

IN TURKISH LABOUR LAW WORK-LIFE BALANCE REGULATIONS TO PREVENT PARENTAL UNEMPLOYMENT

EBEVEYN SİZLİ N ÖNLEMEDE TÜRK HUKUKUNDA -YA AM DENGESİ UYGULAMALARI

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Özet

Çocuklar,na kar , sorumluluk, bir ki inin ailesine kar , sorumluluklar,n,n en üstünde yer al,r. Türkiye'de s,kl,kla anneler, çocuklar,na bakmak için çal, ma hayat,n,n d, ,nda kalmaktad,r. Özellikle tek ebeveynli ailelerde, i ve aile ya am,n,n uyumu zordur ve bu i sizli e ya da verimsizli e yol açar. -ya am dengesi, çal, anlar,n i sorumluluklar, ile ki isel ve aile sorumluluklar, aras,nda bir denge kurmas, anlam,na gelir. hayat, ve aile hayat,n,n birbirine kar ,l,kl, müdahalesi ya am kalitesini dü türür. Ayr,ca verimlili i ve performans, azalt,r. Bu nedenle, ebeveyn i sizli ini önlemek için, i -ya am dengesini sa layan düzenlemeler, çocuklar,na bakmak için evde kalman,n önüne geçebilir. Bu konuda hükümet, sendikalar ve i verenlerin hepsi sorumludur. Bu problemin çözümünde esnek çal, ma konusunda farklı, bak, aç,lar, aramal,, aile dostu politikalar, toplum düzeyinde gözden geçirmeli ve bu konuda yeni düzenlemeler yapmal,y,z. Bu çal, ma, i in ve çal, an,n verimlili ini sa layan i -ya am dengesi ve i -ya am kalitesi kavramlar, hakk,nda bilgi vermektedir. Türk i hukuku mevzuat,nda yer alan anal,k izni, babal,k izni, ebeveyn izni konular, çal, mada incelenmektedir. Bunu, politika tasarlayanlara uygulama önerileri izlemektedir.

Abstract

The responsibility for the children becomes at the top of a person's responsibilities towards his family. In Turkey, often mothers fall outside of working life to look after their children. Especially in single-parent families, harmonization of work and family life is difficult and this leads to either unemployment or inefficiency. Work-life balance means for employees achieving a balance between job responsibilities, personal and family responsibilities. Work life and family life's mutual intervention to each other reduces the quality of life. It also reduces efficiency and performance. For this reason, in order to prevent parental unemployment, arrangements to ensure the work-life balance can help prevent staying home to look after their children. In this regard, the government, trade unions and employers are all responsible. In solving this problem, we should look for different perspectives on flexible working; revise family friendly policies at the community level and must make new arrangements in this issue. This chapter informs about concepts of work-life balance and work-life quality which provide work and employee's productivity. Maternity leave, paternity leave and parental leave issues in Turkish labour law are examined in this study. This is followed by implementation recommendations to policy-makers.

öA human doesn't starve alone. If he starves, do all of his friends. The hunger of an unemployed is also the hunger of all the other unemployed.ö J.P.Sartre

I. INTRODUCTION

Each person in working age, roughly, aims at spending one-third of a day for sleeping, one-third of it for working and the remaining one-third of it for his daily needs, which indeed a goal of nature and ideal law to balance work and life perfectly. The objective of this study is to indicate under what conditions and to what direction the stated balance changes and also to express opinions on how to redress such a balance. This is because we believe that the prevention of parental unemployment and work-life balance policies are linked.

There are many instruments changing the work-life balance. Touching on all, such requires a comprehensive sociological research. Thus, the variables found out until now and suffered most are touched on. For instance, the primary of such variables is unbalanced work share between women and men imposed by the conventional society.

Another important factor is the level of difference of working hours between developed and undeveloped countries. The country with the longest working hours from 38 OECD member countries is Turkey, which results in fact that working life takes up much more space in the lives of individuals besides they cannot take care of themselves and their families sufficiently. In the redressing of the work-life balance, the other issues the persons allow time are such humane support responsibilities like child care, elderly care, patient care and disabled care. Due to these obligations particularly women, do not get a job or leave the job. Here the öideal workerö and öideal motherö figures clash¹. Unless the government supports in such issues, redressing the work-life balance becomes impossible. Especially in single-parent families, harmonization of work and family life is difficult and this leads to either unemployment or inefficiency². All over the world, it is estimated that 320 million children live in single-parent households³.

In the study, such issues are examined not sociologically from the standpoint of their impacts of work and life balance but in recognition of the rules in working life.

II. THE RELATIONSHIP BETWEEN WORK-LIFE BALANCE AND PARENTAL UNEMPLOYMENT

öParenthood employment gapö is the difference between the employment-to-population ratio for fathers and that for mothers of children aged 0-5 years. The parenthood employment gap is largest in the Arab States (67%) with women's employment rates is 9,3% and it is lastly in Africa (21,9%) where economic conditions push both mothers and non-mothers into paid work⁴. The global öparenthood employment gapö is 40,3%⁵.

Unlike the OECD average, unemployment has been increasing in the last 7 years in Turkey⁶. According to Turkish Statistical Institute's statistics November 2018 unemployment rate in Turkey is 12,3%. Labour force participation rate of females is 34,1%; the labour force participation rate of males is 72,4%⁷. Both parents work rate in Turkey is 15%. This ratio is the last among OECD countries. On the other hand, the rate of employment gap for both parents is 13,4%. OECD average is 5,7%. Turkey is the worst case both mother's and father's unemployment in OECD countries⁸.

Unemployment has a mental impact on individuals, but with a wider perspective, the impact on the family institution is enormous⁹. Parent unemployment has very serious effects especially on children. As parental unemployment increases, poverty increases and child labour increases as poverty increases¹⁰. Parent unemployment is shown as an early age stress factor and is considered among the factors that increase drug use¹¹. The two issues that children are most influenced by parent unemployment are their psychological states and educational status. In the studies conducted when both parents were unemployed, the following results were observed: higher rates of self-harm in these children, early school drop-out, difficulty in finding a job when they were adults, lower birth weight, various

¹ LOTT, Yvonne/KLENNER, Christina: öAre the ideal worker and ideal parent norms about to change? The acceptance of part-time and parental leave at German workplaces,ö Community, Work & Family, 21, (5), 2018, p.567.

² ILO: Care work and care jobs for the future of decent work, Geneva 2018, p.xxxi.

³ ILO, p.19.

⁴ ILO, p.88.

⁵ ILO, p. xxxiii.

⁶ OECD: How does TURKEY compare? Employment Outlook 2017, <http://www.oecd.org/turkey/Employment-Outlook-Turkey-EN.pdf> (Access Date 20.2.2019).

