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# TÜRKİYE: SUPPORT FOR TRANSITION TO LABOR MARKET PROJECT

## Labor Management Procedures

(P171471)

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## ABBREVIATIONS AND ACRONYMS

ALMP	Active Labor Market Programs
CRM	Turkish Red Crescent Complaints and Response Mechanism
DGILF	Directorate General of International Labor Force of MoLSS
DGMM	Directorate General for Migration Management
DGSA	Directorate General of Social Assistance of MoFSS
ESF	Environmental and Social Framework
ESS	Environmental and Social Standard
ESSN	Emergency Social Safety Net
FGD	Focus Group Discussion
FRIT	Facility for Refugees in Turkey
GBV	Gender Based Violence
GRM	Grievance Redress
GRS	Grievance Redress Service
IOM	International Organization for Migration
İŞKUR	Turkish Employment Agency
LMP	Labor Management Procedures
M&E	Monitoring and Evaluation
MoLSS	Ministry of Labor and Social Security
OHS	Occupational Health and Safety
OJT	On-the-Job Training
PDM	Provincial Directorate of Migration
PIM	Project Implementation Manual
PIU	Project Implementation Unit
PPM	Public Participatory Meeting
SEP	Stakeholder Engagement Plan
SMEs	Small Medium Enterprises
SuTP	Syrians under Temporary Protection
TAC	Temporary Accommodation Centers
TRC	Turkish Red Crescent (Türk Kızılay)
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNWOMEN	The United Nations Entity for Gender Equality and the Empowerment of Women
WB	World Bank

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## 1. INTRODUCTION

The project development objectives are to improve employability of Syrians under Temporary Protection (SuTP)<sup>1</sup> and Turkish Citizens and to facilitate access to labor markets. This will be achieved through the implementation of activities in two components: (1) Support for intermediation, counseling services and employment support for SuTP and Turkish Citizens; (2) Support for delivery of employment services.

The project has two components:

**Component 1. Support for intermediation, counseling services and employment support for SuTP and Turkish Citizens:** The objective of this component is to implement ALMPs and counseling activities to support integration of SuTP and Turkish citizens into the labor market. The component will be implemented through two sub-components: (a) Provision of intermediation and counseling services and Applied Training Program for SuTP and Turkish citizens via the Turkish Employment Agency (İŞKUR); and (b) Intermediation and Livelihood Advisory Services and Employment Support for SuTP and Turkish Citizens via Turkish Red Crescent (TRC).

**Component 2. Support for delivery of employment services:** The objective of this component is to support the capacities of the Ministry of Labor and Social Security (MoLSS DGILF and MoFSS DGSA), İŞKUR and Turkish Red Crescent (TRC) to implement the proposed project and enhance their capacity to monitor, evaluate and better use labor market employment and social assistance related administrative data. The ultimate objective is to strengthen evidence-based policy making, that is to provide the Government of Republic of Turkey with a strengthened monitoring and evaluation (M&E) system.

Although İŞKUR is the main institution responsible for intermediation, the huge influx of Syrians under protection and already high number of Turkish jobseekers has increased the burden on İŞKUR. Therefore, TRC, given its field access, ongoing work with ESSN beneficiaries and the need to balance and coordinate labor market and social assistance activities, will be the first entry point for workable ESSN beneficiaries. Beneficiaries will be pre-screened, and receive orientation, livelihood advisory and language training before referral to İŞKUR for job search assistance and placement on Applied Training Program. This modality of delivery will allow expanding the coverage of the employment support services to vulnerable groups (e.g. ESSN beneficiaries or other vulnerable Turkish citizens), and at the same time, alleviate the workload on İŞKUR.

Employment services including intermediation/counseling services and livelihood advisory will thus be delivered through two different complementary channels by İŞKUR and TRC. İŞKUR and TRC will use their networks of provincial and district offices, branches and representative's offices to deliver employment support services to SuTP and Turkish citizens in selected provinces. These services will work in a complementary manner to maximize impact in terms of sustainable labor market integration. The proposed project provinces are İstanbul, Adana, Gaziantep, Şanlıurfa, Kocaeli, Bursa, Konya, İzmir.

