THE TEMPORARY LAY-OFF AS AN INSTRUMENT IN CRISIS MANAGEMENT: CASE OF TURKEY

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ABSTRACT

This paper aims to exam and to analyze the temporary lay-off as an employment strategy at enterprise level in Turkey. Temporary lay-off is not acted by the Labor Law 4857. However, it is used frequently by the employers in the crisis management as an instrument.

This study is aimed to analyze the use of lay-off as an instrument in crisis management by the employer in Turkey. The study is structured in two sections. In the first section, a description of the temporary lay-off as an instrument in the crisis management has been given. In the section two, the characteristics and determinant parameters of temporary lay-off as the instrument in crisis management by the employer have been taken in Turkey.

Keywords: Turkey, Temporary Lay-off, Crisis Management, Numerical Flexibility, Employment Security.

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INTRODUCTION

In recently, with globalization, the influence of economic crisis has expended and it has been affected all countries rapidly. Within the global dimension, typically leads to a slowdown in economic activity and affect the employment levels negatively in all countries. It is observed that the countries identify the different management strategies at enterprise level under the crisis conditions. Thus, the enterprises look for the new resolutions for reducing production cost in the crisis period. In this context, the employment strategies have the main share in management policy of the enterprise in the crisis period and they have affected on the production cost. As a consequence of the derived demand for labor force, to reduce the number of workers in the economic crisis has important impact on the

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management strategy of the enterprises. So, resolutions based on reducing the number of workers may be identified by legal arrangements or the enterprise itself.

On of them is the temporary lay-off. It is defined as a case, where the worker returns to the same employer and work place after a spell of unemployment (Ibsen, 2007: 9). It aims to reduce the labor cost and it is rather frequently accredited an instrument by the employers. With this feature, it has been offer as a resolution in the crisis period. Thus, temporary lay-off is interpreted as the labor market impact of global economic crisis at enterprise level (ILO, 2009a: 1; 2009b: 23).

It is observed that there are some disparities in the applications of this instrument between the countries. However, it has been used as an instrument of employment strategy in the enterprise level by the countries.

In the meanwhile, the temporary lay-off offers the opportunity to the enterprise to arrange the number of workers they employed according to the new conditions of the time of crisis. It is a flexible employment form and based on the dynamic labor demand model. It is admitted that the firm has to arrange labor demand, which depends on the arrangement of the labor amount according to the narrow-down in total demand against economic changes. In times of crisis, the enterprises consider, as a first step, suspending or terminating the labor contract of their recruited periphery labor force.

So, the temporary lay-off offers flexibility to the enterprise to decrease in the number of workers in the crisis period. With this characteristic, it has maintained the flexibility in the real labor cost. The flexible employment strategy is based on the flexibility in the real cost of labor force.

On the other hand, the temporary lay-off as a tool rapidly gives response to the enterprise and enhances adaptation of the demand for labor force to the crisis conditions. With this dimension, the globalization of economic crisis results in frequent resort to this method. In recent days, it is observed that the temporary lay-off as an instrument has been adapted to meet the requirements of the current crisis in the EU member states (European Council, 2009: 3) and it has been supported by all employees, irrespective of their employment status.

As a temporary solution, it aims to protect the job relation between employer and employees. A survey carried out in OECD member states at the beginning of 2009 showed that temporarily lay-off is a measure when applied at level of enterprises and primarily attempts to secure employment and avoid unemployment (IAB, 2009: 94). It has been accepted in the concept of employment security. It contradicts with the concept of secure flexibility which is described as setting a balance between making labor market flexible

and ensuring security for workers against risks at the optimal level (Euro Found, 2008).

THE TEMPORARY LAY-OFF AS AN INSTRUMENT IN CRISIS MANAGEMENT IN TURKEY

The global crisis is adapted to diverse national realities, needs and priorities in the country level. So, the regulation of the instruments for struggle in reducing employment is different by countries. In this context, the temporary lay-off has some different characteristics in Turkey than in EU countries. These disparities have focused on the social dimension of temporary lay off and the adaptation of temporary lay-off is based on a bipartite and tripartite initiative in Turkey and in EU countries.