⁷ TÜ K: Haber Bülteni, <http://www.tuik.gov.tr/HbGetirHTML.do?id=30689>, 15.02.2019, No.30689 (Access Date 18.2.2019).

⁸ AKTA , Alaattin:öOECD'nin saptamas,n, T SK yorumlad,ö, <https://www.dunya.com/kose-yazisi/oecd039nin-saptamasini-tisk-yorumladi-quotturkiye039de-erkek-is/13398>, (Access Date: 10.01.2019).

⁹ KURT, enol: ö sizli in Psiko-Sosyal Sonuçlar, ve Türkiye Üzerine Muhtemel Etkileri, Sosyal Siyaset Konferanslar, Dergisi, 51, 2006, p.358.

¹⁰ EFE, Haydar/ ULUO LU, Sevinç Arzu: öDünyada Çocuk çili iyle Mücadelede Geline Nokta ve Gelece e Dair Baz, Öngörülerö, E itim Bilim Toplum Dergisi, 13, (51), 2015, p.52.

¹¹ BOZDEM R, Bilal Semih: Çocuk ve Ergen Psikolojisi, ST Clementa University, 2015, p.165.

weaknesses in their physical health, increased risk of epidemics, growth difficulty according to peers¹². It is advocated by an opinion, there is a link between parental unemployment and especially maternal unemployment and child abuse¹³.

It should be noted that the negative impact of unemployment on the family is more permanent on children¹⁴. These children face inadequate nutrition and inadequate access to health services due to insufficient income. Violence and uneasiness caused by unemployment within the family can also disrupt children's psychology¹⁵. The involvement of both parents in employment positively affects child health and development by reducing poverty¹⁶.

In order to prevent parental unemployment, arrangements to ensure the work-life balance can help prevent staying home to look after their children¹⁷. However, in high-level jobs it is more common to prefer full-time work rather than focusing on work-life balance practices¹⁸. Therefore, although there are legal regulations aiming to provide work-life balance, there is also a working class who does not prefer to benefit from these rights. However, for the vast majority of employees, the rights provided by the regulations are indisputably beneficial.

Data on public expenditure on selected care policies show that transformative care policies can yield leading to better outcomes for children, their mothers' employment and their fathers' caregiving roles. There is a positive association between national parental leave arrangements and men's time spent on childcare¹⁹.

Work-life balance is a concept varying from person to person and whose scope is expanding continuously. The meaning of such a balance for the employee is to redress a balance between work responsibilities and personal and family responsibilities and preventing such areas from affecting each other adversely²⁰.

The individual is not only expected to work and make money in social life. Maintaining the family life, allowing time for himself, making child and taking care of them, elderly and patient care are only a few of such tasks²¹. Reducing daily working hours, in general, is the best way to combine work life and family life equally. Work-life balance practices are considered as an element of the policies that support the family by social politicians²².

As of March 2019, in the work-life balance ranking, in 38 OECD countries, Turkey was the last with 0.0 points. In Turkey 34% of employees are working more than 50 hours per week. This ratio is the worst among OECD countries²³. For this reason, it is also important to increase the awareness and implementation of the rules of work-life balance in Turkish labour law.

Work-life balance problem is no longer only that which is attempted to solve by the individuals themselves but also by the enterprises²⁴. Therefore, it is discussed that whether the problem is approached as a social responsibility obligation with respect to the employee or it is aimed at to increase the competition advantage among the employer²⁵. Some writers studying the issue assert that such an issue is approached to establish a competition advantage by the companies in the USA. There, it is said that the companies follow policies to find better employee candidates and increase loyalty of them to the companies²⁶. It is stated that, in Europe, there are those policies backed up with public sanction based on legal force, therefore, the issue is rather approached as social responsibility²⁷. Finally, it is seen that social responsibility and competitive advantage are not poles apart but interwoven²⁸.

¹² STRÖM, Sara: "Unemployment and Families: A Review of Research", *Social Service Review*, 77, (3) 2003, p.417, 420; KAMERMAN, Sheila B./ NEUMAN, Michelle/ WALDFOGEL, Jane/ BROOKS-GUNN, Jeanne: "Social Policies, Family Types and Child Outcomes in Selected OECD Countries", *OECD Social, Employment and Migration Working Papers No. 6*, 2003, p.22; CHRISTOFFERSEN, Mogens Nygaard: "Growing Up With Unemployment, A Study of Parental Unemployment and Children's Risk of Abuse and Neglect Based on National Longitudinal 1973 Birth Cohorts in Denmark", *Childhood: A Global Journal of Child Research*, 7, (4), 2000, p.427; KURT, p.368.

¹³ KAMERMAN, et al., p.22; CHRISTOFFERSEN, p.436; KURT, p.374.

¹⁴ STRÖM, p.416-417.

¹⁵ KURT, p.374.

¹⁶ MET N, Banu: "ve Aile Ya am,n,n Uyumla t,r,lmas,na Yönelik Politikalar ve Kad,n stihdam,: sveç, Almanya ve Birle ik Krall,k Örnekleri", *T SK Akademi*, 23, 2017, p.22.

¹⁷ KUL PARLAK, Nurgün: "Avrupa Birli i nde -Ya am Dengesine Yönelik Uyumla t,rma Politikalar,: Ebeveyn zniö, Bilgi, (32), 2016, p.63.

¹⁸ LOTT/ KLENNER, p.572.

¹⁹ ILO, p.xxxvi.

²⁰ KA NICIO LU, Deniz: "Refah Devleti Modellerine Göre Avrupa Birli i nde -Ya am Çat, mas, ve -Ya am Dengesi Politikalar,ö, Çimento veren, 27, (1), January 2013, p. 25; DO RUL, Burcu efika/TEKEL , Seda: " -Ya am Dengesinin Sa lanmas,nda Esnek Çal, maö, Sosyal ve Be eri Bilimler Dergisi, 2, (2), 2010, p.12; Eurofound 2014, Ya am kalitesi e ilimleri ö Türkiye: 2003ö2012, Luxembourg 2014, p.56.

²¹ ÖZAYDIN, Mehmet Merve: "öCinsiyete Dayal, Refah S,n,fland,rmalar, Temelinde ve Aile Ya am,n,n Uyumla t,r,lmas, Sorunuö, GÜ BFD, 15/3, 2013, p. 48; The resolution on reconciling professional, family and private lives adopted by the European Union in 2004 with OJ C 102 E 28-04-2004.

²² MET N, p.22.

²³ OECD: Work Life Balance, <http://www.oecdbetterlifeindex.org/topics/work-life-balance/> (Access Date 10.2.2019)

²⁴ MET N, p.25.

