



Non-exhaustive list of questions
Chapter 19 – social policy and employment
Screening – Bilateral meeting with Turkey

Turkish authorities are invited to provide answers to the below questions prior to the meeting to be held in Brussels on 20-22 March 2006.

Some questions could alternatively be addressed at the occasion of the relevant presentation by the Turkish authorities at the bilateral meeting.

(1) Health and Safety at Work

Preliminary Remark:

The following questionnaire will focus on the horizontal directives, in particular the framework directive. For the other directives, a presentation of the general status of the legislation in regard to the respective subject-matters would be welcomed, including information on implementation approaches and specific problems.

Please note that the provision of translations of the national legislation on OSH, in particular the most important issues, as well as concordance tables, opposing the Articles of the directive to the relevant national implementing provisions would be very useful, where such documents are already available.

I. General information

- a) Please give a general overview on the national policies and strategies and legislation in the field of Occupational Safety and Health. Which approach has been taken so far for the alignment of national legislation to the EC OSH acquis?
- b) Would you consider your current system as being sufficiently flexible to manage adaptation to evolving technical rules, standards and to ensure an adequate reaction to new and emerging risks?

II. General overview on status of transposition

Please provide for summary information:

- a) Which part of the *acquis* do you consider to be transposed?
- b) Which projects are under preparation?
- c) Could you please indicate an approximate time schedule for the adoption/finalization of ongoing and future projects?

III. Detailed overview

Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work

A. Material Legislation

(a) Does your country have similar legislation? If yes, which?

If there are several pieces of legislation, how are they coordinated? In view of the textual transposition of the EC directive, how does this affect existing legislation and is there need to repeal existing legislation?

(b) Which is the scope of application? Is there a common **definition of "worker"**? Does your law comprise the **public sector**? To what extent are **police, armed forces and civil protection services** covered by the national legislation? Please inform about the exemptions.

(c) Are the actions required from the employer under your legislation based on a **preventive approach** and does your legislation spell out preventive principles? Which **obligations** does your legislation provide for the **employers**?

(d) Who has the overall **responsibility** for health and safety at the workplace?

(e) Does your law specify cases of *force majeure* which discharge the employer?

(f) Does the health and safety legislation contain (a) provision(s) that all OSH measures taken by the employer must **not involve costs for the workers**?

(g) Does your legislation provide for **workers' responsibility** in OSH matters?

(h) Does your legislation provide for an obligation to perform risk assessments? If your legislation provides for the obligation of risk assessment, does it also provides for the obligation for a documentation of the risk assessment in writing in all kinds of enterprises?

(i) To what extent does your law provide for a **continuous approach** to OSH matters and related duties of the employers?

(j) Which **report duties** in regard to **accidents at work** does the employer have and does he have to keep a register of occupational accidents causing an absence of more than three working days?

(k) Does your national law require the **information, consultation and cost-free training** of the workers and workers representatives? Do workers have the right to apply to the responsible OSH authority and does the law provide for an obligation to submit their observations to the inspection authorities during inspection visits? What are the rights of the workers and/or their representatives with special responsibilities for OSH?

(l) Does the national legislation set out the obligation of the employer to designate worker(s) to carry out **protection and prevention-related activities** or to enlist external services for these functions and how does the national law define the capabilities and aptitudes of the persons or services? Is there a certification requirement of external services?

(m) What obligations are imposed to employers for **first aid, fire fighting and evacuation**? Are the workers entitled to leave their workplace in the event of danger without negative consequence?

(n) How is the **surveillance of workers' health** organised? Are they entitled to ask for regular checks under the national legislation?

(o) Collection of statistical data: Which data is collected in the field of **occupational accidents**? Economic activity, job, age, sex, geographic location, type of injury and body part injured...? Is there a link to the **ESAW** project (European statistics on accidents at work).

Which data is collected on **occupational diseases**? Is there a list of recognized diseases? Is there a connection to the European Schedule on Occupational Diseases (Commission Recommendation of 19 Sept 2003)?

B. Control and Supervision – Practical Implementation (Article 4)

(a) Please provide for a **description of the basic structure and organization** of the labour inspectorate and, if applicable, other bodies competent for compliance control and enforcement? If there are **several institutions**, how are the tasks allocated and how are they coordinated?

(b) **Which tasks** are performed by the labour inspectorate (and other instances)? Does the labour inspection function include the supervision of labour relations?

(c) Describe the **powers of the labour inspectors**: enforcement instruments, penalties, competences in emergency matters.

(d) **Statistics**: Please give some information on the total number of inspectors, ratio per workforce, per enterprise, average periodicity of control for enterprises, team size, infringement procedures, court decisions...etc.

(e) How is the control and supervision for **the public sector** organized?

(f) Which **professional background** is required for labour inspectors? How are they trained? Is there an obligation for regular **training**?

(g) Which body/bodies have tasks in the area of **prevention**?

(h) What do you consider to be the most serious problems in the field of labour inspection (resources, sanctions)?

Council Directive 89/654/EEC concerning the minimum safety and health requirements for the workplace

- (a) Which is the definition of 'Workplace' in your national legislation?
- (b) Which are the pieces of legislation dealing with the characteristics of the 'workplace'?
- (c) Please give information regarding the content of your national legislation taking into account the general and specific requirements as contained in Article 6 and the Annexes to the Directive.
- (d) How is technical expertise and guidance developed on the various issues contained in the annexes?
- (e) Is there assistance to enterprises for the configuration of the establishment?

Council Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work

- (a) Are there provisions in place relating to the use of work equipment?
- (b) Which is the scope of meaning of "work equipment" under the national provisions?
- (c) Are there obligations to use work equipment which complies with standards set under European legislation?
- (d) Is there a duty for inspection of work equipment (see Directive 95/63) and is such an inspection system in place for the effective technical control of work equipment?
- (e) Does your law provide for rules regarding the use of work equipment provided for a temporary work at a height (2001/45)

Council Directive 89/656/EEC on the minimum safety and health requirements for the use by workers of personal protective equipment by workers at work

- (a) Is there legislation in place on PPE and do you consider it to be aligned to the directive?
- (b) Does the PPE put on the market meet the requirement of Directive 89/686 as amended, on the approximation of laws on PPE?
- (c) Are there general rules on the use of PPE and on cases on situations where employers must provide PPE?
- (d) Is PPE provided at no cost for workers?

