

## **EMPLOYER'S OBLIGATION REGARDING CHILDCARE: IS IT A BACK STEP IN WOMEN'S EMPLOYMENT POLICY IN TURKEY?**

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### **ABSTRACT**

*In Turkey, the reciprocal rights and duties of employees and employers have been deregulated by the Law numbered 5763 in July, 2008. By this regulation, it is aimed to enhancing the competitiveness of labour incentive activities. It is observed that individual job relation between employer and employee has been deregulated by the rules of globalization in Turkey. Therefore, it is one of aspects of globalization related to labour market policies in Turkey.*

*This paper aims to analyze the effects of the duties of employer regarding childcare to the participation rate of women to the labour market by Law 5763. It is organized as follows: The first section provides background of female labour force as the target groups for the employment policy of Turkey. This is followed by the analysis of the effects regulation based on Law 5763 to the participation rate of women labour force in the next section. The last section provides a summary and conclusion*

**Key Words:** Turkey, employment package, women labour force, childcare, employer's obligation

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### **1. Introduction**

While the gender equality in the labour market can be considered as legal in Turkey; it has not been realized in the labour market yet. Despite the half of the population of Turkey is women, the participation rate of female labour force is lower than the males' participation rate and it is observed that the female participation rate is decreasing slightly in urban areas. Besides this, the participation rate of women in the labour force is different in the rural and urban areas. As of 2006, while the participation rate of women has been 19, 9% in urban areas; it has been 33,0% in rural areas (TÜİK, 2007:42). The difference can be explained by differences in the educational level, the prevalence of unpaid family female workers in rural areas and the informal employment rate of women.

There are socio-economic obstacles for the participation rate of women labour force in Turkey and they have determined the participation of women labour force to the economic activities. Therefore, the women labour force is accepted as one of the target groups of the employment policy (DPT, 1982:26). Meanwhile, it is considered necessary to maintain equality in the participation rate in the labour market (SPO, 2007:91) and that barriers must be eliminated by the state (DPT, 1985:400, 403).

As the consequence of this economic and social disparity, contrary to many countries in the world, the housewives have a main share in the inactive labour force in Turkey. In the labour force, housewives, who willingly stay out of the economic activities in Turkey, rank the first with a share of 49% (TÜİK, 2007:19). As the result of these conditions, Turkey has the lowest rate for the women with a participation rate of 26,9% in the OECD Countries (WORLDBANK,2003:24).

Beside this, there is a disparity between the participation rate of married women and single women. Whereas the participation rate of single women is 34,3%, it is 23,1% for married women in Turkey (TÜİK,

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2007:36). There is a half of amount more likely than married women to be in the labour force. The low participation rate of married women in urban area is explained by the difficulties women face while searching for caregivers or childcare for their children in the urban areas. According to the survey of Turkish Enterprises and Business Confederation, while 11% of woman workers leave their jobs due to care responsibilities and housework; 10% of total female workers leave their jobs because of unfavourable working conditions (EUROFOUND, 2008:7).

As of June, 2008 TÜİK figures, the average age of married women is 22,8 in Turkey (TÜİK, 2008:1) and the female employment rate in Turkey begins to decline after 25 years. As of December 2008, 4,9% of the employed women have leaved the jobs because their husbands requested so and married in Turkey (TÜİK, 2009:1).

Solving problems regarding childcare is particularly difficult for women who participate in the labour market in Turkey. The child care and preschool services haven't been improved yet. So, there is a lack of child care facilities and it is an obstacle for the participation of married female in the labour force of Turkey.

Despite the fact that there may be various agreements addressing child care as a social responsibility of the social partners; that child care is an obligation relevant only to the women. It has been shown that it has not largely shared by employers, trade unions and the State in Turkey. According to Toksöz and Erdoğan, the lack of child care rooms in the work places is in the first order in the list of problems related to female labour force (TOKSÖZ, 1998:126).

The preschool education is critical term in female employment in Turkey (ILO, 2009:67). In meanwhile, it is accepted that the establishment of an infrastructure for childcare is an important element of a comprehensive women employment policy in Turkey (TOBB, 2006:2).

On the other side, the participation of women in the labour market is of great importance for achieving the economic and social development goals of Turkey. Thus, it is said that the female labour force as the disadvantaged group is a necessity for the creation of suitable conditions of investment (HAZINE, 2002). It is accepted that the characteristics of female employment stresses the need for a comprehensive women's employment policy in Turkey (TOBB,2006:3). Therefore, increasing of the participation rate female labour force is an issue which needs to be addressed by the State.

## **2. The Employer's Obligation Regarding Childcare**

Economic competition has become important with the globalization process which is mostly seen as a driving force for earning profits of the firms. The competitive power of firms has become more vital in national and international market due to the globalization. Within the global system, most of labour regulations are not in connection with unpaid care work. One of aspects of globalization related to labour market policies. The labour cost is a determinate parameter for the competitive power of firms. It is observed that globalization has most effects on the target groups in the labour market. Thus, market paid economy will have gender effects with women bearing the heavier burden (EUROFOUND, 2008:4).