Firstly, the social dimension of the temporary lay-off as an employment measures is different in Turkey than in EU countries. While the monetary assistance which is either directly paid to employees affected income security in EU countries; it is aimed to decrease the negative effects of loosing income, the same approach has not been seen in Turkey. This is an important disparity between the attitudes of Turkey and EU for decreasing the social cost of crisis.

The monetary assistance has not been considered in Turkey and the workers face to losing income. So, it increases the social cost of crisis in Turkey and it has been loaded on the workers. The attempt of the employer to win the lost working days owing to temporary lay-off through compensation activity comes to mean double charging the workers with the cost of the economic crisis as time-off is not paid. In the temporary lay-off in times of crisis, income support is not provided for the worker as in short time working practice in Turkey.

According to the ETUC, it is a necessity to contribute the coordinated actions on fiscal, social and economic measures and required leadership in EU (Euro Active, 2009). The trade unions focused on the social dimension of the flexible employment policy in EU. On the contrary, Turkish Confederation of Labor Unions (TÜRK-İŞ) has not adopted definite position on the crisis period. As the second biggest confederation (Turkish Confederation of Revolutionary Trade Unions) DİSK had a dynamic policy rather than TÜRK-İŞ. Thus, it is accepted that, there has been a little action to the crisis from the Turkish labor movement (Sendika.org, 2009a). The conditions of labor market in Turkey have not permitted to adopt a realistic policy by the trade unions in Turkey.

The unemployment rate and informal employment have negative effects on the bargaining power of trade unions. The unionism has not been

accepted precisely by the state, employer and employees in Turkey. It is the result of the historical, economic and social conditions of Turkey. So, the trade unions have limited options against the employers.

Secondly, the temporary lay-off as the adaptation is often based on a tripartite initiative, with the aim of rendering the rules more flexible and practicable in EU countries. In EU, a platform mutual information social dialog and best practice has been constituted with the participating of member states. It is the result of the acceptance of a dialogue between the social partners of labor relations.

On the contrary, it is impossible to say that temporary lay off is based on bipartite or tripartite initiative in the labor market conditions of Turkey. Beside this, the temporary lay-off has not been regulated under the Labor Law 4857, neither in its current version nor the previous one. It has been used as an instrument of the employment strategy by the enterprises in Turkey in the period of economic crisis.

In Turkey, the temporary lay-off as a method in the times of crisis is the consideration of the labor contract as a last resort. With this characteristic, it is as an instrument of safeguarding employment and it is important for the employment policy. According to the principle that annulment is the last resort to apply, continuation of the labor relationship should have become impossible and the annulment of the labor contract should be inevitable (Engin, 2003: 90-91). Thus, if it is possible to solve the problem using another instrument, it is stated that employer has to achieve his goal using the relevant solution and to select the instrument which will give the least harm to the other party (Başterzi, 2005: 75). In this respect, the temporary lay-off, in a sense, ensures employment guarantee without any income support to the worker in times of economic crisis by suspending labor contract in Turkey.

Nevertheless, it has been stated in the Preliminary Research Report of the Tendencies of the Workers in the Conjuncture of Crisis completed by the Union of United Metalworkers in October 2004 that crisis environment has a function to legitimate de facto implementation of the flexibilities in employment and prices and temporary lay-off is also included in these measures (Sendika.org, 2004:2).

In some situations, the temporary lay-off helps temporarily overcome labor costs yet it does not create the expected effect in re-activation of the enterprise and it is highlighted that closure of enterprises and discharge of workers follow temporary lay-off (Kutal, 2004: 31). It is not possible to disagree with this comment. When discharges as a result of economic crisis is added to the unemployment in Turkey, it is stated that it is a high possibility that temporary unemployment turning into permanent

unemployment (Kuzgun, 2005: 36). So, the temporary lay-off can be turning the permanent lay-off under the conditions of labor market in Turkey.