²⁵ JOSHI, Sunil/ LEICHNE, John/ MELANSON, Keith/et al.: "Work-Life Balanceı A Case of Social Responsibility or Competitive Advantage?", *Dr. Parsons Georgia Institute of Technology*, 2002, p.1.

²⁶ JOSHI, et al., p.11.

²⁷ JOSHI, et al., p.5.

²⁸ JOSHI, et al., p.15.

Redressing work-life balance has also many advantages for companies. For instance, effective work-life programs are effective marketing method to attract potential applicants. Since work satisfaction of the employee who is able to redress a balance between work and life is higher, efficiency is increased and newly occurring employee costs such as training cost given to increase adaptation of the employee to work²⁹.

It is the task of not only the organisations but also the governments to redress such balance. Because the regulations and laws are in the scope of national social policy³⁰. Family friendly working policies of the governments must also be included in the bargaining issues between the employer and the employee. Sanction must be imposed to the contrary case. Such a governmental intervention especially leads to increasing adaptation of the low-wage workers and establishing social equality³¹.

The gravity of the establishment of a balanced relationship between work and private life is accepted all around the world. Establishment of such balance is also one of the targets attempted to reach by Growth and Employment Strategy of Europe³². The efforts of governments on that issue for compliance to Lisbon Convention are not a result of a coincidence. The gravity of work-life balance is started to be uttered more widely upon four big amendments: increased workload, the increased entry of women to the labour force, changing attitudes of people at work, and increasingly blurred borders between working and non-working time³³. Redressing work-life balance policies are founded on three foundations such as leave policies, flexible working policies and child, patient, elderly and disabled care policies³⁴.

Considering in Turkey the outgrowth of working informally and paid employment of only 30% of women, it becomes hard to examine work-life balance³⁵. Social state quality of the Republic of Turkey stated in the Constitution constitutes infrastructure and even justification of all legal regulations to be made³⁶. Taking precautions to reconcile work life and family life is an obligation under the Constitution and international conventions³⁷.

III. GENDER EQUALITY IN WORK-LIFE BALANCE

The concept of work-life balance has become important upon the increase in women's and especially mothers' participation in workforce³⁸. Women's participation in workforce is not only a result of a change in their attitudes and expectations in time. At the same time, changing aspects of the economy has led women to work. Deindustrialisation has occurred and this has led to moving towards the service industry. Increasing unemployment problem pushed women to be employed at low level and low wage part-time jobs in service industry³⁹. Women needing double income are first obliged to head to unqualified jobs. Governments encouraged women employment to free the society from poverty⁴⁰.

However, it is seen that women still cannot participate in labour market owing to such problems as women still lack of sufficient education and women are considered to be obliged to undertake household chore and childcare responsibilities due to traditional work division⁴¹. Full time working of those participating is limited as they have more such responsibilities like childcare and elderly care than men do⁴².

Working women spend twice as much hour for the care and household chore compared to men in their parental period⁴³. The difficulty in redressing work-life balance increases upon becoming a parent. However, for men while such balance problem goes back to preschool age, it continues throughout a whole parental period for women⁴⁴.

Indeed, the policies of reconciliation of work life and family life are one part of gender equality policies of the

²⁹ JOSHI, et al., p.13. AYDIN, Ufuk: *öAile Dostu Hukuku Karşılamada Bir Araştırma*, Prof. Dr. Sarper Süzekçi Armağanı, İstanbul 2011, p.375.

³⁰ DOĞRU/TEKELİ, p.12; KANALCI, p.27; ÖZAYDIN, p.48; ÖZEN KAPIZ, Serap: *öAile Yaşam Dengesi ve Dengeye Yönelik Yeni Bir Yaklaşım: Sosyolojik Teorisi*, DEÜSBED, 4/3, 2002, p.142.

³¹ BE PINAR, Fatma Umut/AYBARS, Ayşe: *Erken Yaşlarda Çocuk Refahı, ve Kadın İstihdamı*, Politika Belgesi, 2013, p. 22.

³² ERDOĞAN, Seven: *öAile Hayatı, Çatışma, Ölüm, Çalınma ve Sosyal Güvenlik Bakanlığı, AB Koordinasyon Dairesi Başkanlığı, Bülteni*, 2010/53, p.27.

³³ Eurofound 2012, p.45.

³⁴ POLAT, Smet Yıldı: *öTürkiye'de öAile Yaşamı ve Uyumlaştırma, Çalınmalar, ve öAile Yaşamı ve Uyumlaştırma, ve Kadın İstihdamı*, 2014 Ankara, p.17; ÖZAYDIN, p.58; BARNARD, Catherine: *EU Employment Law*, 4th Edition, Oxford 2012, p.403.

³⁵ Eurofound 2014, p.56.

³⁶ EKİN, Ali/ KAYIRGAN, Hasan: *öUluslararası, Alanda ve Türk Hukukunda Eritme Davranışları İnceleme*, DEÜHFD, 15, 2014, p.1059.

³⁷ BAKIRCI, Kadriye: *öHangi Çalınma Hukuku? Aile Dostu mu Kadın Dostu mu?ö, Başka Bir Aile Anlayışı, Mümkün mü*, İstanbul 2013, p.67.

³⁸ CROMPTON, Rosemary/ LYONETTE, Clare: *Work-life balance in Europe*, London 2005, p. 3; BAKIRCI, p.65; FRIEDMAN, Stewart D./ CHRISTENSEN, Perry/ DEGROOT, Jessica: *öYaşam Sıfır Toplamı, Oyunun Sonu, ve Yaşam Dengesi*, İstanbul 2001, p.12. ÖZEN KAPIZ, p.141.

³⁹ Eurofound 2012, p.1; CROMPTON/LYONETTE, p.4.

⁴⁰ CROMPTON/LYONETTE, p.4.

⁴¹ Commission report, p.3.

⁴² BARNARD, p.401.

⁴³ Eurofound, 2013, this report based on fifth European Working Conditions Survey held by Eurofound surveying more than 38.000 in 34 countries.

⁴⁴ Eurofound, 2012, p.47.

European Union⁴⁵. Work-life balance practices in Europe started with the justification of gender equality. However, the reason for the implementation of work-life balance at the point where Europe is today is the idea of protecting the family⁴⁶.

According to the studies, it is seen that the countries redressing work-life balance most are Nordic countries. The studies on Norway and Finland have shown that the reason of high work-life satisfaction in such countries is not only that the governments create policies supporting such but also they encourage men on household chore and care responsibilities⁴⁷.