(e) Is the general principle that PPE shall only be used as a last resort reflected in your national legislation?

(f) Is there assistance (information etc) on the choice of PPE?

Council Directive 92/58/EEC on the minimum requirements for the provision of safety and/or health signs at work

Is there legislation on this issue and do you consider it to be aligned to the Directive?

Council Recommendation of 18 February 2003 concerning the improvement of the protection of the health and safety at work of self-employed workers

Are there any measures, binding or non-binding, aiming at improvement of the safety and health of the self-employed workers?

Commission Recommendation of 19 September 2003 concerning the European Schedule on Occupational Diseases

See question (o) under Directive 89/391/EEC.

Directive 90/269/EC on the minimum requirements for the manual handling of loads where there is a risk particularly of back injury to workers (Fourth Individual Directive)

(a) Does your national legislation contain particular provisions regarding the prevention of accidents and injuries stemming from the manual handling of loads? If so, please give an overview on the key provisions.

(b) Does this activity make part of the (i) preventive actions of the labour inspectorate, and (ii) of the control activities of the labour inspectorate?

Council Directive 90/270/EEC on the minimum requirements for work with display screen equipment (Fifth individual directive)

(a) Are there specific rules for use for screen equipment?

(b) If answer to (a) is yes: How is screen equipment defined?

(c) If answer to (a) is yes: Which measures shall be taken by the employer under the legislation?

(d) Do labour inspectors receive particular training in this regard?

Directive 92/29/EC on the minimum safety and health requirements for improved medical treatment on board

- a) Is there legislation covering the medical equipment of vessels?
- b) If yes, which vessels are covered by the national provisions?
- c) Is there regular inspection of the medical equipment? Which public body is responsible for the inspection?
- d) Does your country have a centre for medical consultation by radio?

Directive 93/103/EC concerning the minimum requirements for work on board fishing vessels

- a) Is there particular legislation in place for health and safety on board fishing vessels?
- b) To which type of vessel does this legislation apply?
- c) Are there rules in place for life saving equipment?
- d) Does your legislation provide for a regular inspection of life-saving equipment? Which body is responsible for inspection? How would you assess the administrative capacity of the inspection bodies for the fishing sector in general?

Directive 92/57/EEC on the minimum requirements for temporary and mobile construction sites (Eighth Individual Directive)

- a) Briefly describe your national acquis in this field.
- b) Are there rules in place for sites where several undertakings are present at the same worksite, in particular as regards coordination of work?
- c) Is there a duty for the client or project supervisor to set up a safety and health plan?
- d) Does your legislation take into account self-employed workers working alongside with other undertakings?
- e) Are there duties relating to the project planning and the project implementation phase?
- f) Is there the duty for prior notice of works to the competent authorities for works of a larger extent?
- g) How do you assess the administrative capacity of the labour inspectorate in regard to the construction sector?

Council Directive 92/91/EEC on the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (Eleventh Individual Directive) and 92/104/EEC on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (Twelfth Individual Directive)

- (a) What is the scope of the national legislation – definition of mineral-extractive industries?

- (b) Does your legislation prescribe the appointment of qualified supervisors by the employer and the permanent presence of a person in charge?
- (c) Does your legislation include provisions on an obligation of the employer in charge of the workplace to coordinate all health and safety measures where workers from several undertakings are present?
- (d) Does your national legislation provide for a safety and health document, demonstrating inter alia the assessment of the risks, the taking of adequate measures and safety of workplace and work equipment?
- (e) Is health surveillance in place providing for examination of the workers before taking up duty and at regular intervals?
- (f) Is there legislation in place covering the health and safety of workers involved in dredging?

Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens and mutagens at work (Sixth Individual Directive)

- (a) Do you use the EC classification system for carcinogens and mutagens or a different classification?
- (b) Is there a general obligation of reduction of use and replacement of carcinogens and mutagens, and where replacement is not possible for the use of a close system where technically possible?
- (c) Does your legislation provide for limit values on benzene, vinyl chloride monomer and hardwood dusts and are they similar to the EC values?
- (d) Are there provisions on health surveillance prior to taking up duty and in regular intervals?
- (e) Is there an obligation to keep medical reports and lists of exposed workers (EU: 40 years)?

Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work, as amended by Directive 91/328/EEC, 98/24/EC and 2003/18/EC

- (a) Are products containing asbestos sold and processed?
- (b) Please give a brief overview on the legislation relating to protection of workers from asbestos? Which activities are forbidden under this legislation?
- (c) Does the legislation also cover sea and air transport?
- (d) Does your legislation provide for an exposure limit value?
- (e) Is there a notification system for work involving asbestos?

- (f) Is there a certification system for undertakings involved in demolition and removal of material containing asbestos?
- (g) Is there the duty to set up a work plan prior to the commencement of the activity?
- (h) Which sanctions can be imposed on employers disregarding legal provisions on protection from asbestos?
- (i) Is there a national register on asbestos related diseases (mesothelioma and asbestosis)?
- (j) Is there an obligation for employers to keep records on all workers exposed to asbestos?

Chemical Agents

(Commission Directive 91/322/EEC on establishing indicative limit values, Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work (14th individual directive) and Commission Directive 2000/39/EC establishing a first list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC)

- a) Does your legislation provide for specific provision regarding the protection from exposure to chemical agents?
- b) To what extent does your legal system include the approach of replacement of hazardous chemical agents?
- c) Is there a total ban of the use of certain substances?
- d) Does your legislation provide for occupational exposure limit values? To what extent are these limits already congruent with the limits set up in the Commission Directives 91/322/EEC and 2000/39/EC?
- e) To what extent does your legislation follow the classification approach used in the 14th individual directive based on the EC directives 67/548/EEC and 88/379/EEC?