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<sup>1</sup> The term SuTP will be used for practical reasons when referring to Project beneficiaries which will be composed of international protection applicants and status holders, ESSN beneficiaries as well as SuTP.

## 1.1. Purpose of the Labor Management Procedures

These Labor Management Procedures (LMP) describe the requirements with regard to World Bank Environmental and Social Standard 2 (ESS2): Labor and Working Conditions<sup>2</sup> applicable during the preparation and implementation of *Support for Transition to Labour Market Project*, which will be financed by the European Union through World Bank and implemented by İŞKUR and TRC, under the coordination of Directorate General for International Labor Force (DGILF) within MoLSS. It aims to promote fair and equitable labor practices for the fair treatment, non-discrimination and equal opportunity of workers engaged under all components of the project. It aims to protect project workers' rights and ensure the management and control of activities that may pose labor-related risks.

The labor management procedures are prepared by MoLSS, and will be applied to all project workers in accordance with ESS2. It describes how MoLSS, İŞKUR and TRC will comply with the requirements of the Turkish labor, employment and occupational health and safety laws and the Bank's ESS2. This LMP assesses potential labor risks and impacts and describes how they will be mitigated.

This is a 'living' document and will be updated further as and when more information becomes available.

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<sup>2</sup> The Environmental and Social Standard 2 ("ESS2") addresses labor and working conditions. This standard recognizes the importance of employment creation and income generation in the pursuit of reducing poverty and inclusive economic growth. By treating workers fairly and providing safe and healthy working conditions, project implementing agency can promote sound worker management relations and enhance the development benefits of a project. Objectives of ESS 2 are the following:

- to promote safety and health at work.
- to promote the fair treatment, non-discrimination and equal opportunity of project workers.
- to protect project workers, including vulnerable workers such as women, persons with disabilities, children (of working age, in accordance with this ESS) and migrant workers, contracted workers, community workers and primary supply workers, as appropriate.
- to prevent the use of all forms of forced labor and child labor.
- to support the principles of freedom of association and collective bargaining of project workers in a manner consistent with national law.
- to provide project workers with accessible means to raise workplace concerns.

## 2. OVERVIEW OF THE LABOR USE FOR THE PROJECT

The Ministry of Labor and Social Security (MoLSS) will be the grant recipient and main project coordinator, and will act in close cooperation with İŞKUR and Turkish Red Crescent.

**The Ministry of Labor and Social Security (MoLSS)** was established in 1945. The Ministry currently employs staff at headquarters. Under this project, a total of 30 MoLSS staff members will be employed, who all have civil servant status. In addition, contracted staff may be hired in areas of need (consultant, specialist, technical support staff, etc.)

**Turkish Employment Agency (İŞKUR)** was established in 1946, with the mandate of protecting, improving, generating employment and preventing unemployment, and for executing unemployment insurance services. Over time, it has established a structure that enables it to implement labor policies alongside its conventional services. Provincial Employment and Vocational Training Boards have been formed to improve local initiative in regional development and determine local employment policies in provinces. In 2020, İŞKUR had 81 Provincial Directorates and 79 Service Centers and 2,187 Service Points. The activities of İŞKUR is guided by the İŞKUR Law no. 4904, which directs İŞKUR to act as intermediary in employment and job placement issues.

**Table 2.** Number of İŞKUR Employees based on 2020 data

Year	2020
General Directorate (HQ)	672
Provincial Directorates	9.226
<b>Total</b>	<b>9.898</b>

Under this project, an estimated total of 158 people (including reserves) are expected to be deployed from the headquarters and 8 provincial offices of İŞKUR, including civil servants, consultants, translators and contracted office staff.

**Turkish Red Crescent (TRC)** is the largest humanitarian organization in Turkey and is part of the International Red Cross and Red Crescent Movement (IFRC). The organization was founded in 1868. Today it has a staff of 4,669, and regional and provincial level representation.