In Turkey, the Constitution and the Labour Code include provisions on prevention of discrimination. According to the Article 10 of the Constitution, *“Men and women have equal rights. The State has the obligation to ensure that this equality exists in practice. Measures taken for this purpose shall not be interpreted as contrary to the principle of equality.”* According to the Article 41 of the Constitution *“Family is the foundation of the Turkish society and based on the equality between the spouses.”* According to the Article 5 of the Labour Code *“Except for biological reasons or reasons related to the nature of the job, the employer must not make any discrimination, either directly or indirectly, against an employee in the conclusion, conditions, execution and termination of his (her) employment contract due to the employee’s sex or maternity.”*

However, according to the researches, the rate of women suffering from work-life conflict is 81% in 2012 despite the rules of law. Such rate for men is 75% in the same term (EQLS 2012). Failure to redress the balance between work and family pushes women either to participate in work life or to stay at home⁴⁸. The country with the worst performance by the participation of men to payless domestic work is Turkey with a daily participation rate of 17%. It is observed that the marriage increases the domestic workload of women more than that of men. The best model country with participation of men to domestic work is Sweden with a daily participation rate of 70%⁴⁹.

It is a sociological reality that *“care”* is seen to be a *“women’s work”* in our country⁵⁰. Accordingly, we argue that those policies attempting to dispose of gender must be adopted with the hope that it may lead to a mentality change. In this sense, providing the legal infrastructure about equally sharing of the child care between their parents may be a solution. When the policies brought to redress work-life balance are not employed both men and women, this may actually result in problems for women. For example, those women accept lower wage and lower quality jobs shall be given rise as a result of their part-time employment. The reluctance in willing to employ women in fertility age increases. Possibilities of women to be promoted upon giving birth and ascending to higher ranks in their career plans highly decreased. Therefore, parental or care leaves should be recognised with quota for both women and men and both should be encouraged to take such leaves to prevent the policies from running against women⁵¹. According to a study, even in Germany, which has a wide work-life balance practice, 98% of the parental leave granted to both mother and father is used by women⁵². Forbidding transfer of such leaves, in other words, making men use them compulsorily may lead to a change in the perception in time.

IV. CONNECTION OF WORK-LIFE BALANCE WITH WORKING HOURS AND FLEXIBILITY

It is proved that working hours at work is another effective factor in redressing work-life balance. Flexible works, overtime, shift works and leave periods affect such balance. Because the problem of redressing such balance is not only and separately restricted to the employee and mutual relationships between their superiors⁵³.

The country with the longest working hours is Turkey among the EU countries and candidate countries. In OECD countries, Turkey is by far the country with the highest proportion of people working very long hours with 34%, Mexico with nearly 30% and Israel and New Zealand both with 15% of employees⁵⁴. Average weekly working hours differ distinctly among the countries; there is approximately a difference of 20 hours between Turkey and the Netherlands. In the Netherlands, less than 0.5% of employees work very long hours, the lowest rate in the OECD where the average is 13%⁵⁵. Nearly 40% of the employees say that they want to change existing working hours. Men and women come together at a point regarding working hours: both want shorter working hours⁵⁶. Work-life conflict is seen at a higher level in Turkey with the longest working hours⁵⁷.

⁴⁵ BARNARD, p. 403; POLAT, p.17)

⁴⁶ AYDIN, p.375.

⁴⁷ Eurofound 2012, p.45; CROMPTON/LYONETTE, p.27.

⁴⁸ Commission report, p.36.

⁴⁹ ERDO AN, p.20.

⁵⁰ KÖSEO LU, Ali Cengiz: *“Türk Hukukunda Anal, kö, ve Hayat, 4, 2017, p.99; METIN, p.41.*

⁵¹ MILLER, Claire Cain: *“When Family-Friendly Policies Backfire”, New York Times 26 May 2015.*

⁵² AYDIN, p.387.

⁵³ Eurofound, 2009a, p. 4.

⁵⁴ <http://www.oecdbetterlifeindex.org/topics/work-life-balance/> (Access Date 10.2.2019)

⁵⁵ <http://www.oecdbetterlifeindex.org/countries/netherlands/> (Access Date 10.2.2019)

⁵⁶ Eurofound, 2013.

⁵⁷ KA NICIO LU, p.37.

Another point to be touched on with respect to work-life balance is flexible working. Such flexible working models as working at home, teleworking, and flexible working allow working out of the workplaces. It is argued in the doctrine that such models facilitate redressing a balance between work and personal lives, increasing loyalty to workplaces and increasing the efficiency⁵⁸. One of such flexible working models is part-time working. Part-time working is mostly adopted by women throughout the world. It is because work-life conflict between men and women is against women who are undertaking domestic responsibilities more⁵⁹.

That part-time working is localised at low position works and in industries for women at a great scale mean that women shall carry on to carry out work and family responsibilities in parallel. So, it is argued to be against the equality of opportunity⁶⁰.

One of the parents may request working as a part-time employee according to the article 13/5 of Turkish Labour Code. Before 29.01.2016, rejection of such requests did not render a termination justification for the employee⁶¹.

The issue of flexibility in working hours must be approached carefully as it has negative effects as well as positive effects. For example, in the studies, it is seen that on-call working creates negative effects on work-life quality and health. E.g., decrease in sleeping quality, increase in stress level and decreasing mental health⁶². Besides, the arrangements containing positive discrimination is known to create a negative effect on employer attitudes regarding women employment. While women employment is regulated flexibly to contribute to reconciliation of work and family, such flexibility should not be let turn into another kind of inequality⁶³.

V. CARE RESPONSIBILITIES IN REDRESSING WORK-LIFE BALANCE

The point to which importance is attached most by the countries is caring responsibilities of the employee in general with regards to reconciliation of work and life. Moreover, the point is also defined as family-friendly policies⁶⁴. It must be stated that especially childcare is not only a moral duty in Turkey but it is also an obligation regulated by various provisions in the Civil Code no 4721 (article 182, article 185, article 327, article 328).

ILO Maternity Protection Convention (no 183) and Workers with Family Responsibilities Convention (no 156) are not approved by Turkey. Nevertheless, Turkey is a part of the Convention on the Elimination of All Forms of Discrimination against Women ó CEDAW, UN Beijing Declaration and The Council of Europe Revised European Social Charter.

Examining the international law and national law together, work and family obligations are seen to include the following: maternity leave, breastfeeding leave, parental leave, paternity leave, childcare leave, and elderly and patient care leave⁶⁵. Therefore, the issues will be examined under such titles.

The concepts of maternity, paternity and parental leave are those confused with but different from each other. Maternity leave is defined as a leave given to mother to protect her pre- and post-delivery biological condition⁶⁶. Paternity leave is that given to father to benefit together with woman during the maternity leave of her. Parental leave is that of a childcare given to both parents separately⁶⁷.