Directive 2000/54/EC on the protection of workers from risks related to exposure to biological agents at work (7th individual directive)

- a) Is there specific legislation at national level?
- b) Does your legislation provide for a classification of biological agents? If yes, to what extent do you consider it aligned with the Community Directive?
- c) Does your legislation include an obligation to replace dangerous substances by less dangerous?
- d) Is there a notification system for the use of certain biological agents and a duty to notify accidents to a competent authority?
- e) To what extent does the legislation apply to activities with non-deliberate involvement of biological agents (e.g. food industry, agriculture, waste processing, etc.) and does the labour inspectorate also cover this aspect upon inspection visits to undertakings in these areas?

Directive 2002/44/EC on the minimum requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (Sixteenth Individual Directive)

- a) Is there specific legislation on protection from exposure to vibration in place?
- b) Which is the scope of this legislation?
- c) Does your legislation set up exposure limit and action values, and if yes, which?

Directive 2003/10/EC on the minimum requirements regarding the exposure of workers to the risks arising from physical agents (noise)

- a) Does your Health and Safety at Work legislation specifically cover risks from noise at work?
- b) Does this legislation cover all activities?
- c) Does your legislation set up specific exposure limit and/or action values?
- d) Which are the measures imposed on the employer to avoid/reduce the risks stemming from noise?
- e) Does your national legislation provide for specific health surveillance?
- f) Are labour inspectors trained in regard to this physical agent and are they actively advising employers and workers on this risk?

Directive 2004/40/EC on minimum requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (18th Individual Directive)

- a) Is there specific legislation covering protection from risks regarding the exposure to electromagnetic fields?
- b) Are there limit exposure and/or action values provided for by the national legislation?
- c) Which measures are imposed on the employers to reduce exposures to electromagnetic fields?

Directive 1999/92 for improving protection of workers potentially at risk from explosive atmospheres (Fifteenth Individual Directive)

- a) Does legislation in your country specifically cover the risks arising from explosive atmospheres?
- b) To what extent are the provisions aligned to the Directive? Is Directive 94/9/EC of the European Parliament and of the Council of 23 March 1994 on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres transposed into national legislation?

(2) People with disabilities

Institutional and operational aspects

- 1) Have your government adopted any national policy document containing main principles of national disability policy? Is there any corresponding Action Plan (stating out the way how the actions described in the policy document will be implemented). Is there a specific coordination body overseeing the implementation of the national disability policy?
- 2) Have the EU Disability Action Plan been taken into account when drafting and designing the national disability policy? If yes, can you highlight any concrete measures where the EU Disability Action Plan have been of help or inspired policy makers to develop certain actions?
- 3) Does your national disability policy operate on the basis of the mainstreaming concept? If yes, can you give any examples of where and how the mainstreaming approach was used and worked successfully? How do you ensure the application and implementation of the mainstreaming concept across various policy areas?
- 4) Do you have some kind of regional bodies dealing with disability (regional disability councils) or are disability issues administered and dealt with only at national, centralized level?
- 5) In most EU member states, national disability councils (comprising NGOs, organisations representing disabled persons, disability experts, civil servants and other stakeholders) have been established. Have similar bodies been established in your state? If yes, are these bodies actively involved in the decision making process related to disabled people? If no, does the government in your country have any plans to contribute to the creation of such bodies?

Legislation

- 6) Is the protection of disabled persons as a specific segment of vulnerable population provided for in the constitution or does a specific “disability law” exist in your legislation? Does the Labour Law in your country explicitly prohibit discrimination in hiring and employment on the basis disability?
- 7) Variations in terminology and definitions of disability used in different sectors of law and policy can lead to inconsistent application of the law and sometimes even result in denial of benefits. To what extent do you consider the definitions you use in your legislation uniform and coherent? Could you briefly describe the different definitions of disability legislation in your country operates with?

Data and statistics

- 8) The lack of reliable statistical information is a serious obstacle to effective policy-making in the disability area. Has a centralised data collections system, containing the

relevant data, been developed in your country? Which are the main sources of disability related information and how do you ensure that the collection of these sensitive data is not violating the provisions on personal data security?

Pensions and Benefits

9) In most of the EU countries, social protection available to people with disabilities includes right to health and pension insurance, the right to employment and occupational rehabilitation, child allowances and social welfare rights. Could you briefly describe which different forms of social protection are available for disabled persons in your country?

10) Social benefit system can sometimes have de-motivating effects in the sense that a disabled person who is able to work still chooses to go on social benefits instead of working. Different means can be applied to boost the efficiency of the system and to prevent situation like this. Could you briefly describe what measures you have taken during the last two years in order to increase flexibility of the system and stimulate disabled person capable of working to take up work?

Employment and Education

11) Describe shortly the different means by which you promote active participation and inclusion of people with disabilities in the labour market? To what extent is the quota system applied and which are the other incentives and measures aimed at encouraging disabled persons entry into the labour market?

12) Describe shortly the system of vocational training available to disabled persons? How do you ensure that the training is adjusted to the need of the market?

13) Transition period between the school and the first job pose a challenge and is crucial in ensuring successful integration of disabled persons into the labour market. Do you have any specific programmes in place targeting this challenge? Does some kind of follow-up guidance programme for the vocational training graduates exist?

14) Has a legal basis for supported employment been established in your country? Describe briefly the supported employment services system.

De-institutionalisation and independent living

15) To what extent is de-institutionalisation considered to be a priority for your government? Which measures aimed at promoting de-institutionalisation and community-based alternatives have been carried out during the last two years?

16) Does your government currently carry out any form of training for independent living programmes?

(3) European Social Fund

General remarks

Provisions relating to the implementation of the Structural Funds regulation, including the ESF, are screened under Chapter 22, while the substance of the ESF intervention, namely its nature of financial instrument supporting the implementation of policies and strategies in the areas of employment and social inclusion, is considered under Chapter 19.

The key issue to be addressed in this respect during the screening discussions is therefore the way in which Turkey is preparing to ensure that the future ESF programming adequately reflects the definition of priorities for employment and social cohesion. To this end, preparations to implement Component IV of IPA, which pre-figures the ESF, will need to be examined within this context.