MoLSS-DGILF, İŞKUR and TRC will each have a Project Implementation Unit (PIU) and have dedicated project implementation staff which will be responsible for the day-to-day implementation of the project, monitoring and reporting to the World Bank. Staff will be located both in the headquarters (Ankara) and project provinces and will include full-time staff to be assigned to this project. There are already existing PIUs under the purview of MoLSS-DGILF and İŞKUR, and these PIUs' or equally qualified teams with necessary reinforcements are expected take on the implementation responsibility for this project. An additional PIU will be located in TRC. The TRC PIU will be staffed with consultants with specialized skills.

TRC technical staff from headquarters and different community centers will also be assigned to the project. If necessary, additional contractual staff (consultants) will be hired for the implementation period. The PIU staff will include labor market experts, counselors, financial management, procurement, implementation, information technologies (IT), communication and monitoring and evaluation experts. İŞKUR Provincial Directorates, TRC Community Centers

and TRC-Card Service Centers in project provinces will be responsible for day-to-day implementation and coordination. There will be dedicated staff assigned to the project in each of the community centers and provincial directorates.

#### Categories of Labor Use in project:

It is expected that Project will engage the following categories of project workers as defined by ESS2: Labor and Working Condition:

**Direct workers:** In this Project, direct workers consist of:

- Staff from the MoLSS-DGILF (civil servants) that are involved in the project as a part of the project PIU.
- İŞKUR staff (civil servants) who will be engaged in implementation of the project in supervision and technical roles. These also include İŞKUR staff who will provide employment intermediation and counseling services.
- Specialized consultants contracted by the PIUs in MoLSS-DGILF and İŞKUR, i.e. people employed or engaged directly or through with related firms by the MoLSS and İŞKUR to work specifically in relation to the project. These consultants will be hired under service contracts, with specific definition of the assigned tasks and responsibilities. The World Bank's Procurement Guidelines will be implemented during the selection of consultancy services.

The estimated number of direct workers would approximately be 260 including staff from PIU and from provincial offices, as well as individual consultants.<sup>3</sup>

MoLSS staff who will work in the PIU are civil servants who are subject to Civil servants Law No. 657. The work of such staff members under the project will be subject to the same legal framework and relevant international norms. The employment of consultants through contracts with defined duration or service contracts will be subject to the relevant national legislation which are in line with the conditions defined in this LMP.

**Contracted workers** will include persons employed or engaged through third parties to perform work related to the core functions of the project, regardless of location. Contracted workers will be the staff of TRC, working on this project. These contracted workers will include specialized experts and trainers who have knowledge in working with SuTP, women, and who have vast experience in areas such as community engagement, provision of support to migrants and social cohesion. It is estimated that the total number of TRC contracted workers will be approximately 50. TRC contracted workers will carry out project implementation activities under Component 1.

**Project Beneficiaries** (or *the community workers* as used by the World Bank)<sup>4</sup> will include individual beneficiaries under Subcomponent 1.1: *Intermediation and Counseling Services and*

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<sup>3</sup> It is considered that 50 people will be deployed within MoLSS, 158 people within İŞKUR and around 50 people within TRC for the project.

<sup>4</sup> In Turkey, they are referred to as "beneficiary workers," as the term "community workers" has a slightly different meaning in the local context because of the potential confusion with İSKUR's public works program. When "community workers" terminology used, in Turkish this would lead to the connotation of public works program, which the Project is not supporting. Community workers (project beneficiaries) is defined in the ESF, para. 34 of ESS2. Projects may include the use of community workers in a number of different circumstances, including where labor is provided by the community as a contribution to the project, or where projects are designed and conducted for the purpose of fostering community-driven development, providing a social safety net (For example, food-for-work programs and public works as safety nets programs.) or providing targeted assistance in fragile and conflict-affected situations. Given the nature and objectives of such projects, the application of all requirements of ESS2 may not be appropriate.

*Employment Support for SuTP and Turkish Citizens* provided by İŞKUR Directorate General, i.e. the persons who will receive applied training program (ATP). The project is expected to provide ATP for an estimated 22,000 end-beneficiaries. İŞKUR will match the jobseeker with a selected employer from a pool of potential employers from existing employer network of İŞKUR's province and district offices or from vacancies posted with İŞKUR. Assignment and matching of jobseekers to industry, occupation and employers for the ATPs will be driven by labor market demand.