In this condition, the globalization has effected on the economy policy of Turkey. It is observed that individual job relation between employer and employee has been deregulated by the new rules of economic policy in Turkey. In the meanwhile the reciprocal rights and duties of employees and employers have been deregulated as of July 1st, 2008, by the Law on Amendment of Labour Law and Other Laws numbered 5763, which is publicly called "Employment Package".

The creation of equal opportunity in employment has been protected for the women in the labour market (SPO, 2008:187). On the other side, the protective legislation causes female labour force to become more expensive for the employers. From an economic perspective, it is accepted that the high-non wage cost has restricted employment and encouraged activity in the informal sector in Turkey (WORLDBANK, 2006:45). It is stated that the legal obligations of employer related to the employment increases the cost of labour force and unregistered employment in Turkey (SGK, 2006:2).

The employment package has aimed to decrease the cost of labour force for the employer and to promote the employment of the disadvantage groups by this way. By this regulation, it is aimed to enhancing the competitiveness of labour incentive activities in Turkey. In this context, Article 88 of Labour Law 4857 has been deregulated. The social responsibility of employer related child care has been legislated in the concept of employer's obligation based on employment by this article Labour Law.

It is said that this regulation is aimed to increase the employment of women in Turkey (Zuvin, 2009:3). It is not impossible to attend to this comment. It is estimated that it decrease the participation rate of married women with children under the school age. In this context, the amendment of Article 88 of the Labour Law has been enacted as a result of global production system in Turkey.

The obligation of an employer who employs more than 150 women to establish a nursing room and childcare centre in the work place has been cancelled by employment package. According to the amendment of Article 88, the workplaces should fulfil their obligation to provide day-care services by giving the employees the chance to make the necessary arrangements outside day-care services.

In the Regulation no:25522 on Work Conditions Pregnant or nursing Women and Nurseries and Childcare Centers, the employer's obligation of opening nurseries is the connected to having work place with hundred and fifty and more women workers. However, employers do not feel obligated to comply with these regulations (World Bank, 2003:94). Therefore, many employers kept the number of their female employees below these thresholds just not to pay the fine. The analysis the employer's obligation regarding childcare can be summarized by some point as follows:

- *The total number of workers in the firms has been accepted as a criterion for the regulation of employer's the obligations based on employment in Turkey. Despite of this, this obligation of employer is based on the number of women workers in the work place. So, there is a negative discrimination for opening those facilities in the work places.*
- *This negative discrimination has decreased employer's responsibility of crèches in Turkey.*
- *The employment rate of women is negatively correlated to marriage and having children in Turkey. Therefore, it will increase this negative correlation between the participation rate of women and being married women with children in Turkey. It is estimated that a high number of married women having children under school age will leave the labour market.*
- In Turkey, the earning gap between male and female workers is known and it causes the underestimating of women's work, traditions and stereotypes, patriarchal ideology in Turkey. According data of 2006, Turkey is in the 54 order in wage disparity between the OECD countries (TISK, 2006:4). It is impossible to pay the deposit of private care-child centres and preschool with the low wage. Thus, the low wage is another obstacle for the participation of married women having children at the preschool age in Turkey.
- It shows that a growing need for child care and day-care services have emerged in Turkey. Therefore, the current situation will affect the participation of the female labour force negatively.

#### **4. Conclusion**

The individual job relation between employer and employee has been deregulated by the new rules of economic policy in Turkey. In the meanwhile the reciprocal rights and duties of employees and employers have been deregulated as of July 1st, 2008, by the regulation which is publicly called "Employment Package".

By this regulation, we can say that a new barrier is established by the employment package in Turkey for the participation of women in the economic activities. The cancelation of employer's obligation to provide childcare centres and preschool in the work places is an indirect measure for decreasing the cost of the female labour for the employer. Within the global system, most of labour regulations are not in connection with unpaid care work. And, the amendment of Article 88 in the Labour Law is a reflection of global production system on the female employment in Turkey.

On the other side, this regulation has not been combined as an instrument for fighting gender discrimination in the labour market. A new barrier was established for the participation of married female labour having children under school age. It is observed that there is a dilemma between the aim of the

employment package and the amendment of the obligation of the employer to establish a centre for childcare and preschool. It has negative impacts for the female labour force.

It is observed that the amendment of the Article 88 of Labour Law in the employment package creates a dilemma in women's employment policy of Turkey. Finally, there is a paradox between the weight of women in the labour force in the employment policy and the employment relationship based on global production system for Turkey. So, it can be said that it is a back-step in the employment policy of women labour force in Turkey.

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