1. Preparation of IPA Strategic Coherence Framework (SCF) for Components III and IV

- Briefly outline the steps you envisage to ensure coherence and consistency between the SCF process on the one hand and the JAP/JIM processes on the other.
- Briefly describe the nature and scope of the consultation process which will be put in place for the preparation of the SCF. In particular, which 'line' Ministries and other 'stakeholders' will be involved in the SCF consultation process for the formulation of strategies and priorities in the fields of employment, education/training, social inclusion and human capital formation? Is the Ministry of Education for instance being involved in the definition of possible priorities relating to education and training within IPA?
- Briefly outline what steps you intend to take to strengthen the capacity of the line ministries involved in formulating and implementing the strategies mentioned above.

2. Establishing IPA structures in preparation for future management and implementation of ESF

- Have decisions on future structures been taken in relation to the management and implementation of component IV (human resources development)?
- Describe briefly the current overall state of preparations as they relate to component IV (including Inter-ministerial coordination structures)
- What steps are being taken to prepare (for instance, strengthening present staffing levels or skills) within the Ministry of Labour and Social Security in preparation for the role of future Managing Authority for component IV ?
- Describe briefly the management structures envisaged for component IV. Will they be reflected in the organisation of the Ministry of Labour and Social Security?

- Describe briefly the nature and scope of the consultation process envisaged for the formulation of the Operational Programme in respect of component IV.

(4) Labour Law

I Introduction

The following non-exhaustive questionnaire comprises a set of 'General questions' and another one of 'specific questions per directive' relative to the 17 EU directives in the field of labour law. These directives are schematically divided into 3 parts: on working time; on working conditions other than working time; on information and consultation.

It would be useful, even necessary, for the proper examination of the compatibility of the national legislation with the EU acquis that Turkey provides to the Commission one concordance table for each directive.

II Main part

1 EU Working time directives

- Directive 2003/88/EC (general)
- Directive 1999/63/EC (seafarers),
- Directive 2000/79/EC (civil aviation),
- Directive 2005/47/EC (railways)

General questions

1. To what extent do you consider that your legislation is compatible with the EU Working time directives, in particular Directive 2003/88/EC (general), Directive 1999/63/EC (seafarers), Directive 2000/79/EC (civil aviation), Directive 2005/47/EC (railways)? Please describe per directive.
2. Which are the national laws which regulate the issues covered by the aforementioned directives? Please describe per directive.
3. Is there any preparation/consideration concerning eventual modifications of the pertinent national laws of your country? Please describe.
4. What measures is your administration taking or planning to take in order to improve administrative capacity (e.g. with regard to labour inspectors, judges etc.)?

Specific questions

a) Directive 2003/88/EC (general)

5. Does the working time legislation in your country cover all sectors of activity?
6. In particular, are there any special rules on working time in the public sector? Are there special rules concerning specific public service activities, such as

the armed forces or the police, or certain specific activities in the civil protection services?

7. Does your legislation provide for definitions of the terms: "working time", "rest period", "night time", "night worker", "shift time"? Please describe.
8. Are workers entitled to a minimum daily rest period of 11 consecutive hours per 24-hour period?
9. Are workers entitled to a rest break where the working day is longer than six hours?
10. Are workers entitled to an uninterrupted rest period of 24 hours for each seven-day period plus the 11 hours daily rest?
11. Is there any limit to the average working time for each seven-day period, including overtime? Which?
12. Is there any possibility to exceed the average weekly working time by way of individual consent of the worker concerned (cf. opt-out by virtue of article 22 of the general directive)?
13. Are workers entitled to paid annual leave of at least four weeks?
14. Are there specific rules on night time work? Can normal hours of night work exceed an average of 8 hours in any 24-hour period? Are there special rules for night workers whose work involves special hazards or heavy physical or mental strain? Please describe.
15. Are there any reference periods for the application of national rules concerning weekly rest period, maximum weekly working time and length of night work? Please describe.
16. Are there any derogations to the general national rules on daily rest, breaks, weekly rest period, maximum weekly working time, length of night work and reference periods? In which cases? Please describe.
17. Are there any specific rules for doctors in training (limit of weekly working hours, etc)?
18. Are there any specific rules for mobile workers (in the sense of articles 2(7) and 20 of the general directive)?
19. Are there any specific rules for workers on board sea-going fishing vessels? Are these workers entitled to adequate rest? Are there any limits to the hours of their work or rest? Please describe.

b) Directive 1999/63/EC (seafarers)

20. Are there any specific rules for seafarers in the sense of the aforementioned directive? Please describe.
21. Are there any limits to the hours of work or rest per any 24 hour period or per any seven-day period? Please describe.
22. Is there any rule prohibiting night work of seafarers under 18 years of age?
23. Is there any rule prohibiting persons under 16 years of age to work as seafarers?
24. Are seafarers entitled to paid annual leave of at least 4 weeks?

c) Directive 2000/79/EC (civil aviation)

25. Are there any specific rules for mobile staff in civil aviation in the sense of the aforementioned directive? Please describe.
26. Is there any maximum annual working time for mobile staff in civil aviation?
Is there any maximum annual block flying time?
27. Is mobile staff in civil aviation given days free of all duty and standby, notified in advance, per calendar month or per calendar year?
28. Is mobile staff in civil aviation entitled to paid annual leave of at least four weeks?

d) Directive 2005/47/EC (railways)

29. Are there any specific rules for mobile staff in the railway sector in the sense of the aforementioned directive? Please describe.
30. Are the concerned workers entitled to a daily rest at home of at least 12 consecutive hours per 24-hour period? Can it be reduced in certain cases? Please describe.
31. Are the concerned workers entitled to a daily rest away from home of 8 consecutive hours per 24-hour period? Should the daily rest away from home be followed by a daily rest at home?
32. Are the concerned workers entitled to a weekly rest period of 24 + 12 hours? Are there any provisions concerning the distribution of weekly rest during the year? Please describe.
33. Is there any provision by virtue of which driving time should not exceed 9 hours (day) or 8 hours (night)?