ATP will build on the wide range of existing programs that İŞKUR has developed and delivered to different groups of the jobseekers in the past. Selected employers by İŞKUR satisfying eligibility criteria will participate in the program and offer training to the beneficiaries. The duration of the ATP is currently being discussed with İŞKUR and will be finalized following appraisal. Different scenarios are currently under consideration building on İŞKUR programs, with ATP lasting no more than six months except the vocations under hard and dangerous works. This facility will be accessible only to those jobseekers who are not currently benefiting from similar On-the-Job-Training program (OJT) provided by İŞKUR. The costs of the provision of the training will be borne by the Project. The beneficiaries will be paid daily stipends which are equivalent to the monthly net minimum wage level. The program will also pay for workers' occupational health and safety and general health insurance for the duration of the ATP. As with all İŞKUR ATP programs there will be an employment guarantee provision for a share of participants. Under the ongoing project within FRIT 1 program focused on SuTP, this is set at 20 percent and is likely to be around this percentage under the new project. Eligibility criteria including employment guarantees for participating firms/employers will follow existing İŞKUR program criteria and the specifics will be discussed during Appraisal and will be reflected in the Project Operational Manual.

Project beneficiaries will be both Turkish citizens and SuTP. SuTP will be eligible to receive benefits provided under ATP and other labor protections. Legal rights and obligations concerning the employment of project beneficiaries are shaped up by the legislation.

The project will not engage primary supply workers. The relevant provisions of national legislation, primarily including Labor Code No. 4857, together with this LMP will be applicable to direct workers, contracted workers and beneficiaries under this project.



### **3. ASSESSMENT OF KEY LABOR RISKS OF THE PROJECT**

#### **Project activities**

The project will provide support for: (i) Support for intermediation, counseling services and employment support for SuTP and Turkish citizens and (ii) Support for delivery of employment services. Component 1 will finance provision of counseling services, intermediation services and applied training programs. Component 2 will finance project management and coordination, monitoring and evaluation, data management and analytics, and communication activities to support provision of the services under Component 1 and broader policy making on socioeconomic integration of SuTP as well as ESSN beneficiaries and migration policy.

#### **Overall contextual labor risks**

Most people under international or temporary protection are vulnerable, many are able to work, and tend to work informally. Hence, besides the high unemployment rates in the project target provinces, the general contextual labor risks may include informal employment with low wages, long working hours and weak implementation of OHS measures. In addition, SuTP lack language proficiency which additionally exposes them to poor working conditions. The outbreak of the COVID 19 pandemic in March 2020 in Turkey has also increased challenges in these working conditions. Ministry of Health and MoLSS has introduced certain measures to be followed at workplaces, in line with WHO and other international guidelines.

#### **Key Project-Related Labor Risks**

The project is designed to address the contextual labor risks and is thus expected to have positive impacts on SuTP and Turkish citizens, as it aims to improve access of SuTP and Turkish citizens to employment services and employment opportunities; and to strengthen the delivery of national employment support services. The project will provide, Applied Training Program (ATP), intermediation and various counselling services for groups with different needs among the SuTP and host community populations, who will be the main project beneficiaries.

It is estimated that key labor risks are associated with the category of project beneficiaries who will participate in the ATP. Currently, it is not known in which sectors they will work so it is not possible to assess the nature of OHS risks at this stage. The design of the ATP program and this LMP will address risks associated with the term and working conditions and equal opportunity. ATP requires employers participating in the program to be compliant with the national OHS laws, and İŞKUR carries out periodic supervisions of employers, as described in the chapter 7.

Given the fact that the main implementing agencies of the project are MoLSS and İŞKUR have the mandate and responsibility to supervise compliance with the labor legislation at the national level, it is expected that the national labor and OHS laws will be complied with during project implementation. Beneficiaries will formally participate in ATP, including the social security system. Therefore, informality risk will have been eliminated substantially. These procedures are also expected to promote principles of non-discrimination and fair employment practices, which are secured by national legislation as well.

