleven hours a day, upon agreement of the parties. *“In this case, the average weekly working period of the worker may not exceed normal weekly working period during a period of two months. The compensation period may be increased by up to four months by collective labour contracts.”*<sup>23</sup>

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<sup>22</sup> The term force majeure relates to the law of insurance and is frequently used in construction contracts to protect the parties in the event that a segment of the contract cannot be performed due to causes that are outside the control of the parties, such as natural disasters, that could not be evaded through the exercise of due care. For more information, please see <http://legal-dictionary.thefreedictionary.com/Force+Majeure>

<sup>23</sup> Article 63/II

Moreover, Article 41/III regulates working with extra periods as *“in cases where the weekly working time is determined below forty-five hours through contracts, the work times exceeding the average weekly working time applied within the above principles up to forty-five hours are working with extra periods”* and states the wages related as *“for each hour of extra period is paid by increasing the amount of normal work wage per hour by twenty-five percent.”*

Another flexibility regulation in the Labour Law is the compensation work. The employer can demand compensation work for cases where work is performed substantially below normal work periods or completely stopped due to force major or the workplace is temporarily closed prior to or after national festivals or general holidays or due to similar reasons or the worker goes on a leave upon his request. *“Such works are not considered overtime or work with excess periods.”*<sup>24</sup> *“Compensation works may not exceed three hours in a day, provided that they do not exceed daily maximum working period. Compensation works may not be made on holidays.”*<sup>25</sup>

Last flexibility regulation is about short work where the employer who substantially decreases weekly working periods temporarily or completely or partially stops the activities of workplace temporarily due to a general economic crisis or force major. The employer *immediately notifies the situation to Turkish Employment Organization and the union party to the collective labour contract, if any, with a letter together with reasons thereof. The request is evaluated by the Ministry of Labour and Social Security.*<sup>26</sup> In case the work is temporarily stopped at the workplace for minimum four weeks or short work is applied due to the above-mentioned reasons, short work benefits are paid to the workers from

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<sup>24</sup> Article 64/I

<sup>25</sup> Article 64/II

<sup>26</sup> Article 65/I

unemployment insurance for the periods that they do not work. Short work period may not exceed the duration of force major and in any case three months. In order for the worker to be entitled to short work benefit, he/she should fulfil the requirements for entitlement to unemployment benefit in respect of working periods and number of days of unemployment insurance premium payment. *Amount of daily short work benefit equals to that of unemployment benefit.*<sup>27</sup>

After Labour Law, it is needed to examine further social security what is related with flexicurity in terms of social security legislations.

#### **4.2. Flexibility and Job Security in Social Security Legislation**

Turkey in line with EU accession process has started to reform its social security system in 2003 and adopted the laws on social security reform in May and June 2006. By these reforms, it was aimed to:

- Set up a single retirement insurance for all workers, employers, self-employed and civil servants
- Create of General Health Insurance System
- Gather social security institutions under a single roof (Social Security Institution)
- Establish a system where social benefits and services are based on objective criteria.

Before Law No. 5510, there are three different institutions namely General Directorate for Retirement Fund for civil servants, Social Insurance Institution for

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<sup>27</sup> Article 65/III



workers and Social Security Organization for self employed and artisans. All these institutions are brought under an umbrella as Social Security Institution which is implementing Law No. 5510. Below, Law No. 5510 will be further elaborated in terms of flexicurity.

First of all, Article 4 of Law No: 5510 defines individuals deemed to be insurance holders where both typical and atypical workers are included to have social security as *“For the purposes of implementing short and long term insurance branches;*

*a) Who are employed by one or more employer through a service contract”*

whereas Article 80 states the earnings subject to premium for insurance holders also for part-timers as *“h) Number of days used in calculating the daily earnings of insurance holders also indicates the number of paid premium days of such individuals. However, provided that the part time service contract between the employer and the insurance holder is in written format, the number of paid premium days of in that month of the insurance holder who works at certain hours of the day and receives hourly wage shall be calculated by the total number of hours worked in that month divided by the daily working hour calculated according to the weekly working time determined pursuant to Labour Law Number 4857. Day fractions shall be accepted as a full day in such calculations.*

*ı) If the working time is determined as day, week or month between the parties in the written labour contract based on work upon call between the employer and the insurance holder, then paid premium days of the insurance holder in that month shall be calculated in accordance with the provision of item (h), considering that the weekly working time is decided to be minimum twenty hours.”*

Number of premium payment days for “on call work” and “part time work” are explained in Article 101 of By-Law of the Social Security Procedures which is

published in the Official Gazette No: 27579, dated 12/05/2010. According to the article;

2) *If part time work contract between employer and insured signed for monthly-fee, it is reported to the institution as full month regardless of the weekly working time.*

3) *If part time work contract is signed for per-hour, the result of the total working time of the insured during the month divided by 7,5 hours expresses the number of premium payment days for that month according to the Law No: 4857.*

In order to explain this method, if we consider Mr. A, working in the X Supermarket as a sales person with a part-time for per-hour contract, working 80 hours; the number of premium payment days for Mr. A is calculated as:

$80 / 7.5 = 10.666 \text{ days} \approx 11 \text{ days.}$

11 premium payment days is reported for Mr. A for that month.

However, for the insured working within the context of Law No. 854 on Maritime Labour and Law No: 5953 on the regulation of relations between employees of the press profession and their employers, the total working time in a month is divided by 8 and the fractions are considered as one day.

On the other hand, Article 86 states necessary procedures for employer's of part-time workers to get entitled to social insurance as "*It is obligatory for the employer to add the documents proving that the insurance holders, who are declared not to work and not to be paid on certain workdays in a month, have worked less than thirty days, to the premium and service document of the concerned month.*" Moreover, By-Law of Social Security Procedures states in Article 102/12 states necessary documents-*written contract-* for part-time workers.

Law No: 5510 allows “part-time employees, who work less than 30 days a month, to cover their uncovered days in service by paying voluntary social security contributions” to promote flexible work. In that way, it is expected that such kind of measures will contribute to increase incentives for declared work for part-time workers. According to Article 88, “*For individuals who are insurance holders under item (a) of paragraph one of Article 4 but work part time or on call pursuant to Articles 13 and 14 of Law Number 4857 and for insurance holders who work less than 30 days a month at household services pursuant to this Law, it is obligatory to complete the universal health insurance premiums of missing days to 30 days. Universal health insurance premiums of such insurance holders related with their missing days shall be payable under number (1) of item (c)... of Article 60.*” These conditions are valid for citizens whose domestic income per capita is less than one thirds of the minimum wage, to be determined using the testing methods and data to be laid down by the Social Security Institution, considering their expenses, movable and immovable properties and their rights arising from such.

With regard to rights granted from invalidity insurance and conditions to benefit, Article 26 (b) states that in order to put an insurance holder on invalidity pension, the insurance holder should *be holding insurance for a period of minimum ten years and should have paid totally 1800 days or in case the insurance holder is disabled to the extent of being in need of permanent care of another person, should have notified 1800 days of invalidity, old - age or survivors insurance premiums, without seeking any period for holding insurance.* For old age pension, Law regulates in Article 28 with regard to the individuals who are deemed to be insurance holder with Law No.5510 for the first time as;

*a) old - age pension shall be granted provided that the individual is over 58 if the individual is female or over 60 if the individual is male and that minimum 9000 days of invalidity, old - age and survivors insurance premiums are notified. However, the number of premium days condition shall be applied as 7200*

*premium days for the insurance holders under item (a) of paragraph one of Article 4.*

In order to give a snapshot of the system, a comparing table of related regulations with regard to previous laws and Law No.5510 is stated below:

Table 7: Social Security Regulations in terms of pensions and invalidity with regard to previous laws and Law No.5510

	Previous Laws and Regulations <sup>28</sup>		Law No 5510
	Workers	Self-employed	
<b>The age to entitle retirement</b>	Starting from 47 for men 44 for women To 58 for women 60 for men on a gradual basis	Starting from 47 for men 44 for women To 58 for women 60 for men on a gradual basis	For women 58 and for men 60  After 2048, men and women will be entitled for retirement At the age of 65
<b>The rate of calculation of pension</b>	For the first 10 years, rate is 3.5 %, For the next 15 years, the rate is 2 %, Afterwards 1.5 %.	For the first 10 years, rate is 3.5 %, For the next 15 years, the rate is 2 %, Afterwards 1.6 %.	If the insured has less than 10 years of payment to the system before 2008, 3 % till completion of 10 years and for the rest 2 %
<b>Total Premium Days for entitlement of pension</b>	7000 days	9000 days	7200 days for workers, 9000 days for self-employed and public servants

<sup>28</sup> Related regulations of Labour Law No. 1475 and Social Insurance Law No. 506.