2 EU directives on working conditions other than working time

- Directive 94/33/EC (young people)
- Directive 91/533/EEC (written statement)
- Directive 1999/70/EC (fixed-term work)
- Directive 97/81/EC (part-time work)
- Directive 96/71/EC (posting of workers)
- Directive 80/987 as amended by 2002/74/EC (employer insolvency)
- Directive 91/383/EEC (health and safety in fixed term and temporary employment)

General questions

34. To what extent do you consider that your legislation is compatible with the aforementioned EU directives? Please describe per directive.
35. Which are the national laws which regulate the issues covered by the aforementioned directives? Please describe per directive.
36. Is there any preparation/consideration concerning eventual modifications of the pertinent national laws of your country? Please describe per directive.
37. What measures is your administration taking or planning to take in order to improve administrative capacity (e.g. with regard to labour inspectors, judges etc.)? Please describe.

Specific questions

a) Directive 94/33/EC (young people)

38. Are there any definitions for the terms "young person", "child", "adolescent"?
39. Is work by children prohibited? Are there any exceptions? If yes, under which protective conditions/safeguards? Are there any limits to the daily and/or weekly working time? Please describe.
40. Is the employer obliged to adopt the measures necessary to protect the health of young people, including an assessment of the risks to young people in connection to their job?
41. Is the protection of young people appropriately ensured, inter alia by prohibiting certain forms of work?
42. Are there any limits to the daily and/or weekly working time of adolescents? Please describe.
43. Are there any restrictions to the night work of young people? Please describe.
44. Are there any specific rules on rest periods, annual rest and breaks concerning the work of young people? Please describe.

b) Directive 91/533/EEC (written statement)

- 45. Are employers obliged to provide to their employees written information on the essential aspects of the employment relationship? Are these elements specified in your legislation?
- 46. Does your legislation require that such information should be provided in a certain form (e.g. by means of a contract, a letter of engagement or any other document)? Is there any deadline?
- 47. Are employers obliged to provide to expatriate employees special written information, covering the following elements: duration abroad; currency used for payment of remuneration; benefits whilst abroad; conditions governing repatriation?

c) Directive 1999/70/EC (fixed-term work)

- 48. Does your national legislation provide for specific rules covering fixed-term workers?
- 49. Does such legislation cover workers employed in both private and public sectors?
- 50. Are there any measures to prevent abuse arising from the use of successive fixed-term contracts, Which is/are the criteria used: objective reasons and/or limits on the number of renewals of fixed-term contracts and/or maximum duration of such contracts?
- 51. Is equal treatment between fixed-term and comparable permanent workers ensured as regards employment conditions?
- 52. Is there any distinction between fixed-term and comparable permanent workers as regards the calculation of the threshold for the constitution of bodies representing workers?
- 53. Are employers obliged to inform fixed-term workers on permanent employment opportunities?
- 54. Are employers obliged to inform workers' representative bodies about fixed-term work in the undertaking?
- 55. Are employers obliged to facilitate, as far as possible, access of fixed-term workers to training possibilities?

d) Directive 97/81/EC (part-time work)

- 56. Does your national legislation provide for specific rules covering part-time workers?
- 57. Are part-time workers employed in both private and public sectors covered?

58. Are there any definitions of part-time workers and comparable full-time workers? Please describe.
59. Is equal treatment between part-time workers and comparable full-time workers ensured as regards employment conditions?
60. Are there any measures in order to promote part-time work?
61. Are obstacles which may limit the opportunities for part-time work identified, reviewed and, where appropriate, eliminated?
62. Does a worker's refusal to transfer from full-time to part-time and vice versa constitute a valid reason for termination of his/her employment?
63. Do employers give, as far as possible, consideration to measures facilitating access to and quality of part-time work?
64. Are employers obliged to inform part-time workers on full-time employment opportunities?
65. Are employers obliged to inform workers' representative bodies about part-time work in the undertaking?

e) Directive 96/71/EC (posting of workers)

66. Are there national rules concerning the working conditions applicable to workers posted in your country by an undertaking established in another Member State in the framework of a transnational provision of services?
67. Is there any definition of the term "posted worker"? Please describe.
68. Does your legislation provide that certain minimum requirements regarding conditions of employment apply to the workers posted in your country, independently of the law applicable to their employment relationships? Please describe (i.e. minimum rates of pay, maximum working hours, minimum rest periods, minimum paid annual holidays, health and safety at work)?
69. Are there any derogations to the above?
70. Does your country make use of any of the options provided for in article 3, paragraphs 8, 9 and 10 of the directive?
71. Can collective agreements in your country be declared universally applicable (in particular as regards activities set out in the Directive's Annex)?
72. Does your legislation provide for the designation of liaison office(s) to ensure the cooperation between the national authorities responsible for the monitoring of conditions of employment of posted workers?
73. Have any measures been taken to ensure that information on conditions of employment is made generally available?

74. Does your legislation provide for the possibility that posted workers, who are or were posted in your country, institute judicial proceedings there?

f) Directive 80/987 as amended by 2002/74/EC (employer insolvency)

75. Are there any provisions in your country ensuring a minimum protection for employees in the event of the insolvency of their employer?

76. How is the term "employer's insolvency" defined in this context?

77. Is there any guarantee institution liable to pay outstanding claims resulting from employment relationships? Does its organization, operation and financing comply with principles ensuring its independence and efficiency (Article 5)?

78. Does the aforementioned institution guarantee the payment of employees' outstanding claims resulting from their employment relationships including severance pay? For which period? Please describe.

79. Are there any limits to the liability of the guarantee institution?

80. Is there any rule providing that, when an undertaking with activities in at least two Member States is in a state of insolvency, the responsible guarantee institution is the one in the Member State where the workers concerned work or habitually work? Are there any arrangements concerning cooperation of the national institutions in such cases?

g) Directive 91/383/EEC (health and safety in fixed term and temporary employment)

81. Does your legislation ensure that workers with fixed-term or temporary employment relationships enjoy the same level of protection as other workers in the same workplace?

82. Does your legislation require that the user undertaking provides information to the aforementioned workers, before they taking up any activity, on risks regarding, in particular

- special qualifications/skills or medical surveillance required
- any increased specific risks due to the job?

83. Does your legislation require the provision of sufficient and appropriate training taking account of the job and the workers' experience/skills?

84. Does your legislation prohibit the use of the aforementioned workers for certain works? If not, does it ensure the provision of appropriate special medical surveillance?

