INFORMATION NOTE

ABOUT QUESTIONS FOR MEMBER STATES

ON SOCIAL PROTECTION PROGRAMS REGARDING PERSONS WITH DISABILITIES

The Constitution of the Republic of Turkey secures that everyone has the right to social security and the State shall take the necessary measures and establish the organization for the provision of social security (Art. 60). Persons with disabilities are defined among citizens who shall be protected in terms of social security and the States is given the responsibility of taking measures to protect persons with disabilities (PwDs) and secure their integration to social life (Art. 61).

With an amendment made in Social Services Law No. 2828 in 2011, the principle of protecting social security and income of PwDs was taken as the basis of the disability services (Art. 4). In addition, it was also stated in the same law that PwDs, children and the elderly in need of social protection shall be given priority in implementation of social service practices.

Turkish Disability Act No 5378 (TDA) that came into force in 2005 covers the main objectives of strengthening the respect to inherent dignity of PwDs and ensuring that they enjoy full and equal fundamental rights and freedoms while participating to society in equal terms with others. One of the basic principles of the law is ensuring participation of PwDs, their families and disability CSOs in policy and decision making and service provision processes. In order to promote the implementation and monitoring of the Convention, Monitoring and Evaluation Board on the Rights of Persons with Disabilities was established in line with Prime Ministry Circular No. 2013/8. It was envisaged that the board would be consisted of high level representatives of the related and responsible public institutions and representatives of certain disability CSOs or human rights institutions. The board has the tasks of carrying out administrative and legal work regarding protection, enhancement and usage of the rights of PwD, making recommendations on the possible measures to be taken, drafting and approving strategies and plans of action and ensuring cooperation and coordination among institutions.

Social security of PwDs is provided in two ways that are either within the premium system or out of the premium system. Additionally, there are various supports such as tax exemption/reduction and aid in cash or in kind.

The responsibility of developing policies and programs with regard to premium/social contribution system belongs to Social Security Institution in Turkey. The institutional structure of non-contributory social assistance system was transformed in line with Decree Law No 633 of 2011 that established Ministry of Family and Social Policy. The task of developing, implementing and monitoring national policies or strategies on social services or aids was imposed to General Directorate of Social Assistance affiliated with the Ministry. The General Directorate carries out various activities focused on ensuring coordination among relevant institutions with the purposes of developing, implementing and monitoring the implementation of national policies and/or strategies for fighting against poverty. Within this scope, activities aimed at providing social aids to PwDs as part of general social protection schemes and fulfilling needs of poor PwDs are carried out in coordination of General Directorate of Services for Persons with Disabilities and the Elderly and General Directorate of Social Assistance.

Retirement of PwDs in premium system is regulated by Social Security and General Health Insurance Law no. 5510. Pursuant to the provisions of this law, in case insured PwDs who are self-employed or work as civil servants or workers become disabled as a result of an occupational accident or a an occupational illness, these individuals can retire earlier within the scope of invalidity insurance.

On the other hand, insured persons who could not benefit from invalidity pension due to the fact that they had had an illness or disability before starting to work at a degree that could be deemed as invalidity can retire earlier as part of old-age insurance and receive old age pension. Provided that enough premiums of death, old age and invalidity insurances are paid, persons in the following conditions are entitled to receive old age pension regardless of their ages;

* insured persons with a disability at a degree between 50-59% (certified by a medical report), on condition that they have been insured for at least 16 years and paid premiums for 4320 days.
* insured persons with a disability at a degree between 40-49% (certified by a medical report), on condition that they have been insured for at least 18 years and paid premiums for 4680 days.

Pursuant to the relevant provisions of the same law, the insured women who have children with disabilities in need of constant care also have the right to early retirement. In case insured women that demand old age or retirement pensions have children with disabilities in need of constant care of another person, one fourth of premium payments (on the basis of number of premium days) after the enactment date of the law are added up to total premium payments and the added amount is subtracted from retiring age limits.