## 4. OVERVIEW OF NATIONAL LEGISLATION

There are several statutory laws governing labor related issues in Turkey. These include Constitution of the Republic of Turkey, Maritime Labor Law No 845, Press and Media Labor Law No. 5953, Law No. 4688 on Civil Service Trade Unions and Collective Bargaining Agreements, Labor Law No. 4857, Social Insurance and Universal Health Insurance Law No. 5510, Turkish Code of Obligations No. 6098, Law No. 6356 on Trade Unions and Collective Bargaining Agreements, also known as the “Union Law”, International Labour Force Law No. 6735 and Labor Courts Act (No. 7036). In addition to these, there are secondary regulations which includes Regulation on Annual Paid Leave, Regulation on Working Hours under Labor Law, Regulation on Overtime Work and Extra Work under Labor Law, Regulation on Minimum Wage, Regulation on Subcontracting, Regulation on Short-Time Employment and Short-Time Employment Allowance, Regulation on Conditions for Night-Shift Work of Female Employees, Regulation on Occupational Health and Safety, Regulation on Principles and Procedures Applicable to the Employment of Children and Young People, Regulation on Occupational Health and Safety in Construction Works, Regulation on Active Labor Force Services, Implementing Regulation on Law on the International Labour Force, Regulation on the Working Permits of Foreigners under Temporary Protection and Regulation on Work Permit for International Protection Applicants and International Protection Status Holders.

Turkey is party to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and the Council of Europe’s 1961 European Social Charter, which is an extension of the former, as well as the Revised Social Charter. The fundamental rights defined by the Social Charter are as follows: right to housing, right to healthcare, right to education, labor rights, full employment, equal pay for equal work, parental leave, social security, protection from poverty and social exclusion, free movement of persons and non-discrimination.

Turkey has also ratified 8 of the Fundamental Conventions of ILO, namely Convention no. 29 on Forced Labor, Convention no. 87 on Freedom of Association and Protection of the Right to Organize Convention, Convention no. 98 on Right to Organize and Collective Bargaining, Convention no. 100 on Equal Pay for Equal Work, Convention no. 105 on the Prohibition of Forced Labor, Convention no. 111 on Discrimination (Employment and Occupation), Convention no. 138 on Minimum Age, Convention no. 182 on Worst Forms of Child Labor. The national legislation setting out labor principles and procedures include the contents of these conventions.

### **4.1. Principles and Procedures included in Labor Law No. 4857 and Governing Labor Life**

#### **4.1.1. Articles Regulating the Principle of Equal Pay for Equal Work**

According to Article 10 of the Constitution of Republic of Turkey, ‘everyone is equal before the law without distinction as to language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such grounds. The article also states that ‘men and women have equal rights. The State has the obligation to ensure that this equality exists in practice. Measures taken for this purpose shall not be interpreted as contrary to the principle of equality’.

Article 5 of the Labor Law of Turkey regulates the prohibition of discrimination in employment. According to this article ‘no discrimination based on language, race, sex, political opinion, philosophical belief, religion and sex or similar reasons is permissible in the employment relationship. Except for biological reasons or reasons related to the nature of the job, the

employer must not make any discrimination, either directly or indirectly, against an employee in the conclusion, conditions, execution and termination of his/her employment contract due to the employee's sex or maternity'. The same article also serves as a base for the principle of equal pay for equal value of work by stating that 'differential remuneration for similar jobs or for work of equal value is not permissible'.