85. Does your legislation require that "protection and prevention services at work" are informed of the assignment of workers with fixed-term and temporary employment relationships?
86. Does your legislation require that the user undertaking provides information to the temporary work agency, before temporary workers take up any activity, on – inter alia-
 - occupational qualifications/skills required
 - specific features of the job?
87. Does your legislation require that the temporary work agency transmits this information to the workers concerned?
88. Does your legislation provide for the responsibility of the user undertaking as regards the health and safety-related working conditions during the period of the assignment?

3 Information and consultation directives

- Collective redundancies (98/59/EC)
- Transfer of undertakings (2001/23/EC)
- European Works Council (94/45/EC)
- Framework for informing and consulting employees (2002/14/EC)
- Employees' involvement in the European Company (2001/86/EC)
- Employees' involvement in the European Co-operative Society (2003/72/EC)

General questions

89. To what extent do you consider that your legislation is compatible with the aforementioned EU directives? Please describe per directive.
90. Which are the national laws which regulate the issues covered by the aforementioned directives? Please describe per directive.
91. Is there any preparation/consideration concerning eventual modifications of the pertinent national laws of your country? Please describe per directive.
92. Does your country take any measures in order to improve administrative capacity (e.g. with regard to labour inspectors, judges etc.)? Please describe.

Specific questions

a) Collective redundancies (98/59/EC)

93. Which is the definition of the term "collective redundancies"?
94. Does your legislation provide for a procedure aiming at the information and consultation of the workers' representatives in case of collective redundancies?

95. Does your legislation require from an employer, where he/she is contemplating collective redundancies, to consult the workers' representatives in good time and with a view to reaching an agreement, in order to avoid or reduce the number of workers affected and to mitigate the negative consequences?
96. Is the employer obliged to inform the workers' representatives on a number of relevant issues (e.g. on the reasons, number of workers employed and affected, period, criteria of the redundancies, etc.)? Is he/she also obliged to transmit this information to the competent public authority?
97. Does your legislation require from the employer to notify to the competent public authority information on projected collective redundancies? Is he/she also obliged to transmit this information to the workers' representatives?
98. Does your legislation provide that the projected collective redundancies cannot take effect earlier than 30 days from the aforementioned notification?
99. Has a "competent public authority" been designated in your country? Please describe.
100. How are the "workers' representatives" designated in the above context? Please describe.

b) Transfer of undertakings (2001/23/EC)

101. Does your legislation provide for protection of employees in the event of a change of employer?
102. Are all types of undertakings are covered, whether they are public or private and whether or not they are operating for gain?
103. Are there any exclusions to such coverage?
104. Does your legislation provide for rules safeguarding employees' rights arising from an employment relationship in the event of a change of employer (article 3)?
105. Are all rights and obligations arising from the employment contract existing on the date of the transfer automatically transferred to the new employer ("transferee")?
106. Is the transferee obliged to continue to observe the terms and conditions agreed in any collective agreement on the same terms applicable to the transferor (until the date of termination or expiry of the collective agreement or the entry into force or application of another collective agreement)?
107. Can transfer, in itself, constitute sufficient ground for dismissing an employee(either by the transferor or by the transferee)?

108. Is the status and functions of the employees' representatives preserved in the event of a change of employer and, if yes, under which conditions? Is the protection of the employees' representatives ensured, where their term of office expires as a result of the transfer?
109. Does your legislation provide for information and consultation of employees' representatives in the event of a change of employer?
110. Who provides information on the transfer, to whom and at which time? Is the content of this information specified? Please describe.
111. Are employees' representatives consulted, by whom and at which time? Which are the content and purpose of such consultation?
112. How are the "workers' representatives" designated in the above context? Please describe.

c) European Works Council (94/45/EC)

113. Is there any national legislation ensuring information and consultation of employees in Community-scale undertakings and Community-scale groups of undertakings in accordance with article 1 of the Directive?
114. Does your national legislation provide for definitions of the terms contained in Articles 2 and 3 of the Directive?
115. Does your national legislation provide for the designation of a special negotiating body in accordance with Articles 4, 5 and 6 of the Directive?
116. Does your national legislation provide for the subsidiary requirements laid down in Article 7 and the Annex of the Directive?
117. Does your national legislation provide for the necessary rules regarding confidential information (Article 8), transmission of information to the workforce (Annex), and the requirement of co-operation (Article 9 of the Directive)?
118. Please describe the national rules in force regarding the method to be used for the election or appointment of the "employees' representatives" in the special negotiating body and in the European works council (cf. Articles 1, 5, 6 and Annex)
119. Does your national legislation provide for rules concerning protection and guarantees to employees' representatives (Article 10)?
120. Does your national legislation provide for rules on jurisdiction/compliance (Article 11)?
121. Does your national legislation provide for rules on possible conflicts of laws (Article 3)?

d) Framework for informing and consulting employees (2002/14/EC)

122. Is there any national legislation ensuring information and consultation of employees in undertakings or establishments in your country, in accordance with article 1 of the Directive?
123. Does your national legislation provide for definitions of the terms contained in Article 2 of the Directive?
124. To which undertakings or establishments does your national legislation apply (Article 3)? Are there any derogations?
125. Which are the practical arrangements for information and consultation of employees in undertakings or establishments in your country, in particular as regards content, timing, purpose etc. (Article 4 of the Directive)?
126. Does your national legislation provide for the necessary rules regarding confidential information (Article 6) and the requirement of co-operation (Article 1 of the Directive)?
127. Does your national legislation provide for rules concerning protection and guarantees to employees' representatives (Article 7)?
128. Does your national legislation provide for rules on protection of rights/compliance (Article 8)?

e) Employees' involvement in the European Company (2001/86/EC)

129. Is there any national legislation ensuring involvement of employees in the affairs of European companies (SE), in accordance with article 1 of the Directive?
130. Does your national legislation provide for definitions of the terms contained in Article 2 of the Directive?
131. Does your national legislation provide for the designation of a special negotiating body in accordance with Articles 3, 5 and 6 of the Directive?
132. Does your national legislation provide for rules on the content of the agreement concerning arrangements on involvement of employees within the SE (Article 4)?
133. Does your national legislation provide for the standard rules laid down in Article 7 and the Annex of the Directive?
134. Does your national legislation provide for rules regarding confidential information (Article 8) and the requirement of co-operation (Article 9 of the Directive)?