**Table 7 (cont'd)**

<p><b>Conditions for invalidity</b></p>	<p>Payment of 1800 days premium or at least 5 years of being insured and payment of 180 days premium for every year. (In total 900 days)</p>	<p>Payment of 1800 days premium</p>	<p>At least 10 years of being insured and at least payment of 1800 days Premium  If he/she is in need of care, 5 years of being insured and 900 days payment of premium</p>
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Last but not the least, it is important to deal with Unemployment Insurance Fund while dealing with flexicurity policies. According to Law No 4447 on Unemployment Insurance, published in the Official Gazette published in the Official Gazette No: 23810, dated 08/09/1999, the entitlement for unemployment benefit is depended upon meeting certain conditions. Article 50 states that an employee is entitled for unemployment benefits if s/he has made contributions for the last 120 days and for at least a total of 600 days in the last three years. The duration and level of unemployment benefits are related with payments made by employee.<sup>29</sup> The workers can receive benefits (50% of net average wage in the last four months with a ceiling corresponding to the official minimum wage) for a maximum of 300 days. As the eligibility conditions are too strict, it makes harder to benefit from the system.<sup>30</sup>

<sup>29</sup>Article 50/II a) For workers who worked 600 days with insurance and paid unemployment insurance premiums get entitled to benefit for 180 days,

b) For workers who worked 900 days with insurance and paid unemployment insurance premiums get entitled to benefit for 240 days,

c) For workers who worked 1080 days with insurance and paid unemployment insurance premiums get entitled to benefit for 300 days.

Unemployment benefit is monthly paid to worker at the end of each month.

<sup>30</sup> “The Law Amending the Labour Law and Certain Laws No. 5763” published in the Official Gazette No: 26887 on 26.05.2008 changed this system as “*The calculation of the amount of Unemployment Benefit is amended and defined as 40% of the insured’s daily average gross earning, which is calculated according to the insured’s earnings subject to premium of the last 4*

Despite of these arrangements, Breeuwsma et. al (2009) states that atypical working models are not still integrated in the social security legislative system as is required by the EU Employment Guidelines (Breeuwsma et al., 2009, pg 3). This deficiency puts an important obstacle in the protection of the atypical workforce and it increases unregistered employment in the sectors that are dependent on atypical employees (Ibid). Prevalence of undeclared work which proves approximately half of the employed is not paying any social security premiums.

After setting related legislative arrangements of flexibility and security, there should be an analysis of impacts of the legislation into the labour market. Therefore, perceptions of trade unions and government on these arrangements will be examined in the next chapter.

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*months, provided that this amount does not exceed 80% of the gross amount of minimum wage of workers who are older than 16 years old. ”*

## CHAPTER 5

### PERCEPTIONS OF SOCIAL PARTNERS AND GOVERNMENTS ON FLEXICURITY

In Turkey, there are one main employers' confederation (TİSK) and three main workers' confederation (TÜRK-İŞ, HAK-İŞ, DİSK) which are in the legal structure of social dialogue to set out general rules concerning working life. The social partners' role is crucial to set up a peaceful industrial relations system. In European Union, flexicurity is largely discussed in collaboration with social partners, so it is necessary to understand their opinions on that area to evaluate whether flexicurity is applicable to Turkish labour market.

The structure of the social partners in the social dialogue in Turkey is as follows<sup>31</sup>:

The Turkish Confederation of Employer Associations (TİSK) is the association of 23 employer associations operating in various economic sectors. There are around 1,200,000 employees working in 8,300 enterprises, which belong to the TİSK member employer organisations<sup>32</sup>. TİSK is a member of International Labour Organization (ILO), International Organisation for Employers (IOE), The Confederation of European Business (BUSINESSEUROPE), Union of Mediterranean Confederation of Enterprises (BUSINESSMED), Union of Black Sea and Caspian Confederation of Enterprises (UBCCE), the EU-Turkey Joint Consultative Committee (TURKEY-EU JCC) and The Business and Industry Advisory Committee to the OECD (BIAC). With regard to working conditions, TİSK exerts efforts to encourage and maintain good human relations between

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<sup>31</sup> Only main 3 workers' confederations and one employer associations confederation are selected in accordance with their role in labour market, social dialogue and member numbers.

<sup>32</sup> For further information please see <http://www.tisk.org.tr/yayinlar.asp?sbj=ic&id=2445>

employers and workers and takes necessary measures to adapt working conditions to the country's economic development trends and common benefits.

The Confederation of Turkish Trade Unions (TÜRK-İŞ) is a confederation with 33 member unions<sup>33</sup> and represents workers in different boards: At international level, TÜRK-İŞ is a member of European Trade Unions Confederation (ETUC) and International Trade Union Confederation (ITUC) and cooperates with Japanese International Labour Foundation (JILAF). According to Labour Life Statistics (January 2010), 2.239.341 employees are members of trade unions under TÜRK-İŞ.

After TÜRK-İŞ, Confederation of Turkish Real Trade Unions (HAK-İŞ) is second largest employees' confederation with 7 member unions<sup>34</sup> in Turkey. HAK-İŞ is a member of International Confederation of Free Trade Unions (ICFTU) and ETUC. 431.550 employees are members of trade unions under HAK-İŞ (Ibid).

The Confederation of Progressive Trade Unions of Turkey (DİSK) is another super-organization of 17 trade unions<sup>35</sup> in Turkey and also is a member of ETUC and ITUC. DİSK has 426.232 employees as members in January 2010 (Ibid).

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<sup>33</sup> Member unions of TÜRK-İŞ are (January 2010) ORMAN-İŞ; TARIM-İŞ; TÜRK MADEN-İŞ; GENEL MADEN-İŞ; PETROL-İŞ; TEK GIDA-İŞ; ŞEKER-İŞ; TEKSİF; DERİ-İŞ; AĞAÇ-İŞ; SELÜLOZ-İŞ; BASIN-İŞ (023); BASS; BASİSEN; T.ÇİMSE-İŞ; KRİSTAL-İŞ; TÜRK METAL; DOK GEMİ-İŞ; YOL-İŞ; TES-İŞ; KOOP-İŞ; TEZ KOOP-İŞ; TÜMTİS; DEMİR YOL-İŞ; TÜRK DENİZ-İŞ; HAVA-İŞ; LİMAN-İŞ; T.HABER-İŞ; SAĞLIK-İŞ; TOLEYİS; T.HARB-İŞ; T.G.S; BELEDİYE-İŞ.

<sup>34</sup> Member unions of HAK-İŞ are (January 2010) ÖZ TARIM-İŞ; ÖZ ORMAN-İŞ; ÖZ GIDA-İŞ; ÖZ İPLİK-İŞ; ÖZ AĞAÇ-İŞ; ÇELİK-İŞ; HİZMET-İŞ.

<sup>35</sup> Member unions of DİSK are (January 2010) DEV MADEN-SEN; LASTİK-İŞ; GIDA-İŞ (234); TEKSTİL; TÜMKA-İŞ; BASIN-İŞ (265); BANK-SEN; CAM KERAMİK-İŞ; BİRLEŞİK METAL-İŞ; LİMTER-İŞ; DEVRİMCİ YAPI-İŞ; SİNE-SEN; SOSYAL-İŞ; NAKLİYAT-İŞ; DEV SAĞLIK-İŞ; OLEYİS; GENEL-İŞ.



## **5.1. Social Partners Perspective on Flexicurity**

All of these confederations express their opinions on flexicurity in various platforms. Below, there will be a categorization of social partners based on flexicurity and its piers, social dialogue as well as Turkish labour market in terms of these perceptions.

### **5.1.1. Perceptions of Social Partners on the Concept of Flexicurity**

First of all, TÜRK-İŞ (2010) propounds that social partners perceptions on flexicurity differs from each other as “*Flexicurity is a way which gives unlimited flexibility to employers whereas provides unsecure jobs or choose to rent their labour via private employment agencies or to be unemployed for workers*”. According to TÜRK-İŞ, it is obvious that flexibility and security should be considered together. On the other hand, it is known that permanently employed labour force is more productive. But it should not be ignored that flexicurity has an ugly face in which easy and cheap firing of workers can become widespread (Ibid, pg 5).

HAK-İŞ is in favour of discussing flexicurity and asserts that flexicurity, flexible work and overtime work should be discussed from decent work point of view. In these discussions, demands of labour market on flexibility should be evaluated together with well-supported social security system.

DİSK states their views on flexicurity in different platforms. First of all, like HAK-İŞ, DİSK underlines decent work definition of ILO before dealing with flexicurity issues where decent work sums up the aspirations of people in their working lives – their aspirations for opportunity and income; rights, voice and

recognition; family stability and personal development; and fairness and gender equality<sup>36</sup>.

However, DİSK (2010, pg 19) evaluates flexicurity together with temporary work agencies as an illusion with regard to leisure time, creativity, vocational skills and additional income. Moreover, they translate flexicurity to Turkish as “esnek güvence” where security rights of workers are loosened instead of bringing security to flexible work types in other words “güvenceli esneklik”.

