



**SCREENING CHAPTER 2
FREEDOM OF MOVEMENT FOR WORKERS**

**AGENDA ITEM 3:
COORDINATION OF SOCIAL SECURITY SYSTEMS**

**Country Session: The Republic of TURKEY
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LEGAL FRAMEWORK



I. Constitution

II. International Instruments

- a. Multilateral Agreements
- b. Bilateral Agreements
- c. Agreements with the EU and Association Council Decisions

III. Relevant Laws



I. Constitution

Article 60:

Everyone has the right to social security.

The State shall take the necessary measures and establish the organisation for the provision of social security.

Article 62:

The State shall take the necessary measures to ensure family unity, the education of the children, the cultural needs, and the social security of Turkish nationals working abroad, and shall take the necessary measures to safeguard their ties with the home country and to help them on their return home.



II- International Instruments

a) Multilateral Agreements

International Instruments ratified and put into force by Turkey:

- *Instruments adopted by the United Nations*
 - ✓ Convention on the Rights of the Child
 - ✓ The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- *Instruments adopted by the ILO*
 - ✓ Social Security (Minimum Standards) Convention, C102
 - ✓ Equality of Treatment (Social Security) Convention, C118



(cont.)

- Instruments adopted by the Council of Europe
- ✓ European Convention on Social Security
- ✓ European Code of Social Security
- ✓ European Interim Agreement on Social Security Schemes Relating to Old Age, Invalidity and Survivors
- ✓ European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors
- ✓ European Convention on Social and Medical Assistance



b) Bilateral Agreements

- ✓ Turkey signed 22 bilateral social security agreements to date, first of which was with UK in 1961 and last with Luxembourg in 2006.
- ✓ These agreements cover the social security rights of currently moving workers and will be dealt below in detail.



c) Agreements with the EU and Association Council Decisions

- ✓ Ankara Agreement (1963)
- ✓ Additional Protocol (1970)
- ✓ Association Council Decision 3/80 on the application of social security schemes of the Member States of the European Communities to Turkish workers and members of their families



III-RELEVANT LAWS

a) CONTRIBUTORY SYSTEM

- ✓ **Social Security Institution Law No. 5502**
- ✓ **Social Insurance and General Health Insurance Law No. 5510 (will enter into force on 1 January 2007)**
- ✓ **During the transitional period certain Articles of the below-mentioned Acts remain in force in order to protect the vested rights of current insureds:**
 - **Social Insurance Law No. 506,**
 - **Social Insurance Law For Agricultural Employees No. 2925,**
 - **Social Insurance Law No. 1479 (for craftsmen, artisans and other self-employed),**
 - **Social Insurance Law No. 2926 (for self-employed at agricultural sector),**
 - **Law on Retirement Fund No. 5434 (for civil servants)**
- ✓ **Law on Unemployment Insurance No. 4447.**



b) NON-CONTRIBUTORY SYSTEM

- ✓ Law on Social Assistance and Solidarity Fund No. 3294
- ✓ Law on Payment of Pension to the Elderly People in Need (65 years-old and over) No. 2022
- ✓ General Directorate for Social Services and Child Protection Law No. 2828
- ✓ Law on Issuance of Green Cards for the Citizens Incapable to Pay for Health Care Services No. 3816



Institutional Structure



CONTRIBUTORY SYSTEM

- ✓ **Social Security Institution (The New Covering-All Institution)**
- ✓ **General Directorate for Retirement Fund (ES-For Civil Servants), Social Insurance Institution (SSK- For Workers and Agricultural Workers working with contracts), BAG-KUR (For the self-employed and farmers) (*These institutions were transferred to Social Security Institution*)**
- ✓ **ISKUR (Unemployment Insurance)**
- ✓ **Funds (for personnel of the banks, insurance and reinsurance companies, trade and industrial chambers, exchange markets and their unions under Provisional Article 20 of the Social Insurance Law No. 506)**



NON-CONTRIBUTORY SYSTEM

- ✓ **General Directorate for Social Services and Child Protection (SHCEK)**
- ✓ **General Directorate of Social Assistance and Solidarity (SYDGM)**
- ✓ **General Directorate of Foundations**
- ✓ **General Directorate for Retirement Fund (ES)**
- ✓ **Local Administrations and NGOs.**
- ✓ **Other organizations operating in this field.**



Social Security Reform



Social Security Reform consists of 4 main components complementing each other

- ✓ The first component is the setting up of a single retirement insurance regime that includes short and long term insurance branches other than health insurance.
- ✓ The second is the creation of a General Health Insurance towards financing the provision of a high quality health service for all population, which is fair, equal, protective and curative.



(cont.)

- ✓ The third is the gathering of social benefits and services that are currently being carried out in a scattered manner and establishment of a system based on objective benefit criteria and which is accessible by all groups who are in need.
- ✓ The fourth and last component is the creation of a new institutional structure, which will ensure to provision of above-mentioned services in a modern and efficient manner.



Main Objectives of the Reform

- ✓ To create a more effective and faster system for the provision of services,
- ✓ To create a sustainable social security system and achieve social solidarity,
- ✓ To establish a General Health Insurance to cover whole population,
- ✓ To develop the technological infrastructure and to strengthen the inspection capacity,
- ✓ To increase citizens' access to the system by strengthening the local organizations.