These approaches suggest that the continuation of the business relations is taken as a basis in the times of crisis in Turkey. Here, the objective of protecting the worker against unemployment in times of crisis is a determinant factor. This instrument also saves the employer from suffering financial burden as saving him from severance and notice pay when discharging workers for reasons other than reasonable grounds as it suspends the labor contract in Turkey. These payments increase the non-wage cost of worker for the employers. Therefore, the temporary lay-off is considered by the employers as a clandestine way of discharge without the obligation of demands.

The temporary lay-off has been accepted as a model of flexible working based on the social dialogue between the social parties in Turkey (Süral, 2009: 1). Under the conditions of Turkey, it is not impossible to attend to this comment. The role of social dialogue is limited in the regulation of labor relation between employer and workers in Turkey. The imbalance of bargaining power of the parties is the determinant factor for the social dialogue. Beside this, the fragile structure of the economy and the imbalance between labor supply and demand is effective in turning temporary lay-off into an established practice in Turkey.

RESEARCH METHODOLOGY

The Characteristics of Temporary Lay-off in Turkey

There are disparities in application of temporary lay-off as an instrument of the employment strategy in Turkey and in EU countries. The temporary lay-off in Turkey has the following characteristics.

The process of temporary lay-off has not been regulated in labor Law. Therefore the applying of temporary lay-off is determined by the employer or as a result of the negotiations between the worker and the labor union. On conditions that the employer receives the consent of the worker or the labor union, it is possible to interpret the temporary lay-off under the freedom of contract. Problem arises when the worker or the labor union opposes to the practice of temporary lay-off. Court of appeals considers temporary lay-off by the employer, which is not consented by the worker, the annulment of the labour contract by the employer (Şahlanan, 2007: 3). In this case, it is necessary for the employer to pay the worker severance and notice pay.

It is necessary that employer states the request of the temporary layoff to the worker in writing and worker accepts the request within six days. If

the worker put on temporary lay-off, his existing contract of employment is temporarily suspended. In this period, worker's salary and social security premiums are not disbursed and it is not considered in the worker's severance.

The temporary lay-off has been applied as the instrument of flexible employment strategy. As a consequence of the lack of integrated strategy combining flexibility with employment security, the social dimension of temporary lay-off has been ignored in Turkey. The workers keep their jobs although they have to live temporarily without income. Worker is not discharged; therefore he is not entitled to receive unemployment compensation. In the other words, the temporarily lay-off is not subsidized by means of unemployment insurance fund. It means that there is not a substitution scheme for the temporary lay-off in Turkey. So, it hasn't been considered as the flexicurity instrument in the management of crisis and in the concept of passive employment policy.

It has been accepted as a temporary situation. There is no condition of having worked for a particular period that is sought in temporary lay-off. There is no upper or lower limit in temporary lay-off in Turkey.

According to the decision of Court of Appeals, it is deemed a valid reasonable ground for the annulment of the labor contract by the employer, if the worker works in another enterprise with salary during this period. This conception is based on the opinion that the labor contract is suspended.

The Determined Parameters of Temporary Lay-off in Turkey

The temporary lay-off is a very frequently used instrument for the employers in crisis management in Turkey. The reasons of this which stem from the socio-economic conditions of Turkey's labor market have been given below.

The Lack of Comprehensive Strategy Based on Flexibility and Security Related the Labor Market

The lay-off is one of the flexible employment's instruments and flexible employment has two dimensions as flexibility and security. It has been tried to coordinate the employment effects and social impact as the dimensions of crisis and to highlight that the flexicurity has two dimensions as flexibility and security by a comprehensive policy in EU (European Council, 2009: 2).

Under the conditions of labor market in Turkey, it is impossible to say that a comprehensive strategy to coordinate efforts to manage the employment effects and social impacts of the crisis. If the fragility of economy and the unemployment level have been considered, the lack of

comprehensive policy has the vital importance for applying of temporary layoff as the instrument of flexible employment. The deficiency of the security in the labor market has not been provided.

While it aimed to manage the employment effects of crisis by the temporary lay-off; the social impact of crisis has been ignored in Turkey. Turkey has not an integrated strategy to enhance both the flexibility and the security in the labor market. Therefore there aren't any income supports those who are temporarily outside the labor market in the crisis period.