For employers’ side, Bülent PİRLER (2009), Secretary General of TİSK evaluates flexicurity as a panacea for rising unemployment. TİSK claims that with the last economic crisis flexicurity became a lifesaver. TİSK thinks invalidity of rigid and standard rules in terms of job creation and continuity of existing jobs become clear if one pays attention to the lay-offs and closing firms. At this point, TİSK advises to focus on the flexicurity mechanisms playing a key role in eradicating or easing the negative effects of the crisis.

TİSK, with TÜSİAD<sup>37</sup> and TOBB<sup>38</sup> declare that protection in work life should be handled together with competitiveness, production, flexibility and employment

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<sup>36</sup> For more information on decent work definition of ILO, please see [http://www.ilo.org/global/About\\_the\\_ILO/Mainpillars/WhatisDecentWork/lang--en/index.htm](http://www.ilo.org/global/About_the_ILO/Mainpillars/WhatisDecentWork/lang--en/index.htm)

<sup>37</sup> Turkish Industrialists’ and Businessmen’s Association (TÜSİAD) is a voluntary based civil society organisation founded by Turkish industrialists and businessmen in 1971 with the objective of representing the business world. TÜSİAD aims to contribute to the formation and development of a social order wherein the institutions and rules of the universal principles of human rights, freedom of thought, belief and enterprise, a secular state of law, understanding of participatory democracy, liberal economy, competitive market economy as well as a sustainable environmental balance are adopted. For more detail, please see [http://www.tusiad.org/Content.aspx?mi=5\\_29](http://www.tusiad.org/Content.aspx?mi=5_29)

<sup>38</sup> The Union of Chambers and Commodity Exchanges of Turkey (TOBB) is the highest legal entity in Turkey representing the private sector. Today, TOBB has 365 members in the form of local chambers of commerce, industry, commerce and industry, maritime commerce and commodity exchanges. Within the context of its organic law and other applicable legislation, TOBB aims, parallel to the developments elsewhere in the world and in its capacity of the highest level representative of the Turkish private sector, at ensuring unity and solidarity between chambers and commodity exchanges, enhancing development of the professions in conformance

protection. They argue that flexibility is not the only way to increase employment as well as not a miracle. What is important to create employment lies beneath sustainable economic development, productivity growth, creating attractive investment environment both for domestic and foreign investors, corporatist social dialogue.

### **5.1.2. Perceptions of Social Partners on Workers in Globalizing Markets and Flexibility Pier of Flexicurity**

Social partners are generally interpreting flexibility pier of flexicurity and conditions of workers under this pier first since globalization brings flexible markets.

In this framework, TÜRK-İŞ (2010, pg. 13) categorizes workers according to their working hours and types of employment contracts. They give the example of nuclear workers who are working as full-time with permanent employment contracts. These workers are more skilled and have rights to conclude collective agreements, job security, higher wages and treated as privileged groups.

On the contrary, TÜRK-İŞ's opposition is on periphery workers who are employed with flexible types of work and whose working conditions are deteriorating (Köstekli, 1999, pg 74). They argue that these kinds of workers lose their rights of organization, collective bargaining and job security as employers aim to decrease labour costs (TÜRK-İŞ, 2010). They also advocate that temporary

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with general interest, facilitating professional work of members, promoting honesty and confidence in the relations of members with one another and with the general public, and preserving professional discipline and ethics. For more detail, please see <http://www.tobb.org.tr/eng/tobbhakkinda/legalstatus.php>; <http://www.tobb.org.tr/eng/tobbhakkinda/purposes.php>

agency worker has less power since there are two employers to be responsible for (İyiyıldın, 2009).

Bağdadioğlu from TÜRK-İŞ (2009, pg 59) sees in times of crisis, the most important issue that the countries deal with, including Turkey, is the situation of employees. He argues that existing problems in the area of creating more and better works intensify gradually at the times of crisis and employers can take actions at the expense of employees' rights for the sake of achieving recovery from crisis. For instance, under intense global competition, the survival and development of national economies and enterprises are aimed to be achieved through lowering labour costs or making labour market more flexible. Therefore, employers want to do well under the conditions of global competence through replacing social policy and protective nature of labour law by the policies of flexibility, liberalization and reducing regulations.

Neoliberal model lies at the beneath of economic reforms are pushing for covering all fields especially in which TÜRK-İŞ thinks the deregulation is used as a measure within the scope of flexibility. In this scope, following impositions brought up to the agenda to support flexibility: facilitating exit and entry to the job, diversifying work contracts, reducing unemployment benefits, readjusting the rules related to work life by various work contracts, adjusting work hours, making organizational changes, breaking down labour costs.

Bağdadioğlu thinks that working is a reality and necessity of life which should not capture whole life of employees. While flexicurity is implemented in an environment designed to reduce labour costs, labour law should be effective only for full-time jobs to defend the rights of employees instead of jobs. Employees are not obliged to sacrifice their employment security in the name of keeping their jobs. Job security should be protected at the highest level.

Secondly, HAK-İŞ accepts that from 20-30 years, liberal economy creates a globalized world with more communication opportunities which makes the world smaller and gives importance to the threat of wild capitalism which paves the way of unsocial problems in the sake of competitiveness. In this respect, HAK-İŞ (2010, pg 3) argues that it is important to pay regard to allocate national and global GDP's with a balance and offers not to disregard social dimension while forming economic policies and create an exploitation environment of workers who largely contributes to generating GDPs.

HAK-İŞ categorizes their opinions on applicability of flexicurity policies through regulations in Labour Law and they want revisions on these legislations beforehand.

First of all, they consider that for definite-term contracts, notification period is not applicable and for indefinite termed contracts, employers' can only conclude successive definite-termed contracts on a founded reason which gives employee's a protection. According to HAK-İŞ, if this liability on founded reason is abolished, then employees' entitlement to any severance pay will become questionable. They are also criticizing that definite-termed contracts will create obstacles for workers' unionization and concluding collective labour agreements.

Secondly, HAK-İŞ considers that labour agreements on part-time work are not commonly concluded in Turkey although it is included in Law No.4857. HAK-İŞ argues that the reason of this situation lies behind working hours. HAK-İŞ defends that in Europe, part-time work is used as complementary to full-time work since overtime work is restricted. But it is not valid for Turkey since overtime work is very common and due to this, there is no surplus hour which creates little demand for part-time workers. Turkish social security system is based on full-time work, being employed and full employment. So that whole system goes on thirty days work and demands another founded reason for working

less than that period other than stated in the Communiqué<sup>39</sup>, if necessary. This is contradicting with flexibility provisions in Labour Law.

Thirdly, HAK-İŞ mentions that on-call work, like part-time work, is also rarely valid for Turkish labour market although the provisions in Labour Law. But it is necessary to regulate the social security contributions in the Law since this gives wide range of flexibility to employers and prompts misuse. According to HAK-İŞ, another provision for misuse is the probation period since employer has the opportunity to make use of the worker for four months.

Fourthly, for termed termination, HAK-İŞ states that employers are considering penalties in case of disregarding the provisions in legislation as labour costs so employers and employers' associations want to violate these provisions. This is also the same for the right of immediate termination of employer on justified grounds. HAK-İŞ evaluates these violations as unfair for workers and propounds that legislation do not create any burden if obeyed.

Fifthly, HAK-İŞ finds restriction of Labour Law to businesses employing thirty or more workers for the termination on a valid reason not equitable since businesses employing less than 30 workers constitute approximately 90 percent of the economy and these regulations bring flexibility to these employers (Temiz, 2009).

Last, HAK-İŞ argues on compensation work that although Article 41 states overtime is the work exceeding forty-five hours a week, it also states in cases *where the principle of balancing is applied under the provision of article 63, even*

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<sup>39</sup> Communiqué on “Notifications to Social Security Institution for insured workers who are sick and not working during the notification period”. ( published on Official Gazette No.27579 dated 12/05/2010, [http://www.sgk.gov.tr/wps/wcm/connect/65b6b40042a17737b113f34058eb15af/01\\_tebliğ\\_calismazlik\\_belgesi\\_12052010.pdf?MOD=AJPERES](http://www.sgk.gov.tr/wps/wcm/connect/65b6b40042a17737b113f34058eb15af/01_tebliğ_calismazlik_belgesi_12052010.pdf?MOD=AJPERES) )

*if the weekly average working time of the worker exceeds totally forty-five hours during some weeks, on the condition that it does not exceed normal weekly working time, such working times are not considered as overtime.*<sup>40</sup> Therefore, HAK-İŞ propounds that this provision sets an obstacle for workers to demand any overtime wage for these compensation work hours. In order to solve this problem, HAK-İŞ demands new regulations in line with Directive 2003/88/EC<sup>41</sup> and restrictions on weekly working hours to 40 hours including overtime work maximum to 48 hours.