#### **4.1.2. Articles Regulating Employment Contracts and Types**

According to Article 8 of Labor Law, employment contract is an agreement whereby one party (the employee) undertakes to perform work in subordination to the other party (the employer) who undertakes to pay him remuneration. The employment contract is not subject to any special form unless the Law stipulates the contrary. Written form is required for employment contracts with a fixed duration of one year or more. According to Article 10 of the Law, employment which, owing to its nature, lasts only up to 30 days is transitory; and employment which requires a longer period is continual. According to Article 11 of the Law, an employment contract is deemed to have been made for an indefinite period where the employment relationship is not based on a fixed term. An employment contract for a definite period is one that is concluded between the employer and the employee in written form, which has a specified term, or which is based on the emergence of objective conditions like the completion of a certain work or the materialization of a certain event. An employment contract for a definite period must not be concluded more than once, except when there is an essential reason which may necessitate repeated (chain) contracts. Otherwise, the employment contract is deemed to have been made for an indefinite period from the very beginning. According to Article 13 of the Law, employment contract shall be considered as a part-time contract where the normal weekly working time of the employee has been fixed considerably shorter in relation to a comparable employee working full-time.

#### **4.1.3. Articles Regulating the Termination of Employment Contracts**

Under the Labor Code, employers can terminate contracts in two ways: (i) showing a valid reason (Art. 18-19) or (ii) breaking the contract for a just cause. Employees who have completed 6 months of employment in a workplace that has at least 30 workers under a contract with an indefinite term, can benefit from certain protections under the Labor Code, protecting the worker from arbitrary termination of his/her contract. In order for the termination of an employment contract to be valid, a written notice must be given to the employee and legal notice periods must be respected. However, in certain cases, employers can terminate the employment relationship on the basis of a just cause (for reasons of health, for immoral, dishonorable or malicious conduct or other similar behavior, force majeure). In these cases, the employer is not obliged to comply with the legal notice periods and can terminate it immediately. For further details, please see, Labor Code, Art. 24-26.

In addition to these provisions, if the term of an employment contract with definite term expires, then the employment contract shall be terminated automatically without need for any notice of termination. The parties may decide that the party who does not want to extend the contract notifies the other party until a certain date before the contract expiration date.

Furthermore, it is also important whether an employee is covered by employment security with regard to termination of an employment contract. First, while it is mandatory that a valid cause exists for the termination of contract, with regard to employees covered by employment security, such a cause is not mandatory for employee not covered by such security.

#### **4.1.4. Articles Regulating Severance Pay**

Upon termination of the employment contract, employees are entitled to a severance payment on the condition that the employee has completed at least one year of continuous employment. This payment is calculated by multiplying the number of years of employment with the employee's monthly salary at termination. If the employer terminates the employment contract under just cause based on health reasons or force majeure, the employer must give severance pay to the employee, if applicable. However, if the employer terminates the employment contract under just cause on grounds of immoral and dishonorable acts of the employee, the employer is not liable to pay severance. If the employee terminates the employment contract for just cause, the employer must pay severance in all cases.

However, where the employee terminates the employment contract at will, without the presence of any cause set out under the Labor Code, the employer is not liable to pay severance to the employee (unless the employee terminated the contract due to factors such as military duty or marriage).

#### **4.1.5. Articles Regulating Collective Dismissal**

According to Article 29 of Labor Law, when the employer contemplates collective terminations for reasons of an economic, technological, structural or similar nature necessitated by the requirements of the enterprise, the establishment or activity, he shall provide the union shop-stewards, the relevant regional directorate of labor and the Public Employment Office with written information at least 30 days prior to the intended lay-off. A collective dismissal occurs when,

1. in establishments employing between 20 and 100 employees, a minimum of 10 employees;
2. in establishments employing between 101 and 300 employees, a minimum of 10 percent of employees; and
3. in establishments employing 301 and more workers, a minimum of 30 employees, are to be terminated in accordance with Article 17 on the same date or at different dates within one month.

#### **4.1.6. Articles Regulating Wages and Deductions**

An employment contract will determine the form and amount of remuneration. Wage payment and deduction are described between Article 32 and 62 of Labor Law. Remuneration will be paid at least once a month for the regular staff. As for the contracted project workers including project consultants, the remuneration terms would be defined differently in the employment contract on the basis of performance or proof of work. The minimum wage limit is also regulated by the Labor Law (Article-39). Furthermore, Regulation on Minimum Wage, published in Official Gazette no. 25540 dated August 01, 2004 sets out the principles governing the establishment of minimum wage.