Fragile Structure of the Turkish Economy

As the economy is open to internal and external factors in Turkey, the frequent economic crises result instability in labor demand. This characteristic of the economy is the fundamental structural reason that temporary lay-off is used frequently by the enterprise as an instrument in crisis management. Therefore, instable structure of the economy is the economic reason for the temporary lay-off in Turkey yet it makes it's widely use inevitable.

The economic stability and stability in the employment level in Turkey was often interrupted by the economic crisis. As the consequence of economic instability, it is observed "ups" and "downs" in the economic growth rate in Turkey. In the period covering the years from 2005 to 2009, the economic growth in Turkey realized at a rate of 8.4%, 6.9%, 4.7%, 0.7% and -4.8% respectively (DTM, 2010: 1). The data on the fluctuations in the economic growth rate stated above give an idea regarding the possibility that the temporary lay-off may be increased by the economic instability anyway.

Weakness of the Negotiation Power of the Trade Unions

There is a relation between negotiation power of trade unions and the applying temporary lay off as the instrument of employment strategy. This relation can be observed clearly in Turkey. When the temporary lay-off practices applied in Turkey at times of economic crises, it is observed that largely they are carried out in large-scale enterprises. The large scale enterprises are those in which union organization is generally intensive. In the enterprises at such a scale, the temporary lay-off may be the subject of negotiation.

Beside this, the number of unionized workers in the scope of the collective agreement has determined the efficiency of this instrument. There is no data related to the distribution of workers in the scope of the collective

agreement in January and July, 2009. As of July, 2008 while the number of worker was 5,349,828 and number of unionized workers was 3,137,819; the number of unionized workers in the scope of the collective agreement was 849,367 and the real union density was 6.51% (Sendika.org. 2008:1) and this rate is much lower than the average of EU.

The current legal regulation has affected negatively the efficiency of trade unions in the labor management consultation process (KUZGUN, 2009: 106). So, the bargaining power of workers as one of the social parties of negotiations have been limited against to the employer in Turkey

Although the automotive sector has the large scale and the unionization is extensive in this sector in Turkey. The automobile sector in Turkey was the leading one where employers temporary lay-off in recent crisis. One recent example of this is the collective bargaining carried out by and between Turkish Metal Industrialists and Turkish Metal Trade Union under Turk-is, at the work places bound to Bursa TOFAŞ Turkish Automobile Factories Inc. In these negotiations, the temporary lay-off has been an issue of bargaining between the parties. In conclusion, lay-off without pay has been initiated by the approval of Metal Works Trade Union, which is the strongest labor union established in the occupational branch of metal and holding 50.1% of the 340.705 member workers (Çalışma ve Sosyal Güvenlik Bakanlığı, 2009). It was stated that "compensation activity" would follow (Sendika.org, 2008).

Union of United Metal Workers, which is the other authorized labor union in the same occupational branch and organized in OYAK Renault Factories Inc. in Bursa, represents 11% of the workers in metal works with the number of 74,544 member workers (Çalışma ve Sosyal Güvenlik Bakanlığı, 2009). This labor union opposes to the suggestions of the workers concerning temporary lay-off (Sendika.org, 2008); yet it is thought that the labor union does not have a significant power of negotiation for keeping employment under existing conditions.

The Size of Economy

The economic activities have been realized in the micro and small size enterprises in Turkey. Thus, the micro and small-scale enterprises have an important share in total employment and total number of enterprises in Turkey. On the other hand, non-registered and non-union labor and particularly non-registered employment is extensive in micro and small-scale enterprises, which has a negative effect on the bargaining power of the trade union for temporary lay-off. Also, discharging or temporary lay-off in these scale firms do not draw the attention of the public opinion. Yet it is not possible to say that trade unions have a negotiation power in this field.

According to the EU's definition the enterprises of 1-9 employees are micro sized enterprises of 10-49 employees are small sized and the enterprises of 249 employees are medium sized enterprise (European Commission, 2005). So, Turkey as a candidate member of EU is in the scope of this regulation.