On the other hand, DİSK evaluates flexibility in globalized labour markets generally. DİSK argues in the face of improving technology and developments in production processes, capital owners come up with demands that serve to reduce labour costs to maintain their competitiveness. Therefore, formally regulated working relations or practices aiming to limit exploitation and unionization are real hindrances for the capital owners. They see atypical work relations in terms of flexibility are damaging future perceptions of workers as well as triggering their fears for unemployment.

Moreover, DİSK takes into consideration decent work for all and opposes insecure and temporary jobs to solve deficiencies of economic crisis. DİSK proves this view by TURKSTAT statistics where the reason for most of the unemployed is end of temporary work which is also insecure. DİSK (2010, pp 5-6) propounds that among every 10 people, only one person is working at temporary jobs although 31 percent of unemployed became unemployed because of working temporarily. Hence, DİSK advises to have decent jobs where there is productive employment, security regulations both for worker and his family and social dialogue. DİSK (2009a) considers

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<sup>40</sup> Article 41/I

<sup>41</sup> For further information please see Article 16 *Reference Periods* of Directive 2003/88/EC Of The European Parliament and of The Council of 4 November 2003 concerning certain aspects of the organisation of working time

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:299:0009:0019:en:PDF>

in times of economic crises flexible work relations are contracting employment as well as causing wage and right deprivations, unemployment and threatening job security and any initiative to discuss these relations are considered as “unfortunate”. Furthermore, DİSK (2009c, pg 2) asserts that economic crises favour employers to pretend economic conditions and impose wage reductions as well as flexible work types to workers in order not to lose their jobs which is against their democratic right as freedom of work. DİSK hypothesizes that there is no concrete fact that flexible working implications have an effect on increasing employment; on the contrary they have adverse effects. Therefore, DİSK (2009b) argues that there is a necessity for blocking these kinds of implications instead of covering them by legal norms.

In DİSK’s perspective, global financial crisis lead to the emergence of a severe unemployment, deepen poverty; reduce the employees to status of working poor whereas capital owners, who take the advantage of crisis in terms of competitiveness and capital accumulation, bring the issues of flexicurity and private employment agencies to the agenda. In this process, employers’ attempts for deregulation of the last remaining regulations accelerate. They observe, despite all their opposition, Labour Law No. 4857 was reformed in a way, including subcontracting, new contract types, flexible work types, and this also will pave the way of the establishment of private employment agencies in Turkey that would operate in order to provide a legal basis for temporary working relationship with the aim of having the advantage in terms of competitiveness. In this respect, DİSK propounds that capital owners have been paying extensive lobbying efforts for ensuring the legalization of the establishment of temporary working and/or hired employee relationship by temporary working agencies by showing worldwide practices.

On the other hand, DİSK mentions the demand for making flexicurity and private employment agencies effective is a kind of demand that is specific to production



fields in which unionization and regular work relations has been prevailing. The tendency to show rigidity of labour market as the main reason for unemployment, making social-legal regulations flexible and weakening trade unionisation are, in fact, an assault against the areas vital for social state.

Employer's side argues that especially for the last economic crisis, by the rising unemployment, serious reductions in production and export, firms have been facing with a problem of survival. Pirler from TISK supports that in an environment like this trade unions that have been pushing more for protecting workers in employment should give priority to protection of jobs. Moreover, he propounds that labour legislation, that does not operate well even in the absence of extraordinary transformations in the economy due to its rigidity and negligence of personal differences, can not produce a effective response to recent advances in technology and competitive conditions. He sees flexibility as a method to enable Labour Legislation to give an urgent response to the needs of firms and change. He advocates that in times of crisis, the significance of flexibility increases tremendously, since it serves well to the survival of the firms and protection of jobs for workers.

TISK wants full flexibility for employers and evaluates partial flexibility stemming from collective bargaining and mechanisms at firm level are not enough to provide necessary benefit for the crisis. According to Pirler, current Labour Legislation is leaving the firms defenceless through reducing their efficiency and competitiveness and thus results in lying off employees. The influences of crisis are pushing firms to contraction although employers do not want to sacrifice their employees who increase firms' competitiveness.

Comparing with international developments, TISK argues it is not possible to say that there is advancement on flexibility since Labour Law and related regulations

have very limited provisions on flexibility. Legal and administrative burdens on employment and investments obstruct new establishments to operate.

With the same logic of HAK-İŞ, TİSK, TOBB and TÜSİAD categorize employers' problems with respect to Labour Law No 4857. In the first instance, they offer main employer- subcontractor relations to be eased by the legislation, establishing temporary work relations for occupational activities, changing objective criteria for fixed term contracts according to Directive 99/70/EC<sup>42</sup>. Moreover, they want to have further deregulations on By Law related with Working Hours and By Law related with Overtime Work and Working with Extra Periods. According to their arguments, although part-time works are defined as 2/3 times of equivalent works with full-time contracts, there are restrictions on part-time workers for working with extra periods. They want these restrictions to be abolished and regulate social security legislation with giving incentives to part-time workers to make these kinds of jobs attractive. In their view, if there are no regulatory arrangements to decrease employers' share on part-time workers social security premiums<sup>43</sup>, there will be a burden for employers for cost of labour which will encourage undeclared work. This is also valid for on-call workers if none of the parties determine weekly/monthly/yearly working hours. This time employer must pay his share over 20 hours of work even if the worker does not work 20 hours.

Moreover, they insist that part-time workers are also excluded from the formal labour market in the situations where they are not able to complete necessary premium days for entitlement of old age pension. Employers' side want tax and

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<sup>42</sup> COUNCIL DIRECTIVE 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP: According to Directive, the criteria are based on comparable permanent worker, principle of non-discrimination, measures to prevent abuse and information and employment opportunities. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:175:0043:0048:EN:PDF>

<sup>43</sup> This situation is valid for ones who are working with part-time work contract based on monthly fee. Please see Chapter III, Social Security Legislation.

premium incentives for themselves as well as facilitating conditions for unemployment insurance to prevent these deficiencies.

Also, they argue that other temporary works such as seasonal works and campaign works are confused with part-time works in practice since legislation is not stated clearly.

With respect to annual paid leave, employers side demand an amendment for the leave periods which can be divided to maximum three upon agreement by parties, on the condition that one portion can not be less than ten days to increase employers' flexibility. For compensation periods, they also want a change in the Law in line with Directive 2003/88/EC<sup>44</sup> in order to determine this period to 6 months or not longer than 12 months by collective agreements or agreements concluded between the two sides of industry or under certain conditions.

Another criticism of employers is on short work where only economic crises and conditions of force majeure are taken into consideration. They want sectoral crises as well as difficulties in finding resources and energy supply to be included in the legislation. Employers' side demands some flexibility such that if the request of short work to Ministry of Labour and Social Security is not declined in 15 days, then employer should declare short work conditions in his premises. They also argue that there should be no need for the Ministry to declare that there is an economic crisis to benefit from short work conditions. On the other hand, they want compensation work to be implemented in holidays including Saturdays and regulated as not more than 11 hours a day (TISK et al., 2009).

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<sup>44</sup> For further information please see Article 16 *Reference Periods* of Directive 2003/88/EC Of The European Parliament and of The Council of 4 November 2003 concerning certain aspects of the organisation of working time

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:299:0009:0019:en:PDF>

### **5.1.3. Perceptions of Social Partners on the Social Security Pier of Flexicurity**

On the social security pier, TÜRK-İŞ accepts that flexibility and organizational changes increase in work hours and lead some changes in the area of work at night, shift working, work at weekend, flexible regulations and compatible work hours. But TÜRK-İŞ objects as: “in the absence of a proper social protective structure, deregulation will contribute to the creation of new works to some extent, but it will also increase poverty” (Bağdadioğlu, 2009, pg. 60)

TÜRK-İŞ is also criticizing social security rights for atypical workers. They are arguing that atypical workers in general, and part-timers specifically, face a benefit gap because of the way benefits are calculated: fulfilling the premium day requirement for atypical workers is hard because of the discontinuity of jobs and/or the hours worked. Atypical workers are given the possibility to fulfil their contribution paid days requirement to the level of full-timers through voluntary insurance payments. TÜRK-İŞ considers this provision as unequal, since it is difficult to pay the voluntary insurance for workers without a full-time salary and it needs more than triple times of regular retirement years to get retired (İyiyaydın, 2009).

On the other hand, for social security rights of flexible workers, HAK-İŞ uses again categorization in line with social security legislation. HAK-İŞ states that individuals who work in home services (excluding charged and permanent workers) are included in individuals not deemed to insurance holders, therefore they cannot demand any social security insurances although they are working flexibly. Therefore HAK-İŞ demands inclusion of these workers to the Law No 5510. Again for part-time workers, although Article 8 of Law No 4857 states that *unless otherwise set forth in Law, labour contract is not subject to a special form. Labour contracts with one year and longer term shall be made in writing*, Article

80 (h) of Law No 5510 wants a part time service contract between the employer and the insurance holder is in written format which according to HAK-İŞ are contradicting. Also, since part-time workers have to complete their general health insurance premiums to 30 days to benefit from the system, or need some means-testing methods to prove themselves not able to get sufficient income for state's contribution, HAK-İŞ demands further regulations for taking into consideration of part-timers low earnings and facilitate their ability to pay.