**DISABILITY PENSION**

Considering the social security system without social contributions, all PwDs that had never been employed before or persons who cannot work due to a certain disability and children with disabilities whose families are economically deprived are put on disability pension within the context of Law No. 2022. The treatment costs of persons who receive a disability pension are covered by general health insurance. Therefore, this programme functions also like a social security system and it is the most benefited social aid for PwDs. The amount of disability pension paid in line with Law no. 2022 varies with respect to the degree of disability. The eligibility criteria and the types of disability pensions are as follows;

1. **Disability pension for persons with a disability degree between 40-69%:**

Only persons who fulfill the criteria written below are deemed as eligible for this type of pension;

* To be at an age between 18 and 69,
* To have a disability degree between 40-69%,
* Not to benefit from any financial income or pension within the scope of social security schemes; and/or not to have any permanent income endowed in accordance with a court decision or legislative provision,
* To have a monthly household income per capita less than 1/3 of minimum wage for employees over 16 (286,32 TL for the first half of 2015).
1. **Disability pension for persons with a disability degree of 70% and over:**

Only persons who fulfill the criteria written below are deemed as eligible for this type of pension;

* To be at an age over 18,
* To have a disability degree at/over 70%,
* Not to benefit from any financial income or pension within the scope of social security schemes; and/or not to have any permanent income endowed in accordance with a court decision or legislative provision,
* To have a monthly household income per capita less than 1/3 of minimum wage for employees over 16 (286,32 TL for the first half of 2015).
1. **Disability pension for persons who have a relative with a disability under 18 years of age:**

Only persons who fulfill the criteria written below are deemed as eligible for this type of pension;

* To have a legal dependent relative with a disability at the minimum degree of 40% under 18 years of age; and to carry out his/her care needs actually;
* Not to benefit from any financial income or pension within the scope of social security schemes; and/or not to have any permanent income endowed in accordance with a court decision or legislative provision,
* To have a monthly household income per capita less than 1/3 of minimum wage for employees over 16 (286,32 TL for the first half of 2015).

**HOME CARE PENSION**

As per provisions of TDA, care dependent PwDs who lost their families or are economically or socially deprived are provided with care services in public or private institutions or at their own dwellings. In line with this arrangement, mothers who cannot start a job as they have to look after their children with severe disabilities at home and other relatives of PwDs are given a care fee by Ministry of Family and Social Policy.

In assessment of applications for home care pension, total household income is taken into consideration. In case the monthly household income per capita is less than 2/3 of minimum wage (572,64 TL for the first half of 2015) the applicants are found eligible for the pension. In addition, all applicants have to submit a medical board report on disability to be received from certain hospitals assigned by and affiliated with the Ministry of Health. As per the eligibility criteria, the medical board report has to certify that the person in question has a severe disability over the degree of 50%. The total amount of home care pension per person allocated between 01.01.2015 and 30.06.2015 is 793,08 TL.

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| **Type of Pension** | **Monthly** | **Quarterly**  | **Number of Beneficiaries (by March)** |  |  |  |
| Home care pension | 793,08 |  | 455.701 |  |  |  |
| Disability Pension – 40%-69%  | 291,62 | 874,86 | 309.327 |  |  |  |
| Disability Pension -%70  | 437,44 | 1312,32 | 247.770 |  |  |  |
| Pension for relatives of PwDs  | 291,62 | 874,86 | 64.703 |  |  |  |

In addition, economically deprived PwDs can apply to Social Assistance and Solidarity Foundations in provinces or districts and demand assistive devices/equipment or aid in cash or in kind. These foundations also pay the cost of orthopedical or other assistive equipment that is not covered by social security institutions. Within the scope of disability benefits, costs of all kind of assistive devices and equipment that are used for ensuring social participation of the disabled without a social security are covered and students with disabilities who attend to secondary schools are provided with free transportation service.

**TAX EXEMPTION/EXCEPTION**

Persons with disabilities can benefit from certain rates of tax reductions/exemptions in accordance with the degree of disability. Within the scope of Revenue Law No 193, fee earning persons with disabilities, fee earning persons that are liable to care relatives with disabilities; self-employed PwDs; self-employed persons that are liable to care a relative with a disability; PwDs taxed in simplified system can benefit from Revenue Tax Reduction at various rates differing according to the degree of disability.

In addition, PwDs who were entitled through a medical report to use an adapted motor vehicle are exempt from special consumption tax provided that they buy motor vehicles from domestic market. This exemption is also valid for the relatives of persons who have a disability at a degree of 90 % and over that hinders him/her drive a motor vehicle. These motor vehicles are also exempt from motor vehicles tax. On the other hand, adapted motor vehicles to be imported by PwDs are exempt from customs.

