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FREELANCE WORK UNDER THE SOCIAL SECURITY SYSTEM IN TURKEY

Abstract

Advances in technology, coupled with the desire to have more private time, has led to emerge flexible work type. Today, more and more employees are turning to freelance work. However, along with the advantages, there are also disadvantages to freelance work. As is the case throughout the world, freelance workstatus under the social security system is a matter of debate. This study discusses the subject of freelance work under the Turkish social security system, specifically looking at the definition of freelance work, its advantages and disadvantages, and its statusunder the social security system. Moreover, as part of the study, books, articles, research reports and related legislation about this issue are examined. In order to obtain the data for the study, by using the library, the internet and documents related to the relevant legislation it.

Keywords: Freelance Work, GIG Economy, Social Security, Social Insurance

FREELANCE ÇALIŞMA'NIN TÜRKİYE SOSYAL GÜVENLİK SİSTEMİNDEKİ YERİ

Özet

İlerleyen teknoloji ile birlikte ve çalışanların özel yaşamına daha da vakit ayırma isteği esnek çalışma türünü ortaya çıkarmıştır. Günümüzde ise freelance (bağımsız) çalışma, çalışanlar tarafından talep görmektedir. Freelance çalışmanın avantajları olduğu kadar, dezavantajlara da sahiptir. Dünya'da olduğu gibi Türkiye'de de freelance çalışmanın sosyal güvenlik sistemindeki yeri tartışma konusu olmaktadır. Bu çalışmanın amacı, freelance çalışmanın Türkiye sosyal güvenlik sistemindeki yerini ele almaktır. Çalışmada freelance çalışmanın tanımı, avantajları, dezavantajları ile birlikte sosyal güvenlik sistemindeki yeri ele alınmaktadır. Çalışmada konu ile ilgili kitap, makale, araştırma raporları ve ilgili mevzuat belirlenecektir. Bu verileri elde etmek amacıyla kütüphane, internet erişimi ve mevzuattan yararlanarak çalışmanın alt yapısı hazırlanacaktır.

Anahtar Kelimeler: Freelance Çalışma, GIG Ekonomi, Sosyal Güvenlik, Sosyal Sigorta

1. INTRODUCTION

The transition from the industry sector to the service sector through advancements made in technology has transformed both the worker-employer relations and the working conditions that have been in place since the industrial revolution. However, the impact of the rapidly evolving technology has been responsible for the collapse of a stable mass-market and the emergence of a volatile demand structure. Therefore, regulations that support and protect new forms of work have been added to Labor Laws (Kuşaksız, 2006: 19). To succeed in meeting employee demands, utilizing technology and maintaining productivity, businesses are remodeling employment and working conditions, introducing greater flexibility to the way employees are employed and the working hours (Doğan et al., 2015: 376). There are generally two types of benefits that derive from providing greater flexibility to employees. First, it helps to reduce unemployment, and second, it helps to improve the quality of employee work life and private life. (Yavuz, 2000: 621). With the increase in the number of employees in the service sector and the progress of technology, employees are demanding flexible working conditions. In addition, they can have more time for themselves.

Two years ago, the municipality of Gothenburg in Sweden began implementation of a project in the Svartedalens Nursing Home to investigate the impact of reduced working hours. Within the scope of this implementation, which was completed at the

beginning of 2017, the salaries of the 82 employees in the nursing home remained the same, but their working hours per day were reduced from eight to six. Results from the implementation showed that employees were less likely to slack off and performed their work at a higher quality, as they had more energy (Euronews, 2017). In the first 18 months, the employees who worked 6 hours had less sick leaves. Furthermore, the social activities organized by the nurses for the elders in the nursing home increased by 85 percent, and the productivity of the employees increased as well (Savage, 2017).

Today, employees whose nature of work does not require a work place prefer freelance working, where they can enjoy more time for their private lives. In this study, the definition, advantages and disadvantages of freelance work, as well as its status under the social security system are discussed.

2. Freelance Working

A "gig economy" is described as an economy created by people who work in freelance and work on short-term projects without depending on any institution (Türsen, 2017: 7). Today, the gig economy is on the rise. According to the service company, Spera, the share of the gig economy, which was more than 33 percent in 2015, is expected to be as much as half of the US labor force by 2020 (Thorpe, 2017: 9). In the near future, many employers and human resources staff will largely have to deal with freelancers. According to the Deloitte Human Capital Trends report, employers are expected to continue with freelancers (Wooldridge, 2016: 34). With the rise of the gig economy, people, by choice, often find more than one job. This in part can explain the employment increase in the US economy over the last decade (Caza et al., 2017).