Comparison of Turkish Social Security System, Multilateral and Bilateral Agreements with Regulation 1408/71



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Insurance Branches According to Social Insurances and General Health Insurance Law No.5510

	1408/71	Workers with contracts		Agricul. workers with contracts		Self-Employed		Farmers		Civil Servants	
		Article	Current	Post Reform	Current	Post Reform	Current	Post Reform	Current	Post Reform	Current
Old Age	44-51	+	+	+	+	+	+	+	+	+	+
Invalidity	37-43	+	+	+	+	+	+	+	+	+	+
Death and Death Benefit	44-51 64-66	+	+	+	+	+	+	+	+	+	+
Occp. Diseases/ Work Accd.	52-63	+	+	*	+	*	+	*	+	+*	+
Maternity	18-36	+	+	**	+	**	+	**	+	No reduction from salary	+
Health Care	18-36	+	+	+	+	+	+	+	+	+	+
Sickness – Cash Benefits	18-36	+	+		+		+		+	No reduction from salary	+
Unemployment	67-71	+	+								
Family Benefits	72-79	It will be provided in the framework of the non-contributory system.									

(+) In line with Reg. 1408/71 (*) There is no such payment for temporary incapacity. (**) Health care expenditures are paid through health care system



Differences with Regulation 1408/71

- ✓ **Current Turkish Social Security Regime does not cover domestic students separately but cover them as dependants of their parents. But occupational diseases/work accident and health care insurance branches apply to the students attending vocational education. As to the foreign students studying in Turkey, the health care services are financed by the university they are enrolled.**
- ✓ **Application of the family benefits varies between the regimes. Civil servants receive allowances for unemployed spouse and up to two children, while workers receive family benefits determined by the provisions of work contracts. The reform envisages the provision of family benefits under non-contributory system.**



Basic principles of Multilateral and Bilateral Agreements Ratified by Turkey

- ✓ Providing access to coverage and entitlement to benefits on an equal footing with nationals (Non-discrimination / Equality of treatment)
- ✓ Maintaining acquired rights when leaving the country (including export of benefits)
- ✓ Only one legislation applicable
- ✓ Benefiting from the accumulation of rights acquired in different countries (Aggregation of insurance periods)
- ✓ Preventing multiple premium payments



Bilateral Social Security Agreements with the European Countries: Prototypes of a Future Free Movement for Workers

- ✓ Bilateral social security agreements between Turkey and 22 countries are quite akin to Regulation 1408/71 in general principles and in their application.
- ✓ Bilateral agreements are in conformity with the main principles of the ILO Convention No 102 concerning the Minimum Standards of Social Security and the European Convention on Social Security.
- ✓ In recent years, the bilateral social security agreements have been drafted in accordance with the principles of the model social security agreement of the Council of Europe.



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REGULATION 1408/71 and BILATERAL AGREEMENTS

Insurance Branch 1408/71	Articles	UK 1/6/1961	Germany 1/11/1965	The Netherlands 1/2/1968	Belgium 1/5/1968	Austria 1/10/1969
General Principles	1-6	+	+	+	+	+
Old Age	44-51	+	+	+	+	+
Invalidity	37-43	+	+	+	+	+
Death and Death Benefit	44-51 64-66	+	+	+	+	+
Work Accidents - Occ. Diseases	52-63		+	+	+	+
Maternity	18-36		+	+	+	+
Health Care	18-36		+	+	+	+
Sickness-Cash Benefits	18-36		+	+	+	+
Unemployment	67-71		+	+	+	+
Family Benefits	72-79		+	+	+	+



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REGULATION 1408/71 and BILATERAL AGREEMENTS

Insurance Branch 1408/71	Articles	France 1/8/1973	Denmark 1/2/1978	Sweden 1/5/1981	The Czech Republic 1/1/2005	Luxembourg 1/6/2006
General Principles	1-6	+	+	+	+	+
Old Age	44-51	+	+	+	+	+
Invalidity	37-43	+	+	+	+	+
Death and Death Benefit	44-51 64-66	+	+	+	+	+
Work Accidents - Occ. Diseases	52-63	+		+	+	+
Maternity	18-36	+			+	+
Health Care	18-36	+		+	+	+
Sickness-Cash Benefits	18-36	+			+	+
Unemployment	67-71	+			+	+
Family Benefits	72-79	+			+	+



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**BILATERAL AGREEMENTS WITH EU MEMBER STATES AND
EUROPEAN CONVENTION ON SOCIAL SECURITY**

EU MEMBER STATES INSURANCE BRANCH			CONTRACTING PARTIES TO THE EUROPEAN CONVENTION ON SOCIAL SECURITY	
Austria *	Bilateral Soc. Sec. Agreement	Short+ Long Term	+	Bilateral Soc. Sec. Agreement
Belgium	Bilateral Soc. Sec. Agreement	Short+ Long Term	+	Bilateral Soc. Sec. Agreement
Luxembourg *	Bilateral Soc. Sec. Agreement	Short+ Long Term	+	Bilateral Soc. Sec. Agreement
The Netherlands	Bilateral Soc. Sec. Agreement	Short+ Long Term	+	Bilateral Soc. Sec. Agreement
Italy	-		+	Posted Workers Aggregation of Service Periods
Spain	-		+	Posted Workers

(*) There is no requirement of citizenship for these countries.



THANK YOU FOR YOUR ATTENTION