A. Maternity Leave and Breastfeeding Leave

Maternity leave includes the leaves and rights given to woman, a period allowed for delivery and baby care post-delivery and breastfeeding leave after she returns to work upon maternity leave.

1. In The Pregnancy Period

öFemale workers shall be granted paid leave for periodic checks during pregnancy. The pregnant female worker shall be employed in lighter positions suitable for her health, when required by a physician report. In this case, no discount shall be made in her wage.ö(Labour Code art.74/4-5) If it is not possible to adjust working conditions during pregnancy period, the pregnant worker is considered to be given an unpaid leave for a required period of time to protect her health and safety in accordance with the Regulation on Employment Conditions of Pregnant or Breastfeeding Women and Breastfeeding Rooms and Childcare Dorms. However this provision is against 92/85/EU Directive on the Pregnant Workers and Workers Who Have Recently Given Birth or are Breastfeeding (art.5) stipulating such leave must be paid⁶⁸.

⁵⁸ DO RUL/TEKELI, p. 14; POLAT, p.19.

⁵⁹ KA NICIO LU, p.37.

⁶⁰ Eurofound, 2009b, p. 8.

⁶¹ BAKIRCI, p.78.

⁶² Eurofound, 2012, p. 42.

⁶³ ÖZAYDIN, p.69.

⁶⁴ For more information, AYDIN, Ufuk/ DEM RKAYA, Seher: öÇal, ma Ya am,nda Aile Dostu Hukuku Uygulamalar,ö ve Hayat, 6, 2017, p.74.

⁶⁵ MET N, p.23.

⁶⁶ BAKIRCI, p.67.

⁶⁷ BAKIRCI, p.68.

⁶⁸ BAKIRCI, p.69.

2. Maternity Leave

According to the Article 74/1 of the Labour Code;

*It shall be essential that female workers should not be employed for a period of sixteen weeks in total, eight weeks before and eight weeks after delivery. In case of multiple pregnancy, such eight-week period before delivery shall be increased by two weeks. If, however, the health condition allows, the female worker may work until three weeks before delivery, if she wishes, upon the approval of the physician. In this case, suck worked periods shall be added to the periods after delivery. In cases where the female worker gives premature birth, the period which could not be used by her and during which she cannot be employed shall be used through addition to the period after delivery. In case of mother's death during or after delivery, the periods which cannot be used after delivery shall be used by the father. One of the parents or a person adopting a child under the age of three shall be allowed to use a maternity leave for eight weeks as of the week in which the child is de facto delivered to the family.*⁶⁹

Such right is also applicable to female civil servants giving birth as it is (article 104 of the Code no 657).

It should be noted that for the implementation of Article 74/1 of the Labour Code, the mother must be employed as an employee in order for the maternity leave to be used by the father when the mother dies. In other words, the husband whose non-working wife died during birth or after birth due to a complication of birth is unable to use maternity leave⁷⁰. In our opinion, this is a major shortcoming. It is an obstacle for the father to use maternity leave and to establish a healthy connection with his child during this period.

According to the Article 74/6 of the Labour Code;

*The female worker shall be granted unpaid leave for up to six months after expiry of the sixteen-week period, or after the eighteen-week period in case of multiple pregnancy, upon her request. Such period shall not be taken into account in calculating the right of annual paid leave. Such leave shall be granted to one of the parents or a person adopting a child under the age of three. This period shall be taken into account in calculating the right of annual paid leave.*⁷¹

The employer is obliged to give unpaid leave to a female worker upon request.

There are also other provisions protecting pregnant women or those having given birth. E.g., pregnancy or birth giving cannot be justification for termination of any labour contract in Turkish Law. There are also provisions specific to mothers in the social security law. The women insured in Turkish Law may become indebted for the periods when they do not work (up to 4 years in total at most two years for each delivery) and retired with a lower working period (Law No. 5510 art.41). Besides, women with disabled children shall be able to be retired 5 years earlier.

Women employees do not receive fees for this period before birth and after maternity leave. However, they receive benefit for temporary incapacity under Law No. 5510 art.16. The conditions of benefit for temporary incapacity are as follows; for the insured woman, at least ninety days short-term insurance premium has been declared within the year prior to the birth, and for the independent female worker there must be any premium debt to the Institution. However, benefit for temporary incapacity is granted only to women. To the men who use maternity leave is not granted benefit for temporary incapacity⁷¹. In addition, female workers who adopt a child and use maternity leave for this period cannot receive benefit for temporary incapacity. Therefore, for adopters who cannot use social security benefits, the possibility to benefit from maternity leave will be virtually eliminated⁷².

Yet such provisions are not sufficient. Turkey must sign the Maternity Protection Convention no 183 of ILO and establish required inspection mechanism on this.

3. Breastfeeding Leave

According to the Article 74/7 of the Labour Code;

*Female workers shall be granted a breastfeeding leave for one and a half hours a day in total to feed their infants below the age of one. The worker shall be entitled to determine the time segments and the number of parts in which she will use such leave. This period shall be reckoned within the daily working hours.*⁷³

Such period is three hours a day in the first six months and one and half hour a day in the second six months for female civil servants (Law No.657 art.104/D). Another meaningless difference is created between employees and civil servants.

Breastfeeding is a time to care for the child, so it should be recognized when the worker does not prefer breastfeeding or cannot breastfeed her baby⁷³. In doctrine, it is argued that breastfeeding leave must be regulated again sexlessly and fathers could be able to use breastfeeding leaves. The CJEU ruled that fathers also have unconditional

⁶⁹ For translation, <http://www.judiciaryofturkey.gov.tr/Labour-Law-is-available-on-our-website> (Access Date: 20.11.2018)

⁷⁰ CENTEL, Tankut: 06663 Say,1, Yasayla Kanunuına Getirilen De i iklikler-Anal,k Halinin Yeniden Düzenlenmesiö, Sicil Hukuku Dergisi, 2016, 35, p.11.

⁷¹ CENTEL, p.11.

⁷² CENTEL, p.12.

⁷³ KÖSEO LU, p.111, fn.51; CENG Z, tar: 0Kad,n çilerin Hamilelik ve Anal,k Durumlar,n,n Sözle mesine Etkisiö, Kamu- , 2009, 10, 4, p.35.

bottle-feeding leave rights in the decree of Alvarez in 2010⁷⁴. We also agree with this view as an expression of a mentality transformation and the power of the bond established with the child.