The micro and small sized firms have the big share in total number of enterprises and total employment in Turkey. The share of firms which employ less than 10 workers is 85.40%; it is nearly 98.01% which employ less than 50 workers in total number of work places in Turkey in 2001 (SGK, 2008a). The employment by the share of the firms which employ less than 10 workers is 29.14% the firms employ less than 50 workers is 62.04% in total employment of the insured workers as of 2008, December (SGK, 2008b).

According the EU's criteria, the distribution of compulsory insured person numbers and total number of work places in December 2008, show us the size of economy in Turkey. Beside this, it can be analyzed as an indicator for bargaining weakness of trade union in Turkey.

Unemployment

In the period covering the years from 2000 to 2009, it is estimated that the share of unemployment in the total is 6.5% in 2000 while this rate is 10.5% in 2005 and it is 13.1% in 2009 in Turkey. In the same period, the unemployment rate in non-farm employment rate realized at a rate of 9.4%, 13.6%, and 16.2% respectively. It is observed "ups" in the unemployment rate in the period of 2000-2009 in Turkey.

As it reflected from Table 1, the non-farm unemployment rate peaked above 16.2% in the last quarter of 2009. Concerns regarding the future and current unemployment also have an effect on the lack of choice on the part of the workers as a result of the intensity of the crisis experienced in Turkey. Cyclical unemployment as a result of the economic crisis increases the rate of unemployment. In addition to the current structural unemployment in Turkey, it causes the negotiation power of the labor unions weakens against employers. Unemployment caused by the global financial crisis has not been reflected to these rates and such unemployment should also be considered.

Under these circumstances, neither workers nor the labor unions have the chance to reject or resist the request of the employers to temporary layoff in Turkey. On the other hand, it is noted that the request of temporary lay-off is brought forward at times of collective bargaining and used as a means of threat against the trade union.

Table 1: The Unemployment Rates in Turkey (2000-2009) (%)

Years	2000 (1)	2005	2009 (2)
Unemployment rate (%)	6.5	10.5	15.5
Non-farm unemployment rate (%)	9.4	13.6	18.5

Source: (1) DPT (2000). Uzun Vadeli Strateji ve Sekizinci Beş Yıllık Kalkınma Planı 2001-2005, prepared by the author using the Table 20 at page 102. (2) TÜİK, Hanehalkı İşgücü Araştırması, 2010 Ocak Dönemi Sonuçları. (Aralık 2009, Ocak,Şubat 2010), http://www.tuik.gov.tr/PreHaberlerBültenleri.do? id=6226

CONCLUSION

It is used as an instrument in arranging the labor demand of the employer in crisis management in Turkey. As the global economic crisis affects Turkey, it is observed that applying of temporary lay-off is extended.

The temporary lay-off is used as an instrument in crisis management by the employers in other countries as well, yet there is no relevant legal regulation and the special conditions in Turkey are the determinant factors in the use of this instrument.

There are some disparities for applying temporary lay-off in Turkey and in EU countries. These disparities have focused on the social dimension of temporary lay-off and the adaptation of temporary lay-off based on bipartite or tripartite initiative in EU countries.

Beside this, as the consequence of the fragile structure of the economy, the unemployment level, the size of economy and the weakness of the negotiation power of the trade unions, the temporary lay-off has some characteristics in Turkey and they have been focused at such points.

- It is suspended in the temporary lay-off, which is based on the principle that labor contract annulment is the last resort.
- Economic crisis creates unemployment in addition to the current structural unemployment, which affects the weakening of the bargaining power of the workers and labor unions.
- Under the conditions of labor market in Turkey, it is impossible to say that a comprehensive strategy to coordinate efforts to manage the employment effects and social impacts of the crisis.
- The lack of comprehensive policy has the vital importance for applying of temporary lay-off as an instrument of flexible employment. The deficiency of the security in the labor market has not been provided.
- The temporary lay-off is valid for recession period. There is no upper or lower limit for applying in temporary lay-off.

• The security dimension of flexible employment forms has been ignored in Turkey.

Finally, the comment on the temporary lay-off in Turkey should take into consideration of Turkey's conditions.

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