#### **4.1.7. Articles Regulating Overtime Work and Extra Work**

According to Article 41 of Labor Law, wages for each hour of overtime shall be remunerated at one and a half times the normal hourly rate. In cases where the weekly working time has been set by contract at less than forty-five hours, work that exceeds the average weekly working time done in conduction with the principles stated above and which may last only up to forty-five hours weekly is deemed to be work at extra hours. In work at extra hours, each extra hour shall be remunerated at one and a quarter times the normal hourly rate. If the employee who has worked overtime or at extra hours so wishes, rather than receiving overtime pay he may use, as free time, one-hour and thirty minutes for each hour worked overtime and one hour and fifteen

minutes for each extra hour worked. The employee shall use the free time to which he is entitled within six months, within his working time and without any deduction in his wages. No overtime work shall be done in work of short or limited duration due to health reasons mentioned in the last paragraph of Article 63 as well as in night work stated in Article 69. The employee's consent shall be required for overtime work. Total overtime work shall not be more than two hundred seventy hours in a year. Overtime work and its methods shall be indicated in a regulation to be issued.

#### **4.1.8. Articles Governing Leaves**

According to Labor Law, Article 46, the employees working in establishments covered by this Act shall be allowed to take a rest for a minimum of twenty-four hours (weekly rest day) without interruption within a seven-day time period, provided they have worked on the days preceding the weekly rest day as indicated in Article 63. For the unworked rest day, the employer shall pay the employee's daily wage, without any work obligation in return.

According to the Labor Law, Article 53, Employees who have completed a minimum of one year of service in the establishment since their recruitment, including the trial period, shall be allowed to take annual leave with pay. The length of the employee's annual leave with pay shall not be less than;

- a. Fourteen days if his length of service is between one and five years, (five included),
- b. Twenty days if it is more than five and less than fifteen years,
- c. Twenty-six days if it is fifteen years and more (fifteen included).

For employees below the age of eighteen and above the age of fifty, the length of annual leave with pay must not be less than twenty days. The provisions of this Act on annual leave with pay are not applicable to employees engaged in seasonal or other occupations which, owing to their nature, last less than one year.

According to the Labor Law, Article 55, National holidays, weekly rest days and public holidays which coincide with the duration of annual leave may not be included in the annual leave period.

#### **4.1.9. Articles Governing Working Hours**

According to Labor Law, Article-63, duration of work will not exceed 45 hours per weeks (9 hours per day). This does not include time for meal breaks. Where hours are not equally distributed across the week, the daily working time may not exceed 11 hours per day.

#### **4.1.10. Articles Governing Rest Breaks**

According to Labor Law, Article 67, the beginning and ending of the daily working time and rest breaks shall be announced to workers at the establishment. Depending on the nature of activity, the beginning and ending times of work may be arranged differently for employees.

According to Labor Law, Article 68, Employees shall be allowed a rest break approximately in the middle of the working day fixed with due regard to the customs of the area and to the requirements of the work in the following manner;

- a. Fifteen minutes, when the work lasts four hours or less,
- b. Half an hour, when the work lasts longer than four hours and up to seven and a half hours (seven and a half included),

- c. One hour, when the work lasts more than seven and a half hours.

These are minimum durations and the full period must be allowed at each break.

#### **4.1.11. Articles Governing Principles and Procedures on Forced Labor, Child and Youth Labor**

Constitution of the Republic of Turkey, Art. 18 prohibits forced labor: “No one shall be forced to work. Forced labor is prohibited. Work required of an individual while serving a sentence or under detention provided that the form and conditions of such labor are prescribed by law; services required from citizens during a state of emergency; and physical or intellectual work necessitated by the needs of the country as a civic obligation shall not be considered as forced labor.”

Labor Law Article 80 of the Penal Code No. 5237 regulates the offense of human trafficking and Article 117 penalizes violation of the freedom to work and labor.