Furthermore, for rights granted from invalidity insurance and conditions to benefit, Article 26 (b) of Law 5510 regulates the right to insurance benefit as *be holding insurance for a period of minimum ten years and should have paid totally 1800 days or in case the insurance holder is disabled to the extent of being in need of permanent care of another person, should have notified 1800 days of invalidity, old - age or survivors insurance premiums, without seeking any period for holding insurance*, HAK-İŞ states that 1800 days are not a reasonable period for part-time and on-call workers therefore they cannot benefit from the system. This situation is also valid for old-age insurance, since the periods<sup>45</sup> for entitlement are so long that any part-time worker cannot get retired.

Different from workers' confederations, employers' side does not deal with how workers social security rights should be regulated, instead they have a general perspective to set the target for Turkey as increasing secure jobs in line with decent work definition of ILO. They argue that formal sector should benefit from flexible work types which have legal security; otherwise informal sector will be supported.

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<sup>45</sup> Article 28 (a) of Law No 5510 states "*old - age pension shall be granted provided that the individual is over 58 if the individual is female or over 60 if the individual is male and that minimum 9000 days of invalidity, old - age and survivors insurance premiums are notified. However, the number of premium days condition shall be applied as 7200 premium days for the insurance holders.*"

#### **5.1.4. Perceptions of Social Partners on Informal Sector and Flexicurity**

Social partners consider deficiencies of Turkish labour market as a framework before making any policies related with flexicurity. Job security and employment protection is a main issue in Turkish social dialogue (Breeuwsma, 2009, pg 9).

According to TÜRK-İŞ (2010, pg 6), informal economy and unregistered work, which has turned into a widespread problem as a derivative of informal economy, remain on the agenda as two significant problems. Unregistered workers benefit from the security provided by Labour Law and social security rights in a limited manner.

TÜRK-İŞ sees undeclared work and informality prevents flexicurity. Propounding economic crisis and increasing unemployment rates aims to extend flexible work models (Ibid). TÜRK-İŞ mentions that today Turkish labour market has a partial and loose structure and all types of flexible work are very spread among informal and disorganized private sectors. These kinds of works increase working hours and paves the way of non-unionisation and undeclared work. Prevalence of undeclared work is one of the most important barriers for the actions taken within the framework of social law state and unionization. Therefore, undeclared work must be reduced to recover from the effects of the crisis. In this process, there must be a constant struggle against unregistered work, since it leads to decline in the revenues generated from taxes and social security premiums; unfair competition conditions for the firms; bad working conditions and lack of any social security for the employees. TÜRK-İŞ offers “a national action plan” to be prepared with the involvement of all the relevant parties in order to keep the struggle against unregistered work with an approach based on multilateral totality (Ibid, pg 6). After these, policies of flexicurity will be designed.

HAK-İŞ states that most of the informal workers are benefiting from green card scheme whose benefits retain them from working formally. Therefore, before flexicurity is implemented, attractiveness of informality should be eliminated (Temiz, 2009).

On the other hand, DİSK propounds that while one is talking about the limitations related to the establishment of flexicurity and private employment agencies, one is also talking about systematic and organized work relations established under a legal guarantee. Therefore, DİSK argues that approach of flexicurity and private employment agencies do not have any concern for unregistered economy since, by its definition, illegal economy uses all the illegal types of relations. Every form of flexibility is used freely in informality. Hence, DİSK exerts there is no need for using flexicurity and private employment agencies in this field where working place and conditions, wages, measures taken related to safety and health at work are performed in a lawless environment; legal regulations, supervisions and sanctions are out of question; therefore workers are left to the mercy of the capital owners.

TİSK sees informal economy as an unfair competitiveness tool to formal sector and stands for rigidity of legislations related with formal sector while promoting flexibility pier of flexicurity. Belen from Research, Training and Foreign Relations Department of TİSK (2009) argues at ETF Seminar on Flexicurity that Doing Business report of 2008 by World Bank shows that legislation which was drawn to protect workers are decreasing employment rates of young people and women, therefore the importance should be given to change perceptions of protection as well as deal with the flexibility in the formal sector rather than informal sector. While doing this, flexibility in formal sector should not be taken into account as deregulation but in the framework of legislative arrangements. Flexibility for locomotive sectors in the formal economy should be widened.

### **5.1.5. Perceptions of Social Partners on Social Dialogue and Flexicurity**

Trade unions owe their continuity and power with respect to their members of workers. Therefore, in a context where flexicurity policies are implemented and flexible types of work come into the scene, questions on unionization of these workers arise.

In this respect, TÜRK-İŞ mentions to the low rates of unionization in Turkey which make workers to have a weak representative power against employers and government. TÜRK-İŞ considers this as a barrier to the institutionalization of cooperation efforts and also weakening tool for cooperation and mutual trust.

Situation is different for employers' side since TİSK is the only employers' confederation. Therefore, TİSK's explanations are away from anxiety of losing representative power.

However, TİSK proposes the role of flexibility in the process of compliance with the changing environment has equal importance for all the relevant parties since absence of sustainability of work influences both employers and employees adversely. In this context, flexibility mechanisms developed within the scope of social dialogue between employers and employees will play an important role to transcend crisis (Ibid).

According to Pirlir, trade unions who are biased on this issue are leaving their prejudices and mentioning flexibility in their reports which shows TİSK's *rightness*.



Since there is a need for a consensus for flexicurity policies, activities conducted by social partners to form a peaceful working environment will also contribute to the improvement of the Turkish Industrial Relations System in addition to their positive effects in fighting against the crisis. TİSK thinks especially a compromise based on bilateral or multilateral agreements will be more effective in overcoming the crisis and reducing unemployment.

#### **5.1.6. Perceptions of Social Partners on EU, IMF and ILO Framework of Flexicurity**

Before proposing any flexicurity policies to Turkey, social partners examine best practices of EU as well as IMF and ILO framework.

TÜRK-İŞ looks at the issue from European Social Model. Bağdadioğlu (2009) argues that the recent developments in the field of employment will be an asset or threat for European Social Model since negative influences of global financial crisis over employment turned it into a widespread problem in Europe. In such an environment, the efforts to make labour market more flexible intensified.

He also mentions the rights and freedoms of trade unions in the EU and offers work life in Turkey should be rearranged in line with the European Social Model and the norms and standards of International Labour Organization (ILO). According to him, “Today, as we have experienced widely, political rule or an investment group can act at the expense of employees and can take actions with the aim of weakening and reducing the influence of trade unions. There are serious problems about the process of social dialogue which lies at the beneath of contemporary industrial relations.” Thus he emphasizes social peace and cooperation which is only viable through social dialogue, which should be used

for designing flexicurity policies for Turkey *in addition to the argument in previous section.*

To have a full understanding of EU practices in the field of flexicurity, TÜRK-İŞ argues that one should pay attention to country models as well as data to make a general evaluation. While making a regulation in the area of flexicurity on the basis of a country model, income and employment security implementation in this country should also be considered as a whole. In this context, Bağdadioğlu states that in Denmark, flexibility of labour market, the ease in recruitment and firing of workers, high labour turnover (23%) were compensated by high unemployment and social benefits, and efficient implementation of active labour market policies. Moreover, he offers that like Netherlands the structure of social dialogue and legal regulations on flexicurity and security should be considered with an integrated approach where demands of employees related to income and employment are taken into account in making labour markets, work organizations and employment relations flexible. He attributes the success in Netherlands to the collective bargaining and the legislation on this came into force in 1927 as well as ILO Conventions numbered 87 and 98 which are taken as a base in the regulations.

When compared to Turkey, he figures that necessary regulations in the field of freedom and rights of trade unions should be made in order to meet opening criteria of 19th Chapter in EU-Turkey negotiation process and continues “Despite the efforts to meet conditions regarding this chapter, as it was indicated in the recommendations of the EC, there are still weaknesses in implementation” (Ibid, pg 59).

TÜRK-İŞ asserts that common and harmonious actions taken by the EU in the following areas are not reflected in developing a model for Turkey, which are:

- Flexibility of contract based regulations,

- Efficient active labour market policies,
- Comprehensive lifelong learning strategies,
- Modern social security systems.

In line with these, TÜRK-İŞ (2010, pg. 5) argues that IMF imposes the following issues on Turkey consistently as an unchanged rule:

- Downsizing of public sectors,
- Reduction of taxes,
- Opening markets to foreign investors and attracting foreign capital,
- Reducing inflation rate,
- Abolishing stringent regulations.