In addition, according to Article 16 of Law No. 5510, workers are also paid breastfeeding allowance:

öNursing benefit applicable by the date of delivery, over the tariff determined by the Board of Directors of the Institution and approved by the Minister, shall be payable from the maternity insurance to the female insurance holder or to the male insurance holder due to his not insured spouse giving birth, an, among the insurance holders under item (a) and (b) of paragraph one of Article 4 of this Law, to the female insurance holder receiving income or pension or to the spouse of male insurance holder receiving income or pension due to own works, for each newborn, provided that the newborn lives. In order to pay nursing benefit to a female insurance holder or to male insurance holder due to his spouse giving birth; a) for the individuals under item (a) of paragraph one of Article 4, notifying the minimum 120 days short term insurance branches premium within one year before the birth, b) for individuals under item (b) of paragraph one of Article 4, depositing minimum 120 days short term insurance branches premium within one year before the birth and paying any kind of debts related with premiums, are obligatory. If, among the insurance holders who are granted with the right to receive nursing benefit, the individuals whose insurance status is terminated as per Article 9 have children within three hundred days starting from this date, then female insurance holder or male insurance holder whose spouse will benefit from maternity insurance shall receive nursing benefit, provided that minimum 120 days premium is paid within fifteen months before the date of birth.ö

The breastfeeding allowance shall be paid in one time, after the birth of the child, if the conditions specified are fulfilled. Breastfeeding allowance is 180 TL for 2019.

B. Paternity Leave

Paternity leave is granted with the idea that mother and father share responsibilities in the care and upbringing of the child⁷⁵. In Turkey, until 2015, did not recognized paternity right in the Labour Code. But additional Article 2 added on 4 April 2015 by Article 35 of the Law No. 6645. According to this;

öThe worker shall be given a five-day leave if his spouse gives birth. The worker shall be given a leave for up to ten days, in mass or in sections, within one year during the treatment of his/her child who is at least 70% disabled or has a chronic illness, depending on the medical report and provided that only one of the working parents use such leave.ö

But in the Civil Servants Code no 657, it is stated that male civil servants have paternity leave right of 10 days in case of a birth-giving of his wife. In addition, in case of a child having a heavy accident or having a long-term disease, leave up to three months is recognized for them. A male civil servant whose wife has given birth may obtain an unpaid leave of 24 months as of the birth date (Art.104, 105, 108).

C. Parental Leave (Half working and Unpaid Leave Rights)

Parental leave can also be defined as childcare leave. This permit is an opportunity for childcare after maternity and paternity leave⁷⁶. The studies regarding the issue say that a parental leave must be between six months and two years. Those fathers have a parental leave right even short term in many European countries such as France, Germany and England is an important step to prevent women leaving the labour market⁷⁷. The parental leave right of fathers should be regulated as non-assignable so that this rule can provide a mentality change. There are also countries that support the use of parental leave by fathers with various mechanisms. Here, father-friendly policies are encouraged through quota application or bonus permits, additional fee incentives, tax reductions, etc.⁷⁸. Besides, the parents returning from a parental leave must be guaranteed to return the same position in their workplace⁷⁹.

In the Turkish labour law system, the use of parental leave as an unpaid leave after birth is regulated in two separate paragraphs of Article 74. Here, the employer has no discretion power⁸⁰. Employees may request up to six months of unpaid leave, or right to half working; the employer can not refuse the request. For this reason, the legal nature of these two rights is defined as legal changer formative right⁸¹. According to Labour Code Article 74/2:

öAs of the expiry of the maternity leave used after delivery in accordance with the first paragraph, the female worker or a female or male worker adopting a child under the age of three⁸² shall be allowed to use unpaid leave,

⁷⁴ BAKIRCI, p.72.

⁷⁵ AYDIN/DEM RKAYA, p.81.

⁷⁶ AYDIN/DEM RKAYA, p.82. For the period before the regulation in Turkish law, see. CENG Z, p.32.

⁷⁷ BE PINAR/AYBARS, p. 18.

⁷⁸ KUL PARLAK, p.84-85.

⁷⁹ Eurofound, 2009b, p. 10.

⁸⁰ EKONOM , Münir: öDo um veya Evlat Edinme Sonras, Çocu un Bak,m, ve Yeti tirilmesi Amac,yla Ücretsiz zin ve K,smi Süreli Çal, ma Haklar,ö, Legal SGHD, 14, (53), 2017, p.44; OCAK, Saim: öDo um/Evlat Edinme Nedeniyle Ücretsiz zin ve Yar,m Çal, ma Ödene i Uygulamas,ö, ve Hayat, 2017/5, p.199; U AN, Fatih: öWorking Conditions of Women in the Turkish Labor Lawö, A Comparative Study of Women Issues, Norderstedt 2018, p.32; SÜZEK, Sarper: Hukuku, 16. Edition, stanbul 2018, p.845-846.

⁸¹ EKONOM , p.30-31.

⁸² For discussions on the adopted child at the age of 3 years, see. OCAK, p.180-181.

upon their request, for half of the weekly working hours, for a period of sixty days in the first delivery, for a period of one hundred and twenty days in the second delivery and for a period of one hundred and eighty days in the third delivery⁸³, for the purposes of caring and raising the child and provided that the child remains alive. In case of multiple delivery, these periods shall be extended for thirty days each. In cases where the child is born disabled, this period shall be applied as three hundred sixty days. The provisions relating to breastfeeding leave shall not apply within the period used in accordance with the provisions of this paragraph.ö

Article 74 of the Labour Code aims to keep both female and male workers employed and to raise their children⁸⁴. Thus, it has been granted to parents (female at birth, male or female at adoption) to the right to request half working and half working benefit under unemployment insurance. Half working is given as half of the weekly working time. For example, in workplaces with a weekly working time of 45 hours, 22,5 hours is applied and in workplaces with 40 hours it is applied as 20 hours⁸⁵. In other words, in a half-work, the employee works half the time she/he works, and in the other half she/he is considered to be on unpaid leave. During this period in accordance with the Law no. 4447, half working allowance is granted.

According to additional article 5 of the Unemployment Insurance Law No. 4447; the duration of the half-work allowance is half of the weekly working time specified in Article 63 of Law No. 4857. The half working allowance shall be paid monthly from the Fund within the second month following the month in which the monthly premium and service certificate of the month worked. The daily amount of the half working allowance after birth and adoption is as much as the gross amount of the daily minimum wage. In order to benefit from the provisions of this article, at least 600 days of unemployment insurance premium has been declared in the last three years prior to the date of birth or adoption, half of the weekly working time shall be dealt with effectively and a half working document must be applied within 30 days from the end of maternity leave after birth or adoption. Those who qualify for the benefit for temporary incapacity shall not be paid half working allowance after birth and adoption during the continuation of these conditions.