A freelancer is a self-employed person. These types of employees offer a variety of services in different companies, without permanently working in a single company, and are able to set their own hours of work freely (Cripe, 2016: 30). Steve King, a partner at Emergent Research, says, "There are many reasons why people decide to work freely." Generally, the reasons people decide to work as freelancers include autonomy, control and flexibility. Here autonomy refers to the way employees want to work, the control they have over what they do and the flexibility of being able to make their own decisions about when and where they work (Gallo, 2015).

Because of the progress of technology and changes in lifestyle, employees have struggled to find a healthy balance between work life and private live (Korkmaz&Erdoğan, 2014: 541). Private life involves the time outside of working life that employees have to spend with themselves, their spouse/family and their friends. Business life and private life, however, have begun to violate each other's areas, particularly on account of the socio-economic and demographic changes that have

emerged alongside the technological developments and globalization (Akin et al., 2017:114). An ever-greater number of employees are therefore returning to freelance work to have more time to spend in their private lives.

Finding a balance between work and private life is a challenge for all employees. Families are particularly affected in this situation. The ability to successfully balance work life and private life is important for the welfare of all members of a household. Governments can help address the issue by encouraging supportive and flexible working implementations that make it easier for parents to facilitate a better balance between work and private life. An important aspect of the worklife/ private life balance is the length of time one spends at work. Research shows that long working hours can disrupt personal health and increase stress. However, according to the OECD Better Living Index of 2017, in Turkey, almost 34% of employees work very long hours. This rate is well above the OECD average of 13% (OECD Better Life Index, 2017).

According to a new report from Prudential Finance, freelance employees are expected to lack stable financial security. In the same report, it states that gig economy workers do not receive employee benefits, the results of which lead to a major gap in coverage for short- and long-term disability, life insurance and employer-sponsored retirement plans. In effect, a gig economy leaves open the question of how to address disability of employees, life insurance, employer-paid premiums and pension plans in the short and long term (Eisenberg, 2017: 30). The issues that particularly impact freelance workers are as follows (Burda, 2017):

- **Payments:** Payments are irregular (e.g. one month you may earn 1 TL, while another month you may earn 1,000 TL.)
- **Unexpected Jobs:** The freelance work schedule is organized around a 24-hour cycle. While the work of regular full-time employees is generally confined to the workday, freelancers can receive work at any time.
- **Challenges in Planning:** Because there are no scheduled or regular working hours, freelance employees experience difficulties in planning.
- **Day-Night Work:** Freelancers can work at night to fulfill a job that arrives at noon.
- **Meaning of the Freelance Working Concept:** The concept of freelance is not fully understood. The conventional view is that if you stay at home, then you are unemployed.
- **Weight gain**

Because freelance employees are not company employees, they do not receive certain payments or reimbursements, such as for food, travel, or insurance premiums.

Therefore, it is a working system preferred by companies, but one that can potentially be negative for freelance workers, with the primary reason being that since there is no contract, problems can arise over payments (Öztel, 2017). The nature of the business relationship between an employee and an employer may be such that any legal disputes that may surface in the future could be resolved amicably. There are important factors that freelance workers and employers must pay attention to when entering in a working relationship. Freelance work performed by freelancers that are not based on any written agreements are very difficult to prove in court. For this reason, there must be a written agreement between the parties. Freelance employees should file a contract-based claim when they have a dispute about wages. Execution proceedings must be commenced in the event a freelance employee does not have a written contract and is unable to charge or collect a portion of their fees (Ergun, 2014). The advantages of working as a freelancer include:

- Work anywhere and anytime
- No shift work
- Not bound to employer permissions
- Have more time to spend in private life

The disadvantages of working as a freelancer include:

- Delays in payment or non-payment of invoices
- Stigma of being viewed as unemployed in the community
- Jobs do not arrive regularly
- Lack of regular income

3. Freelancers' Insurance Status

Two governing factors affect the issue of insurance for freelancers. Freelancers can be insured in accordance with Article 4/b of Law no. 5510. If a freelancer has a company under their own name and are taxpayers, it is possible to be insured under Article 4/b. On the other hand, if a freelancer is not an income taxpayer in real or ordinary terms, not a company partner, and/or not registered in the registry of traders and artisans, then they may be eligible to receive optional insurance at this time (Kılıç, 2015).