DİSK is objecting EU framework for Turkey since they consider it is not applicable to a labour market where informality is this high. In this respect, DİSK gives the example of temporary employment agencies which, *in their view*, do not have any linkage with fixed term work contract, subcontracting and flexible employment and objects flexicurity favourers' views which evaluate temporary employment agencies as an indivisible part of flexicurity practice. DİSK (2010, pg.20) exemplifies Anne- Marie Muntz, the chairwoman of the executive board of the European Confederation of Private Employment Agencies, for employers objection on regulatory arrangements as,

- Existence of licence and / or permission regulations in many countries,
- Prevalence of sectoral bans in many countries (public or constructions sectors etc.)
- Limitations regarding the maximum secondment period and renewal of contracts,
- Equal treatment conditions,

- Interior regulations through national rules of conduct,

\* Advanced sector-based collective agreements in many countries.

DİSK emphasizes that demands of Turkish employers on flexicurity should not be the same as EU employers, since EU employers are dealing with high unionization and regular working relations. If one, *they are implying employers*, talks about rigidity of labour market and shows this as the main reason for unemployment, then this will be an attack to two prominent aspects of social state which are social and legal regulations and unionization.

#### **5.1.7. Policy Offers of Social Partners on Flexicurity**

There are some policy aspects of confederations for implementing flexicurity policies.

In times of crises, increases in unemployment rates motivate people to accept to work with low wages, in unqualified jobs and under unsecure conditions which increases number of working poor and influences social cohesion adversely. The anxiety of workers related to their works and purchasing power has been increasing in such an environment. Besides, the structure of economy especially in terms of social policies and protective labour legislation has been challenged. Therefore, for Turkish case TÜRK-İŞ offers reducing the influence of crisis by reformulating job security primarily in a way responsive to reemployment in compliance with the International Labour Organization standards. TÜRK-İŞ defends that the insufficient provisions of Turkish Labour Law related to job security must urgently be reviewed; work hours and restrictions on the number of employees in a firm should be also readjusted to the new conditions of crises.

While evaluating the developments in Turkey, TÜRK-İŞ promotes the following factors to be taken into account:

- Changes and deregulation in labour markets,
- Restructuring and privatization,
- Changing structure of central governments,
- Opinions of international capital organizations in transformation of economies and any related issues.

TÜRK-İŞ thinks only after solving problems of social security, flexicurity can be implemented. According to their view, social security reform, which was taken without any consideration of the prevailing conditions in Turkey and Turkish working life and the recommendations of employees, could not have achieved the intended goals moreover actuarial balances could not have been established yet. They point out the re-obstruction of system as open evidence in which Turkish social security system has to be harmonious with the European system. The resource problem should be solved primarily in order to provide services and benefits compatible with European standards. Only then flexible employment can be achieved (TÜRK-İŞ, 2010, pg. 6).

TÜRK-İŞ also wants the conditions related to benefitting from Unemployment Insurance Fund to be improved. To do this, access to benefit should be facilitated for employees, the duration for benefitting from the benefit should be extended and the amount of unemployment benefit should be increased. Besides Unemployment Insurance Fund should not be used for different purposes such as allocating the funds to South-eastern Anatolia Project (GAP) or other

development projects<sup>46</sup> by Law No 5763 (İyiyaydın, 2009). This allocation deflects the real aim of the fund which should only be used for unemployed workers.

TÜRK-İŞ also opposes draft legislation related with the temporary work agency<sup>47</sup> which was having provisions that allow the private employment agencies to conclude temporary work agreements-which is a type of flexible work agreement-and vetoed by the President. TÜRK-İŞ has doubts on the draft legislation about rights temporary agency workers', their unionisation in undefined branches of businesses, their benefit opportunities from Unemployment Insurance Fund. Therefore, they want to set unionization rights of these workers.

On the other hand, different from their to the point views mentioned in previous sections, HAK-İŞ offers two main ways to decrease unemployment generally:

- 1- Increasing investments and creating new works.
- 2- Decreasing overtime work and employing unemployed for these working hours.

According to second one, HAK-İŞ considers to increase employing part-time workers for the remaining hours to be worked.

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<sup>46</sup> By Law No 5763, there is an article added to amend Unemployment Insurance Law No 4447: concerning that From Unemployment Insurance Fund, 1.300.000.000 TL from existing income return in 2008 will be allocated.

<sup>47</sup> According to Directive 2008/104/ EC, temporary-work agency' means any natural or legal person who, in compliance with national law, concludes contracts of employment or employment relationships with temporary agency workers in order to assign them to user undertakings to work there temporarily under their supervision and direction; whereas means a worker with a contract of employment or an employment relationship with a temporary-work agency with a view to being assigned to a user undertaking to work temporarily under its supervision and direction and user undertaking means any natural or legal person for whom and under the supervision and direction of whom a temporary agency worker works temporarily.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:327:0009:0014:EN:PDF>

Other alternatives of HAK-İŞ are preparing infrastructures to reach resources and markets; creating environment friendly organisations, decreasing costs of energy to a feasible level, developing human resources to demands of the labour market, adopting tax and financial legislations which will be in line with needs of investment environment and regulating labour law according to these needs. HAK-İŞ also propounds the need for balance of interests between large consumers consisting of workers and investors. HAK-İŞ also demands powerful trade unions as well as participation of workers in the management process of companies to discuss flexible types of work (Uslu, 1999).

DİSK emphasizes that if one pays attention to the conditions prevailing in Turkey, such as approximately the half of the workers have been working unregistered, absence of job security, low wages, long work hours and inconvenient working conditions, lack of compliance to health and safety standards; it is essential to make some fundamental regulations in the area of unregistered economy and employment in order to save the future of the country before discussing other policy alternatives such as flexicurity.

DİSK also pays attention to the Turkey's responsibilities derived from the international agreements signed on working conditions, health and safety etc. DİSK argues that it is not morally acceptable to be eager for unsigned international agreements or import any flexicurity policies without showing any will to transpose the already signed ones into national legislation.

On the contrary, TİSK states that Turkey should benefit from the methods of flexicurity as much as it can (Belen, 2010);

- To create new job opportunities and struggle with the structural unemployment problem,

- To adapt its enterprises to the rapidly changing production methods in domestic and foreign markets,
- To struggle with unregistered economy and unregistered employment problem,
- To develop employment opportunities for the disadvantaged groups such as women, young people, disabled etc.

In this framework, TİSK argues that there is no balance between flexibility and security in Law No 4857, as well as severance pay is too high since Turkey is in the first rank among OECD countries. If notice pay is added to cost of severance pay, Turkey comes after Portugal as the second with regard to the cost of lay off. Therefore, TİSK propounds that there should be a golden mean between workers and employers. In order to develop flexicurity, they are pushing for supports for insurance premiums and unemployment insurance benefits to be increased, employment incentives to be implemented, institutional capacity of Turkish Employment Organization to be improved, benefit conditions for unemployment insurance benefits to be facilitated and atypical workers to benefit from these.

Moreover, TİSK together with TOBB and TÜSİAD advice working legislation to be developed to extend flexicurity methods, since they consider modern working types and flexible work as a tool to fight unemployment and create a balance between demand and supply in the labour market. They propound that particularly in times of economic crises and recessions flexicurity implications have an important place to recover from unemployment.

In order to draw a framework for flexicurity policies, TİSK advises flexibility mechanisms and incentive systems to be established for the companies in order to prevent dismissal of workers. Despite the existing regulations in the Labour Law; TİSK defends reorganization of the Labour Law provisions related to main



employer – sub-contractor relations, fixed term work contracts, temporary work relations, cumulative use of annual leave, non-paid leave, compensation periods, compensation work and short work to be effective in preventing loss of employment. While doing this reorganization, TISK draws attention to develop proactive measures by social partners in accordance with the progress of the crisis in the near future. On the other hand, TISK adds this argument as reference period to be extended in our labour legislation and temporary employment system to be implemented through private employment agencies (Ibid, 2010).

## **5.2. Governments' Perspective on Flexicurity**

After referring to the social partners perceptions, it is worth to underline institutional framework about flexicurity policies. First of all, flexible work has been discussed since the last decade and increased its weight in the labour market agenda. Turkish governments evaluate flexibility as reregulation instead of deregulation where there is a framework for companies to get more competitive, adaptive to market conditions on the one hand, and workers are also protected on the other (Okuyan, 1999, pg. 17).

Most of the legislation related with flexibility is included in the legislation by Law No.4857. Besides legislation, there are attempts to draw a framework for making labour markets more flexible. Since flexicurity policies are a part of employment policy and its implementation, Ministry of Labour and Social Security and Turkish Employment Organisation (İŞKUR) are competent to finalize them. The Ministry of Labour and Social Security provides the general policy context whereas İŞKUR is the institution dealing with the practical side of the policies.

Besides helping Ministry of Labour and Social Security in the determination of National Employment Strategy, Turkish Employment Organisation (İŞKUR),

which is the affiliated body of Ministry of Labour and Social Security is responsible for the implementation of labour market regulations. İŞKUR's responsibilities are managing the unemployment insurance system, providing training and job counselling to job-seekers, delivering active labour market programmes, job brokerage, regulating private employment services, helping the development of a national employment policy, the analysis of labour force requirements and the setting-up of Labour Market Information Counselling Board.