The half working allowance for 2019 is 85 TL, which is the gross amount of the daily minimum wage. However, in our opinion, the appropriation would be fairer if the insured were determined based on the sum of the earnings based on the premium instead of the gross minimum wage. Because the contribution of each insured person to the unemployment insurance fund is different. In addition, in the doctrine, cover this allowance from unemployment insurance fund is rightly criticized⁸⁶. According to our opinion, it would be appropriate to reduce the conditions for benefiting from the half working allowance and to reduce the premium payment period for the entitlement⁸⁷.

It is not important that the contract of the employees who will benefit from this right is a fixed term or permanent. As rightly stated in the doctrine, if the term of the fixed-term employment contract expires during the unpaid leave, the employee will also miss the opportunity to benefit from the half-work allowance⁸⁸. In addition, the fact that the employee takes part in the period of half-work allowance does not affect the permanent duration of the employment contract⁸⁹.

The second right granted to women employees is the right to unpaid leave for up to six months. According to the Article 74/6 of Labour Code;

öThe female worker shall be granted unpaid leave for up to six months after expiry of the sixteen-week period, or after the eighteen-week period in case of multiple pregnancy, upon her request. Such period shall not be taken into account in calculating the right of annual paid leave Such leave shall be granted to one of the parents or a person adopting a child under the age of three. This period shall be taken into account in calculating the right of annual paid leave.ö

Labour Code Article 74/2 is the right to unpaid leave which is granted to female employees who have children through childbirth and to both male and female employees who have children through adoption⁹⁰. Labour Code Article 74/6 is the right to unpaid leave which is granted to only female employees. In terms of female employees

⁸³ These periods are gradually increasing depending on the number of children, both through birth and adoption, and the duration is the same for both cases. KÖSEO LU, p.106, fn.35; OCAK, s.182. Even if the first child dies after birth or dead birth, still 120 days at birth 2, 180 days at birth 3 will be applied. The important thing is not the number of children, will be the number of births. OCAK, p.184-185.

⁸⁴ AYDIN/DEM RKAYA, p.91; OCAK, p.175; EKONOM , p.23.

⁸⁵ For the account of the half working allowance, U UR, Suat/ Y T, Yusuf: ö Hukuku Aç,s,ndan Do um Nedeniyle Ebeveynin K,smi Süreli Çal, ma Hakk,ö, TrakyaÜ BF, E-Dergi, 2017, 6, p.84-85; ULUSOY, Tülay: öBir Sosyal Koruma Arac, Olarak Kanunuında Gebe ve Yeni Do um Yapan Kad,n Çal, anlara Yönelik zinler ve K,smi Süreli Çal, ma Hakk, Üzerine Güncel Geli melerin De erlendirilmesi, Çal, ma ve Toplum, 53,(2), 2017,p.752; OCAK, p.188; EKONOM , p.33-34.

⁸⁶ CENTEL, p.13.

⁸⁷ KÖSEO LU, p.122.

⁸⁸ EKONOM , p.28.

⁸⁹ EKONOM , p.40.

⁹⁰ OCAK, p.178; EKONOM , p.25.

these two rights are electoral⁹¹. However, another view in the doctrine⁹¹ considers that within 6 months after maternity leave, after half working period (eg. 120 days after 60 days) the remaining period of six months unpaid leave is available. Or this period can be cut and can be changed to six-month unpaid leave⁹².

To the civil servant who has given birth or adopted a child under the age of three and to the civil servant whose wife has given birth, upon their request, unpaid leave is allowed up to twenty-four months after the end of the maternity leave and half working period. (Law no. 657 Article 108/B)

D. Right To Part Time Work

Due to childbirth or adoption, the parent needs time to look after the child. At the same time, they also need income. For this purpose, it has been legally possible to meet the need for part-time work with the amendment to Article 13 of the Labour Code. The main purpose of the regulation is the care and upbringing of the child, provided that the child is alive⁹³. The arrangement can be used by one parent without discriminating between women or men. In this respect, it is wanted to increase the role of fathers in childcare⁹⁴.

According to the Article 13/5 of Labour Code;

öFollowing the expiry of the leaves envisaged in Article 74 of this Law, one of the parents may request working as a part-time employee according to this article, until the beginning of the month following the date on which the child starts his/her compulsory primary school education. This request shall be met by the employer and shall not be considered as a justified reason of termination. Within the scope of this paragraph, a worker who starts working as a part-time employee may start to work as a full-time employee provided that he/she does not exercise this right for the same child again. In cases where the worker who initially works as a part-time employee but starts to work as a full-time employee, the labour contract of the worker employed in his/her place shall be terminated ipso facto. The worker who wants to benefit from this right or to return to full-time work shall notify the employer of this situation in writing, at least one month in advance. In cases where one of the parents does not work, the spouse working shall not request working as a part-time employee. Those who adopt a child under three years of age, together with his/her spouse or individually, shall benefit from this right as of the date on which the child is delivered de facto.ö⁹⁵

In order to benefit from this right, both parents must be working. This work may be in the form of employee, civil servant or independent worker⁹⁶. The spouse's work is only sought at the time of application. If the other spouse is unemployed during part time work, it does not change the situation⁹⁷. However, according to the Regulation, in certain cases it will be possible to benefit from the possibility of part time employment without the need for one of the parents to work. These conditions are: one of the parents have a disease that requires continuous care and treatment, and the disease is documented with a doctor's report, if the custody is given to one of the spouses in the court, the adoption of a child who has not completed the age of three by oneself.

The employer cannot reject the demand of the employee because the article provision in this matter is mandatory and does not give the employer any discretion except for some works⁹⁸. The employee who is not accepted to switch to part-time work can terminate the employment contract with justified reason; if they have conditions, they will be able to receive severance pay⁹⁹. There is no requirement for the seniority or the size of the workplace for the employee to benefit from this right. Even if there is only one employee in the workplace, it can be requested if other conditions exist and the employer will have to accept the request¹⁰⁰. It is stated that there should be a limit on the size of the workplace. Otherwise, it could be a big burden for small workplaces¹⁰¹.

For the parent to benefit from the possibility of partial employment, it will not be necessary to exhaust all the rights of permission mentioned in Article 74 of the Labour Code. As a matter of fact, at the end of the maternity leave period after the birth, either the right to unpaid leave for the half working allowance or the right to unpaid leave for up to six months following the request of the female worker, or can be requested for part-time work¹⁰².

Unrecognized breastfeeding leave in half-work practice must be recognized for part-time work. According to an opinion in doctrin; according to the principle of *öDivisible benefits of the part-time worker pertaining to wage and*

⁹¹ AYDIN/DEM RKAYA, p.90; U UR/Y T, p.82; ULUSOY, p.753; CENTEL, p.12; EKONOM , p.29.