135. Does your national legislation provide for rules concerning protection and guarantees to employees' representatives (Article 10)?
136. Does your national legislation provide for rules on jurisdiction/compliance (Article 12)?

f) Employees' involvement in the European Co-operative Society (2003/72/EC)

137. Is there any national legislation ensuring involvement of employees in the affairs of European cooperative societies (SCE), in accordance with article 1 of the Directive?
138. Does your national legislation provide for definitions of the terms contained in Article 2 of the Directive?
139. Does your national legislation provide for the designation of a special negotiating body in accordance with Articles 3, 5 and 6 of the Directive?
140. Does your national legislation provide for rules applicable to SCEs established by natural persons (article 8)?
141. Does your national legislation provide for rules concerning participation of employees in general meetings (article 9)?
142. Does your national legislation provide for rules on the content of the agreement concerning arrangements on involvement of employees within the SCE (Article 4)?
143. Does your national legislation provide for the standard rules laid down in Article 7 and the Annex of the Directive?
144. Does your national legislation provide for rules regarding confidential information (Article 10) and the requirement of co-operation (Article 11 of the Directive)?
145. Does your national legislation provide for rules concerning protection and guarantees to employees' representatives (Article 12)?
146. Does your national legislation provide for rules on jurisdiction/compliance (Article 14)?

(5) Social Dialogue

- When will the draft revised law on trade unions be adopted?
- Will it lower the double threshold allowing trade unions to sign a collective agreement?
- Will it abolish the expensive notaries' fees prior to affiliate oneself to trade unions?

- Will the new pending law on public administration allow all service servants to become members of trade unions ?
- How do you plan to tackle the under-representation of women within Trade unions ?
- Do you plan to facilitate the right of strike? and to put an end to the 2 months suspension for security reason?
- When will the draft law reshaping the composition of the economic and social committee with an increase of social partners' representatives be adopted?
- Do you plan to widen the information and consultation of workers beyond collective dismissals, dispute resolutions and disciplinary matters and health and safety?

(6) Employment Policy

Progress on the JAP

- Report on discussions/consultations undertaken in Turkey
- Main issues of concern resulting from discussions/consultations in Turkey

Informal sector, undeclared employment

- What are in your view the reasons behind informal activities/undeclared work in Turkey?
- What have been the policy responses and measures taken so far to address this?
- What is your assessment of their efficiency?
- What are the priorities for the next future?
- Are there any new orientations envisaged? Which ones?

(7) Anti-discrimination

1. What legal provisions exist in your country to tackle discrimination on grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation? Could you please provide copies, preferably with a translation?
2. Please describe any legal provisions to tackle discrimination in the following areas: employment and occupation; vocational training, education; social protection; social advantages; access to goods and services, including housing.
3. How is discrimination defined in your national legislation (give details, if applicable, of definitions of direct and indirect discrimination, harassment, instructions to discriminate and victimisation)?
4. What body or bodies exist to assist victims of racial (or other forms of) discrimination? What other tasks do these bodies have (for example providing reports and recommendations)? Please describe the status, resources and powers of any such bodies.
5. What courts or tribunals are able to hear discrimination cases?
6. How can individual victims of discrimination bring cases, and how are they expected to prove that discrimination has taken place?
7. Which organisations can speak for or on behalf of victims in discrimination cases?
8. What sanctions and remedies can be applied in discrimination cases?
9. Please describe any awareness-raising or training activities that your authorities have implemented in this area.
10. What measures is your administration taking or planning to take in order to improve administrative capacity (e.g. with regard to labour inspectors, judges etc.)?

(8) Social Protection

1. What is the public-private mix in your country?
2. What role do mandatory, occupational and individual pension schemes play for income security in old age (different pillars of the systems)?
3. Do you have a minimum income guarantee for pensioners – what is the level, how do people receive it?
4. Is there a universal system for the whole population?
Are there any statistics on the composition of income in old age (social transfers, family support, labour income, additional private income)?

5. Describe the level and structure of benefits: the replacement rate, the pension distribution, adjustment and indexing of pensions and the issue of poverty among pensioners. Are there measures in place to specifically combat old age poverty?
6. What are the economic incentives set by the pension system with regard to labour market participation, employment policies? Are there any other incentives (e.g. support for employers hiring older workers)?
7. What is the proportion of over 50's, 60's and over 65s still in the workplace
8. Are there certain groups excluded from the system (coverage)? Is there a possibility of 'opting out'? If so, are there any problems caused by the exclusion of certain groups? Do you consider the system as equitable with regard to gender equality and other groups of the population?
9. Are their systems of credit for periods away from paid labour, such as child care, caring for elderly relatives etc?
10. Does the public consider your system as transparent and administratively effective? Does the system meet general acceptance in the population?
11. Assess the financial sustainability of the system (of each pillar) with regard to demographic, economic and social changes.
12. Describe recent major reforms which have been implemented. What were the objectives of the reforms?
13. Are there any automatic mechanisms to change the system if it appears to be unsustainable – i.e. due to demographic changes?
14. Is the population well informed and educated on financial matters – especially in regards to any second or third tier provision?

(9) Social Inclusion

1. To what extent are existing strategies and policies compatible with EU objectives in the field of social inclusion? Please describe.
2. What steps is Turkey taking to prepare for future participation in the European social inclusion strategy?
3. Refer to the road map Turkey has committed itself for the JIM process.
4. How does the MoLSS intend to use the results of the study on gecekondü carried out by M. Adaman and the outcome of the seminars organised in Istanbul and Gaziantep in 2005?

(10) Equal Opportunities

Directive 75/117

1. Is the principle of equal pay for equal work or work of equal value for men and women guaranteed?
 - i) by law;
 - ii) by collective agreement.
 - iii) by the constitution ?
2. Is the right to equal pay extended to all persons covered by the Directive, including civil servants?
3. Is the notion of pay in compliance with Art. 141 EC and the jurisprudence of the ECJ ? Is there a definition of pay in the law?
4. Is there protection against retaliatory dismissal ? (Art. 5)
5. Is there a gender pay gap ? (give figures if possible)
6. Are part-time workers paid "pro rata temporis" ?
7. Do the transposing provisions cover the whole work force?