General Directorate of Labour is responsible for policy making in the field of employment within the Ministry. In this framework, there are efforts to determine a National Employment Strategy. Most of the axes of the strategy are defined with regard to flexicurity such as policies to increase flexibility in labour market, strengthening the relationship between labour market and education, increasing the participation of disadvantaged groups in employment and social inclusion policies.

On 8<sup>th</sup> of June 2010, last draft of National Employment Strategy was announced to public by the meeting of Economy Coordination Board. According to this draft, Minister of Labour and Social Security declared that there will be an approach to protect workers instead of jobs whereas lifelong learning strategies will be established (Ekonomi Koordinasyon Kurulu 'Ulusal İstihdam Stratejisi' İçin Toplandı, 2010). Moreover, economic growth will be the first main strategy where it will be supported by employment friendly policies (İş Yerine İnsan Korunacak, 2010).

Last aim will be driven for enhancement of social safety nets where unemployment insurance schemes and other social benefits will be efficiently used (Ibid, 2010).

In order to realize National Employment Strategy, there are main objectives defined in line with pillars of flexicurity (Aydemir, 2010). With regard to flexibility, objectives are stated as

- Flexibility of labour market should be increased.
- Flexicurity should be disseminated.
- Competitiveness of labour market should be increased.

Related targets are set as

- Decreasing the index value of Turkey in the Employment Protection Legislation Index from 3.46 to 2.23 (same level with the OECD average) in 2011.
- Decreasing the index value of Turkey in the Employing Workers Index which is included in Ease of Doing Business Index from 0.64 to 0.41 (same level with the OECD average) in 2011.
- Increasing the rate of fixed term employees to the total employment to the EU countries' average level by 2023 (Turkey 10.7 percent, EU 13.5 percent).
- Increasing the rate of part-time employees to the total employment to the EU countries' average level by 2023 (Turkey 11.3 percent, (3.6 percent except unpaid family workers), EU 18.8).

With regard to increasing employment and labour force participation rates of women, youth and disadvantaged groups, it is targeted to

- Increase participation rate of women in labour market from 26 percent (2009) to 35 percent by 2023.
- Decrease youth unemployment rate to the level of general unemployment rate.
- Occupy disabled civil servant quota, 34,618 in the public sector and 20,420 in both sectors, with a total of 55,038 in two years.

- Decrease rate of long term unemployed to the total number of unemployed persons (from 25.3 percent in 2009 to 20 percent in 2023).

For strengthening the relationship between labour market and education, it is aimed to

- Increase quality and efficiency of general education, vocational education and trainings.
- Set up new environments in the perspective of life-long learning and promote demand for these environments.
- Create coherency between education system and labour market.
- Extend ALMPs and make them effective
- Promote project-centred innovativeness and entrepreneurship by education system and active labour market policies.

Targets to realize these aims are set as

- Establishing National Qualification Framework compatible with European Qualification Framework until the end of 2012.
- Prepare all national vocational standards until the end of 2012.
- Strengthening human resources of Turkish Employment Organization to 10,000 employees in 2015.
- Completing labour market needs analysis on provincial basis until the end of 2011.
- Providing labour force training courses to 400,000 persons every year in the concept of ALMP, as from 2013.
- Increasing the rate of employment guaranteed courses as 50 percent to the total in 2013.

- Increasing rate of persons who successfully complete the employment guaranteed trainings and get employed to 40 percent in 2015.
- Increasing participation rate to life-long learning to 8 percent in 2023.

Lastly in order to strengthen the relationship between employment and social protection, main objectives are set as to make social protection system

- Inclusive and comprehensive.
- Protect employment and support participation to labour market.
- Expand the scope of unemployment benefit by means of promoting return to labour market.

Targets to realize these aims are set as

- Increasing the rate of those who get unemployment benefit to total number of unemployed from 13.6 percent in 2009 to 25 percent in 2023.
- Decreasing the period of returning to labour market for those who get unemployment benefit from 6.2 months in 2009 to 5 months in 2015 and to 4.5 months in 2023.

On the other hand, flexibility of labour markets is also included in Development Plans and Medium Term Programmes, 2009 Programme published in the Official Gazette No: 27039, dated 30.10.2008, and agenda and action plan of Employment Technical Committee of Coordination Council for the Improvement of the Investment Environment (YOIKK).

Firstly, 9<sup>th</sup> Development Plan sets policy targets to improve labour market. In this framework, *the labour market will be provided with a more flexible and active structure by evaluating flexibility and job security together. Also burden on*

*employment will be gradually reduced by taking actuarial balances into consideration as well, in such a way as to encourage the development of new employment opportunities, to increase the number of proper jobs and to reduce informal employment. Furthermore, wage policy based on basic wages, which will strengthen the wage-productivity relation, contribute to the flexibility of labour markets and support productive employment, will be followed. Ability of enterprises and employers to manage the transformation in the labour market in a positive manner will be improved.*

Capacities of enterprises to adapt to transformation of labour markets will be enhanced through modernizing labour organizations and supporting harmonization in enterprises, where the information and skills required by the new conditions for the employees will be ensured. *A lifelong education strategy will be developed towards increasing the employment skills of individuals in line with the requirements of a changing and developing economy and labour market. In order to develop the information systems related to the labour market, to provide the education and labour market with a more flexible structure, and to increase employment and labour productivity, work force will be trained in the areas demanded by the economy taking the life-long education strategy into consideration. Qualifications and skill levels of the unemployed, disadvantaged groups vis-à-vis the labour market and labour force leaving the agricultural sector will be improved through active labour programs based on the needs of the labour market and resources appropriated to these programs will be increased.* With regard to employment services, their capacity and their quality will be raised. *Active labour market policies will be spread through labour force training and vocational training courses, primarily entrepreneurship and employment guaranteed programs, professional consultancy and guidance services, and training seminars in the industry. Active labour programs will be organized in line with the analyses of labour market requirements (9<sup>th</sup> Development Plan, pp. 97-99).*

Secondly, according to main objectives and reform areas of Medium Term Programme for 2010-2012, in order to increase employment and reduce informal economy, flexible working models will be encouraged and expanded in the framework of flexicurity (Republic of Turkey Medium Term Programme 2010-2012, 2009, pg.18). In this context, social dialogue channels will be utilized effectively (Ibid, pg. 54).

Thirdly, in 2009 Programme (2008, pg 178), Measure 141 of policy priorities and measures under Increasing Employment sets an aim for Ministry of Labour and relevant stakeholders for making labour market more flexible and mobile by flexicurity approach and especially extending employment of women, youth and disabled. For flexicurity tier, it is set to increase information and raising awareness activities for workers and employers.

With regard to 2010 Action Plan of Employment Technical Committee of Coordination Council for the Improvement of the Investment Environment there is a title for evaluating labour market regulations with regard to flexicurity. To provide a basis for this aim and also the aim in 2009 Programme, there were some informative meetings<sup>48</sup> held with committee members<sup>49</sup> about structure of Turkish labour market and social security system in terms of flexicurity.

To conclude, government's perceptions are generally in line with employers' demands as understood from official documents. Since National Employment Strategy is quite new and any policy implementations or legislations have not set

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<sup>48</sup>Meetings are as follows: Role of Flexicurity in Turkish Social Security System held on 18.8.2009 by Social Security Institution; Unemployment Benefit Schemes in the framework of Social Protection Systems and ALMPs held on 10.9.2009 by Turkish Employment Organization; Action Plan for Lifelong Learning Strategies and Lifelong Counselling and National Vocational Information System held on 14.10.2009 by Ministry of National Education.

<sup>49</sup> Committee members are composed of social partners, academia, governmental institutions and NGOs.

yet, it is needed to act with “wait and see” perspective to make any comments for meeting demands of workers’ trade unions; whether government will make these policies with reconciliation of social partners or not.



## **CHAPTER 6**

### **CONCLUSIONS- IS FLEXICURITY SUITABLE FOR TURKISH LABOUR MARKET? – AN EVALUATION**

Exploitation of labour in the first capitalist industrial relations and weakness of workers against employers resulted as a need for protection of workers with social law regulations which also facilitate the balance of social partners' self-interests. Today, these regulations are not only covering their traditional aim but should also take a role in decreasing unemployment as well as increasing competitiveness of both the countries and companies and creating employment and jobs. Labour law must cover both employed and those who are seeking for jobs. Thus, it is important for the demand side of the labour market to be well-functioning which will in return be in favour of workers which is the supply side.

Today's employment legislations should not obstruct management of effective economic policies to create employment. But they should not only favour the economic side of the market. It is worth to mention that, only labour law itself cannot solve all the problems in the labour market. Social partners should act responsibly and reconciliatory to create more jobs while adapting the developments without leaving protection of workers. This will result in a new balance between flexibility and security or in other words between economic and social.