All kind of materials, equipment and software specially produced for the use of PwDs in education, employment or in daily tasks are exempt from Value Added Tax.

Furthermore, Real Estate Tax Law authorized the Council of Ministers for reducing or cancelling out the taxes of real estate that belong to PwDs provided that they possess only one dwelling smaller than 200 square meter. In 2007 and the following years, PwDs have been exempt from real estate tax in accordance with the decree of Council of Ministers.

**SERVICES PROVIDED TO PERSONS WITH DISABILITIES FREE OF CHARGE OR WITH REDUCED RATES**

Municipalities, the Red Crescent and other associations, foundations, federations and confederations of social assistance also provide social aid in cash and in kind to economically deprived PwDs. Furthermore, local governments and private entities make certain rates of reductions in fees of services provided to PwDs. Within this scope, especially Turkish State Railways, Turkish Maritime Organization, Turkish Airlines and intercity transportation companies make various rates of reductions for passengers with disabilities. On the other hand, as per the amendment made in Law no 4736 on Rates of Services and Goods of Public Institutions in 2013, persons who have a degree of disability over 40%, persons with severe disabilities and a person accompanying them can benefit from intercity and inner city rail and sea travel, and all mass transportation facilities provided by municipalities, transportation companies set up by the municipalities or private companies authorized by the municipalities to carry passengers in provinces. Besides, PwDs can benefit free of charge from national parks, state theatres, opera and ballet performances, historical ruins and museums of Ministry of Culture and Tourism. Some municipalities make certain rates of reductions in water bills of PwDs in line with municipal council resolutions. GSM operators also provide reductions in service fees.

Taking into consideration the special conditions and needs of PwDs, reduced internet tariffs with economic advantages were put into effect by 1 February 2012. End users with disabilities or their relatives can make an application in order to benefit from these tariffs.

**HOME OWNING**

Building projects of Housing Development Administration are planned in line with related accessibility legislation, especially with Turkish Standards Institution Standard TS9111 – *Minimum Requirements in Buildings to Ensure Accessibility for Persons with Mobility Restrictions and/or Disabilities.* Special projects are also planned on demand of PwDs.

In accordance with Social Dwellings Construction Protocol and the Supplementary Protocol signed between Housing Development Administration and ASPB General Directorate of Social Benefits in 2009 and 2011, it was planned to provide economically deprived persons without any social security with dwellings by means of repayment method. In mass housing projects, 10% quota is allocated for persons with at least 50% disabilities.

**APPLICATION FOR COMPLAINTS**

PwDs in Turkey can resort to the jurisdiction in case they think their rights are being abused and they can also apply to various authorities in order to have the concerned abuses assessed or corrected. In line with the provisions of Article 74 of Turkish Constitution on right of petition, citizens hold the right to submit their complaints through official petitions to parliamentary or to competent authorities. Turkish Law No. 3071 of 01 November 1984 on Right to Petition provides that applicants have the right to receive a justified response from the public authorities within 30 days at the latest. The petitions submitted to the Grand National Assembly of Turkey (TBMM) are answered by Petition Commission within 60 days. Some of the petitions are sent to the related public institutions by the Commission and the responses are collected within 30 days at the latest. Besides, in accordance with Article 74 of Turkish Constitution, citizens can apply to government auditor for their complaints about the functioning of public administrations. Within this context, Public Investigation Institution (Ombudsman) affiliated with TBMM Speaker’s Office was established by enactment of Law No. 6328 on 14 June 2012. This institution is responsible for investigating, researching and making recommendations about the conformity of all kinds of actions, acts, attitudes and behaviors of the administration with law and fairness under the respect for human rights.

Another mechanism to be applied to in case of violations, Human Rights Presidency affiliated with Prime Ministry was restructured with the provisions of Law No 6332 of 21 June 2012 as an independent human rights institution with the title of "Turkey Human Rights Institution". Natural and legal persons who are in the opinion that their rights were violated can apply to the institution. With the purpose of facilitating application procedure, complaint applications for violations to be made to Human Rights Institution are received by Human Rights Boards in 81 provinces and all districts of the provinces.