Directive 76/207 and 2002/73

1. Are there definitions in the law for direct discrimination, indirect discrimination, harassment and sexual harassment?
2. Are giving instructions to discriminate and less favourable treatment related to pregnancy and maternity defined as discrimination?
3. Are there provisions concerning exceptions for equal treatment relating to activities for which characteristics related to sex constitute a genuine and determining requirement ? (Art., 2(6) 2002/73)
4. Are there any provisions in law or ordinance to define jobs in the sense of Art. 2 (2) of Dir. 76/207 where the sex of a worker constitutes a determining factor?
5. Is direct and indirect discrimination on grounds of sex prohibited in relation to all areas covered by Art. 3 1 a-d Dir. 2002/73?
6. Are there provisions to allow associations to engage either on behalf or in support of the complainant (against sex discrimination) in any judicial or administrative procedure?

7. Is there effective judicial protection available to all persons who consider themselves wronged by failure to apply the principle of equal treatment ? Has this protection been extended to persons defending or giving evidence
8. Is there an independent equality body in the sense of Art. 8a Dir 2002/73 ?
9. Are there any legal provisions encouraging the prevention of discrimination (Art. 2(5) 2002/73), social dialogue (Art. 8b), dialogue with NGOs (Art. 8c)?
10. Is there a sanctions system in compliance with Art. 8d of Dir. 2002/73 that provides for effective, proportionate and dissuasive compensation in case of discrimination? Is there an upper limit for compensation?
11. Is there a system of administrative sanctions in case of discrimination based on sex? If so, please give details.
12. Is gender specific advertising allowed?
13. Are there specific physical requirements for joining a profession, Ex.: height requirement for joining the police, army etc. And do these requirements differ for women and men?
14. Is there a rule established either by law or jurisprudence that there is no justification whatsoever to ask a woman questions related to pregnancy when applying for a job of whatever kind? Would such practises be considered discriminatory?
In case a woman had answered a question related to pregnancy in a job interview wrongly, could this lead either to dismissal or repudiation of contract ?
15. Are there any provisions to protect women (not pregnant women) against work underground, onerous and harmful work and in particular from night work?
16. Are there any provisions to protect pregnant women from doing overtime, business trips etc.?
17. Are there any provisions to forbid women who have recently given birth or who have adopted a child to go on business trips, doing overtime, night work etc. until the child has reached a specified age ?
18. Do the transposing provisions cover the whole work force?

Directive 79/7

1. Is there a general social security scheme covering the whole working population? Does it contain differences in the pensionable age for men and women, or in the survivor pension benefits available to men and women? (These may be permitted under the derogations in Directive 79/7.)
2. Is there any specific social security scheme for civil servants, including the armed forces, or are there specific rules for civil servants within the general scheme? Do the specific rules foresee different pensionable ages for men and women?

3. Is the pension for civil servants calculated by reference to the number of years of service and also by reference to the last salary received before retirement?
4. Do the transposing provisions cover the whole work force?

Directive 86/613

1. How does the law provide for equal treatment as defined in Dir. 76/207, especially in respect of the establishment, equipment or extension of a business or the launching or extension of any other form of self-employed activity including financial facilities ?
2. How does the law guarantee that the conditions for the formation of a company between spouses are not more restrictive than the formation of a company between unmarried persons?
3. How does the law guarantee that spouses of self-employed, who are not protected under the self-employed worker's social security scheme, can join a contributory social security scheme voluntarily ?
4. What means of judicial possibilities do persons have who consider themselves discriminated, to pursue their claims by judicial process?

Directive 86/378 and 96/97

1. Is there a law dealing with occupational pensions?
2. Are there any limits on access for part-time workers to occupational pension schemes?
3. Are there different pensionable ages for men and women in occupational schemes?
4. Are there different minimum service requirements for men and women?
5. Are there different survivor's benefits for men and women?
6. Are there different family related benefits for men and women?
7. Are there limits on rights acquired by women during periods of maternity leave?

Directive 96/34

1. Is the right to parental leave available to all categories of employees?
2. Is a minimum of 3 month parental leave guaranteed ?
3. Are the right to parental leave for men and women independent (3 month for each, independently of one another) and not transferable?

4. Are the same rights available to men and women ?
5. Is there a right to time off for "force majeure" reasons to care for sick children?
6. Is protection from dismissal for exercise of right guaranteed?
7. Are acquired rights on the day parental leave starts maintained?
8. Is the right to return to the same job after parental leave guaranteed?
9. Do the transposing provisions cover the whole work force?

Directive 92/85

1. Is the right to a minimum of 14 weeks maternity leave guaranteed ?
2. Is previous employment of less than 12 month before date of confinement required for maternity leave?
3. Is an "adequate allowance" paid for maternity leave and if so, how is it calculated?
4. Is there protection against dismissal for workers within the meaning of the Directive (pregnant women and women on maternity leave) ?
5. Is time off guaranteed for ante-natal examinations?
6. Are high risk work (hazardous agents) and compulsory night work banned ?
7. Are there health and safety risk assessment procedures in place?
8. Is paid leave granted where transfer to avoid a health and safety risk is not possible ?
9. Do the transposing provisions cover the whole work force?

Directive 97/80

1. Is the rule governing the burden of proof correctly transposed in relation to Directives 76/207 as amended, 75/117, 92/85 and 96/34 ?
2. Are there any proceedings in your country in which it is for the court or any other competent body to investigate the facts of the case ?
3. Does the reversal of the burden of proof cover all employment relationships, including agricultural workers in companies employing less than a specified number of employees?
4. Do the transposing provisions cover the whole work force?

Directive 2004/113/EC

1. Are there any restrictions based on gender, concerning access to goods and services available to the public, offered outside private and family life?
2. Is gender used as an actuarial factor for insurance products?
3. Are health insurance premiums for women higher than for men and are pregnancy and maternity related costs taken into account for the purpose of calculating premiums?