But flexicurity is not about regulations only. Moreover, flexicurity is not suitable for Turkey yet. The reasons lie behind varies within the structure of Turkish labour market with its segmented labour market, limited social dialogue mechanisms, low level of labour force participation rates especially for women, mismatch between vocational training and demand side of the labour market.

First of all, in Turkish case, there are highly protected “inside” workers by Labour Law and “excluded” ones who are deprived of advantages of social security. Comparing with other countries who did “miracles” about flexicurity, although these countries were successful to decrease their unemployment with active labour market policies, part-time labour contracts and easy hiring and firing legislations to gain more competitiveness, Turkey owes its competitiveness to its 43,8 percent of informality (TURKSTAT 2009 Data) which also brings a high level of flexibility to employers where they are promoting their own interests. Since they are not obliged to pay any social security contributions, severance pay and notice pay and fire their workers whenever they want, employers are highly favouring undeclared work especially in small size establishments. Although it absorbs the surplus of labour in the urban areas created by migration, there is a high incidence of underemployment and low productivity in the informal sector since it is generally related with labour-intensive production on the one hand, employers are excluded from business supports, guarantee schemes, financial incentives on the other. Undeclared employees are also unable to attend lifelong learning courses which will increase their labour productivity. Working in the informal labour market also entails the risk of exploitation because of bad labour conditions, bankruptcy of the social security system, increasing budgetary deficits. It is in this respect that security plays an important role. Therefore, in the first stage, informal labour should be transformed in formal labour by combining flexibility and security in the labour market.

Thus, legislations in the Social Security Law should be reregulated in order to make articles of flexibility in Labour Law more applicable.

Although government has aimed to decrease informal sector by punishments or incentives, employers would not accept to register their employees with today’s high level of burden for social security premiums. Therefore, measures for bringing the informal sector into the legal environment must be a priority.

Otherwise, any of flexicurity policies would not be implementable to Turkish market. Moreover, there should be a bunch of integrated policies which will create consensus between interest groups to guarantee the sustainability of the policies and inspecting informal sector. For inspections, crosschecks of information can be used as an instrument. As different ministries each have their own inspection boards, it is considered useful to exchange this information.

Besides from informal market, atypical work owns a special position in the Labour Law. Its applicability is not widespread in Turkey (Ercan, 2007, pg. 32). Furthermore, with regard to legislations related with social security, it turns out much less attractive to be an atypical worker in practice than intended by the ILO standards and EU guidelines. It is hard for atypical workers to meet requirements for provisions. Not only the employers but also the employees are suffering from the social security provisions since retirement procedures of atypical jobs need approximately triple times of working periods to be entitled to pension benefits of the employee works only in a part-time job. Despite the possibility of voluntary fulfilment of premium payments social security for these workers is not considered sufficient. This prevents a successful flexibilisation of the formal labour market.

Another critical point of Turkey's inappropriateness for flexicurity lies on women's relatively low employment and labour force participation rates. The reasons behind this negative employment picture of women were stated as the lack of an appropriate national employment strategy, and labour regulations being excessively protective for women while at the same time lacking EU-style flexicurity methods, which make establishments very reluctant to hire women (Ibid, pg 49). Like best practices in the EU, for urban areas, this can also be solved through extension of part-time contracts for educated women. Working will increase self-confidence of women and traditional role of women will change since their dependence on their families will decline. Moreover, promotion of

women's education participation rates is also important since there is a positive correlation with women's education and their engagement in jobs, therefore there must be lifelong learning programmes especially for the first and second generation rural-urban migrant young and prime-aged female population to increase their labour force participation rates (Ibid, pg 58) and these programmes should be supported by job search assistance, further skill training and active labour market initiatives since they have positive impact both on employability and productivity (Ibid, pg 58).

In many parts of the country, traditional culture is based on the caring female. Women are considered to take care of their children and elders. Although society is changing, especially in the urban areas, it is important to pull and keep women on the formal labour market. It should be taken into consideration that labour market differs significantly between urban and rural sides of Turkey, especially depending on development rates. Therefore, flexicurity policies should be determined in line with designing urban and rural needs. It seems flexicurity is more applicable for developed urban areas. With regard to this, as women are needed on the labour market, young girls in urban (and more specific their families) should be encouraged to finish secondary and if possible higher education and through further training programmes. Not only the education, but also caring systems which should be either free or very bargain-priced should be established with state policies for the developed urban areas. Interests of Unemployment Insurance Fund can be used to realize these policies since they are related in turn with employment. On the other hand, in order to keep the distance to their jobs as close as possible, urban women should be encouraged attend courses during the maternity leave by Turkish Employment Organization. Such a training programme can either be focused on the job exercise or on the combination of work and care (or on both aspects).

These two schemes are not only enough to increase women's situation in labour market since women are mostly affected by the current social security system. It shows in law concerning survivorship and retirement. The age of retirement is still not equal for men and women. Moreover, women represent the largest part of atypical workers and therefore this group is mostly affected by the discussed disadvantages of the provisions on premium payments (Breeuwsma et al.,2009, pg 11). Therefore, context and period of provisions which brings positive discrimination for women for payment of premiums should be extended.<sup>50</sup>

In Turkey, unlike best practices of EU flexicurity, process of Social Dialogue is complex and limited. The social partners strongly believe in the benefits of social dialogue, but they generally 'work apart together'. And last but not least, Turkish social dialogue remains a challenging process; there should be more opportunities for social partners to discuss flexicurity policies. When dealing with TİSK and TÜRK-İŞ or TÜRK-İŞ, DİSK and HAK-İŞ together, although they are in favour of doing projects etc, but it occurs as a state of 'working apart together' when dealing with legislative arrangements for flexicurity which should have at least absolute support of trade unions. There should be more opportunities to bring social partners together to present their views on flexicurity and discuss in a constructive way. For instance, in order to increase their interaction, Economic and Social Council<sup>51</sup> can be effectively used. Only through social dialogue, flexicurity policies are applicable.

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<sup>50</sup> Pursuant to the Law "Amending the Labour Law and Certain Laws", Law No. 5763 and Law.No.5838:Employment subsidies will be provided for the companies' recruited women and young people who are between 18-29 on certain conditions. In fact, the amendments stipulate, among other things, that the employers' share of social security premiums for newly hired women and young employees are to be covered by the Unemployment Insurance Fund for a five-year period, starting with 100% in the first year and ending with 20% in the fifth. The duration to benefit from these subsidies was extended until 1 July, 2010 by the Law No. 5838.

<sup>51</sup> According to Law No 4641 published on Official Gazette No24380 dated 21.04.2001 Article 2, Economic and Social Council is composed under the presidency of Prime Minister; Deputy Prime Ministers, State Ministers responsible for State Planning Organization, Undersecretariat of Treasury, Undersecretariat of Foreign Trade, State Personnel Presidency, Minister of Finance, Minister of Agriculture and Rural Affairs, Minister of Labour and Social Security, Minister of Industry and Trade, Minister of Energy and Natural Resources, Undersecretary of SPO, Customs,

Last but not the least, last tier of flexicurity which is life long learning pillar should be promoted by creating job opportunities especially for youth through active labour market policies and life-long learning schemes. Since school to work transition in Turkey is problematic and education in formal education is not sufficient to meet demands of labour market, there should be common initiatives both from employers' and workers' unions as well as from government to develop necessary education modules. Although there are Provincial Employment and Vocational Training Councils<sup>52</sup> set for this aim, their efficiency and functionality are questionable. These councils should be effectively used. Moreover, effective employment services are another policy tools for implementing active labour market services- which is in the framework of flexicurity- as well as counselling and job-matching for unemployed and job- seekers. Counselling services are mostly needed for young people to understand their capabilities and direct them into right jobs. In order to achieve this, in the first instance institutional capacity of Turkish Employment Organization should be improved to match demand and supply side of the labour market whereas awareness on Organization's activities should be increased to attract people to benefit from these activities.

To conclude, before Turkey implements flexicurity policies there are many areas to be dealt with to solve deficiencies of labour market, therefore flexicurity is not suitable for current labour market and cannot be used to improve deteriorating conditions. Partly arrangements for instance promoting atypical employment will not be sufficient to increase general employment rates. Policymakers should be aware of real needs and demands of both sides of labour market as well as support

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President of State Personnel, three representatives of TOBB, TİSK, TÜRK-İŞ, DİSK, HAK-İŞ, TESK, TZOB and other representatives set by Prime Minister as well as NGOs and governmental institutions.

<sup>52</sup> According to By Law No 27031 on 21.10.2008 Article 2, these councils are established in provincial base in order to make employment and vocational education policies, determine ALMPs implemented with employment protective and promotive as well as unemployment preventive measures, monitor and evaluate employment activities and vocational education applications.

social dialogue. Only then social reconciliation can be achieved and flexicurity can be discussed.

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