⁹² OCAK, p.193-194; KÖSEO LU, p.109, fn.43.

⁹³ U UR/Y T, p.72; OCAK, p.205; EKONOM , p.47.

⁹⁴ U UR/Y T, p.94; KÖSEO LU, p.113; U AN, p.34. CAN KL O LU, Nur en: öK,smi Süreli Çal, maya Geçi ve Yar,m Çal, ma Ödene iö, Eme in Hukuku Kurultay,, Ankara 2016, p.118; ÇEL K, Nuri/CAN KL O LU, Nur en/CANBOLAT, Talat: Hukuku Dersleri, 31. Edition, stanbul 2018, p.202.

⁹⁵ For translation, <http://www.judiciaryofturkey.gov.tr/Labour-Law-is-available-on-our-website> (Access Date: 20.11.2018)

⁹⁶ EKONOM , p.50; CAN KL O LU, p.120; It is also argued that it is not fair to seek employment under the Labour Code, U UR/Y T, p.93.

⁹⁷ CAN KL O LU, p.123.

⁹⁸ U UR/Y T, p.96; EKONOM , p.49; KÖSEO LU, p.115; SÜZEK, p.269.

⁹⁹ CENTEL, p.14; CAN KL O LU, p.129; ÇEL K/CAN KL O LU/CANBOLAT, p.202.

¹⁰⁰ KÖSEO LU, p.115; CAN KL O LU, p.119; For the differences from German law, see. ÇEL K/CAN KL O LU/CANBOLAT, p.204.

¹⁰¹ ÇEL K/CAN KL O LU/CANBOLAT, p.204.

¹⁰² U UR/Y T, p.97; KÖSEO LU, p.116.

money shall be paid in proportion to the employment period compared to the full-time comparable worker.ö 1,5-hour breastfeeding per day is given in proportion to the time the employee is working¹⁰³.

E. Childcare

Parental leave should be supported with childcare services to be effective in terms of work-life balance¹⁰⁴. The presence of childcare services positively affects the employment rates of mothers¹⁰⁵. There is no any systematic public care policy especially for pre-school children in the Turkish law. The only regulation on this point is included in the article 13 of the Regulation on Working Conditions of Pregnant or Breastfeeding Women and Breastfeed Rooms and Child Care Dormitories (2013). Accordingly, whatever their ages or their marital statuses, in the workplaces with more than 150 female workers, the employer must establish a dorm where the children at the age of 0-6 may be left and cared and breastfeeding women may feed their children separate from but close to the workplace. But such a regulation is missing. A regulation not only observing the number of women but also that of men in total must be brought.

According to Art. 13/5 of the Regulation; ö*The number of male employees whose wife has died or custody of his child is also included in the calculation of the number of female employees required for the establishment of a breastfeeding room or dormitory.*ö In the doctrine, it is stated that this arrangement leads to gender discrimination and that childcare is perceived as a task specific to women only, and that the number of female workers is taken into account in the calculation and this situation leads to disadvantage in recruitment of female employees. The total number of employees should be taken as basis, not just the number of female employees¹⁰⁶. In our opinion, these concerns are justified and the number of all employees should be taken as basis. In addition, 150 is a very high number, the reduction is necessary. In particular, the collective bargaining agreement should include a provision for nursery.

If the employer does not comply with the obligation to open a nursery, the employee may terminate the employment contract with justified reason. The decisions of the Supreme Court are in the same direction¹⁰⁷. Employers who do not comply with the obligation to open a nursery shall be subject to administrative fines. To employers who do not comply with this obligation for 2019; 2.866 TL for the less dangerous workplace, 3.822 TL for the dangerous workplace, 5.733 TL for a very dangerous workplace monthly administrative fine is given. These administrative fines are far from being a deterrent.

In addition, according to Article 23 of the Income Tax Law No. 193, the nursery benefits provided by the employer to the female employees are exempt from income tax. This amendment dated 21.03.2018 is a positive step on to support childcare for female employees. But it is wrong to hold only women responsible. Moreover, in the case of the death of their spouses, male employees can use the rights granted to female employees. While the aim here is to promote women's participation in employment, the ultimate goal should be the protection and healthy development of the family. For this reason, in our opinion, in the incentives related to child care, sexless arrangements should be made considering the development of the family.

The responsibilities regarding care must be shared among family, state and market; it must not be a load only on women¹⁰⁸. A basic, high quality and proper cost childcare service combined with the employment policy must be brought¹⁰⁹. Childcare subsidies and public nurseries should be increased to encourage employment.

VI. RESULT

Work-life balance aims at redressing a balance between a person's private life and work. Persons, employers and states have duties on their part to redress such a balance. Those suffering from work-life conflict are mostly women all over the world. Because women undertake domestic responsibilities and their working life is more than men do. For that reason, there is a need for mentality change as well as the rules prescribing the prohibition of discrimination. Additionally, the rules bent in favour of female workers must not return back as another kind of inequality.

The area in which the people need a balance in their working and private lives the most is their care responsibilities. This is classified as childcare, elderly and patient care. Childcare is examined under four titles which are maternal leave, paternity leave, parental leave and public childcare. There are inefficiencies in terms of paternity leaves, parental leaves and public childcare in Turkey.

¹⁰³ ULUSOY, p.758.

¹⁰⁴ KUL PARLAK, p.88.

¹⁰⁵ MET N, p.25.

¹⁰⁶ KÖSE LU, p.113. ERTÜRK, ükran: Uluslararası, Belgeler ve Avrupa Birli i Direktifleri I , ,nda Çal, ma Hayat,m,zda Kad,n Erkek E itli i, Ankara 2008, p.179-180.

¹⁰⁷ SÜZEK, p.847, 9.Civil Chamber, 22.11.2017, 17148/18828.

¹⁰⁸ ÖZAYDIN, p.59.

¹⁰⁹ Eurofound, 2009b, p.9.

Family allowance insurance covers one of the 9 main risks that social security must meet in ILO Convention 102. The approval of this Convention with no exceptions is important in terms of meeting the social security needs arising from the establishment of a family in Turkish law¹¹⁰. In order to increase family-friendly employer practices, these practices should be taken into account when giving quality awards to workplaces¹¹¹. Parental or care leaves should be recognised with quota for women and men and both should be encouraged to take such leaves to prevent the policies from running against women.

¹¹⁰ ARICI, Kadir: *öTürk Sosyal Güvenlik Hukukunda Annelerin Korunmas,ö*, TBB, 2017(Özel Say.), p.283.

¹¹¹ AYDIN, p.390.

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