Taking a closer look at 4/b insured status for freelancers, those who fall within the scope of the second paragraph of Provisional Article 9 of Law no. 5510 and who are considered as covered for the first time between 10/1/1999 to 30/4/2008, have to be at least completed 58 years of age if they are women, completed 60 years of age if they are men and had to have worked for exactly 25 years. Those who are considered to be covered for the first time as of 5/1/2008 can benefit from the old-age monthly pension, with

the condition that they complete 58 years of age if they are women and complete 60 years of age if they are men and they have made payments over a course of 9000 days for insurance premium, according to Law no. 5510. For partial old-age monthly pension (premiums less than 25 years), an individual must be at least 60 years of age if they are women, 62 years of age if they are men and should pay insurance premiums at least exactly 15 years.

According to Law no. 5510, those under 4/b who are deemed to be disabled should be holding insurance for a period of a minimum of ten years and should have paid for a total of 1800 days, or in the 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 (Law no. 5510, Article 26).

Individuals who work independently, on their own behalf and account, must pay all types of debts related to premiums, including general health insurance premiums, that accrue from their own insurance. In other words, even if those who carry premium debt due to their own insurances are under other conditions, it is not possible to deduct these debts from the pensions. However, although the number of days of premium payment from these insurers is 1800 days, referrals of those who carry premium debt, including general health insurance premiums, due to their own insurances, can be made provided that the costs are met by them. Furthermore, if the insured persons complete the minimum 1800 premium days required for referral according to Article 41 of Law no. 5510 by taking advantage of service borrowing, referrals can be made upon their request. However, if the referral was made without debt payment, they are required to pay for all expenses related to the referral (Pektaş, 2012: 63).

The terms governing the death pension for the mother and father are that if there are shares left over from the right owner spouse and children, provided that the figure is less than the net amount of the minimum wage of the income, and that they are not put on income and/or pension excluding the income and pension rights granted because of other children; if the mother and father is over 65 years of age, without considering the left over share (Saraç, 2012: 60).

According to Article 32 of Law no. 5510, for 4 (b) insured persons who work on their own behalf and account, regardless of the condition of the insurance period, the only condition is at least 1800 days of insurance premiums. If there are more than one insurance status, they are pensioned according to the latest insured status.

If we consider optional insurance for the freelancers, optional insurance is the insurance which allow individuals optionally to enter, stay, and obtain insurance rights

within the compulsory insurance system (Arici, 2015: 265). Whether benefiting from voluntarily insurance or not, the choice to give up the insurance is voluntary (Güzel et al., 2016: 175).

According to Article 50 of Law no. 5510, in order to be an voluntarily insurance holder, for residents in Turkey and Turkish citizens who, while residing in Turkey, are in foreign countries with which social security convention is not signed, the conditions of not working in a manner to require being subject to compulsory insurance in this Law or working as an insurance holder but less than 30 days a month or not working full time, not being put on pension due to one's own insurance, being over the age of 18, applying to the Institution with a voluntarily insurance request petition are sought.

According to Article 51 of Law 5510, optional insurance shall end;

- the date following the last day of paid premium, for the individuals who request to end optional insurance,
- the date of request for individuals who request pension, provided that they are qualified for pension,
- the date of decease of the deceased insurance holder

4. RESULTS

Today, employees prefer freelance working, where there is no connection to a workplace, for the purpose of having more time for their private lives. Employees who prefer to work as freelancers have the luxury of setting their own working hours independently, without depending on a single workplace.

Freelance work has advantages as well as disadvantages. The advantages include having the liberty to work at home or anywhere preferred, freedom from shift work, and more time for private life. The disadvantages include no regular income, risk of delays in payment or non-payment of invoices, and having the stigma of being unemployed in the community.

The status of freelancers under the social security system in Turkey is largely governed by two conditions. First, if freelancers have companies under their own names and are taxpayers, it is possible to be insured under 4/b. Second, freelancers have voluntarily insurance available to them.

If more people in the future are expected to prefer freelance work, the issue of freelance work must be included in labor and social security laws and such employees need to be protected from social risks.

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