Labor Law No. 4857 sets the minimum age at which a child can be employed as well as the conditions under which children can work (Article 71, Chapter 4). The minimum employment age is 15, but children who have completed the full age of fourteen and their primary education on light works that will not hinder their physical, mental and moral development, and for those who continue their education, in jobs that will not prevent their school attendance. These jobs are defined in the Regulation on Principles and Procedures Applicable to Child and Youth Labor.

According to Article 73 of Labor Law, boys under the age of eighteen and women irrespective of their age must not be employed on underground or underwater work like in mines, cable laying and the construction of sewers and tunnels.

According to Article 71 of Labor Law, the working time of children who have completed their basic education and yet who are no longer attending school shall not be more than seven hours daily and more than thirty-five hours weekly. However, this working time may be increased up to forty hours weekly.

Also, participants of İŞKUR’s vocational training courses and on-the-job trainings must be above 15 years old to benefit from the programs according to Active Labor Services Regulation dated 12.03.2013 and numbered 28585.

#### **4.1.12. Articles Governing Principles and Procedures on Engagement of Female Employees**

According to Article 74 of Labor Law, in principle female employees must not be engaged in work for a total period of sixteen weeks, eight weeks before confinement and eight weeks after confinement. In case of multiple pregnancy, an extra two-week period shall be added to the eight weeks before confinement during which female employees must not work. However, a female employee whose health condition is suitable as approved by a physician’s certificate may work at the establishment if she so wishes up until the three weeks before delivery. In this case, the time during which she has worked shall be added to the time period allowed to her after confinement.

If the female employee so wishes, she shall be granted an unpaid leave of up to six months after the expiry of the sixteen weeks, or in the case multiple pregnancy, after the expiry of the eighteen weeks indicated above. This period shall not be considered in determining the employee’s one year of service for entitlement to annual leave with pay.

Female employees shall be allowed a total of one and a half hour nursing leave in order to enable them to feed their children below the age of one. The employee shall decide herself at what times and in how many instalments she will use this leave. The length of the nursing leave shall be treated as part of the daily working time.

#### **4.1.13. Articles Governing Labor Disputes**

The Labor code of Turkish includes provisions that allow workers to resolve disputes in cases where there is a disagreement between the employer and the employee over the essential terms and conditions of a labor agreement or other aspects of work. Such disagreement will be resolved in compliance with the Law on Mediation in Civil Disputes, numbered 6325, and according to the Turkish Labor Law, Article 20, The employee who alleges that no reason was given for the termination of his employment contract or who considers that the reasons shown were not valid to justify the termination shall be entitled to lodge an appeal against that termination with the labor court within one month of receiving the notice of termination. If there is an arbitration clause in the collective agreement or if the parties so agree, the dispute may also be referred to private arbitration within the same period. The burden of proving that the termination was based on a valid reason shall rest on the employer. However, the burden of proof shall be on the employee if he claims that the termination was based on a reason different from the one presented by the employer. The court must apply fast-hearing procedures and conclude the case within two months. In the case the decision is appealed, the Court of Cassation must issue its definitive verdict within one month.

#### **4.1.14 Articles Governing Workplace Abuse, Harassment (Mobbing) (including SEA/SH) and Unacceptable Behaviors**

Turkish Labor Code grants employees the right to immediately terminate employment contracts based on just cause and request severance compensation in case of Mobbing (psychological, economic, sexual) and Workplace Harassment (Discriminatory Harassment, Personal Harassment, Physical Harassment, Power Harassment, Psychological Harassment, Cyberbullying, Retaliation, Sexual Harassment) while the Code of Occupational Health and Safety and the Circular numbered 2011/2 (issued by the Prime Minister related to prevent mobbing in the workplace) regulate the obligations for employers to protect the physical and psychological health of the employees. The Turkish Labor Code defines different types of abuse and harassment at workplace and also states the rights of employees and employers together with the unacceptable behaviors and sanctions under the Labor Code. Article 24 of the Turkish Labor code, states that employee is entitled to break the contract, whether for a definite or an indefinite period, before its expiry or without having to observe the specified or other notice periods, in the cases such as immoral, dishonorable or malicious conduct or other similar behavior (including sexual abuse and harassment at workplace).

Article 25 of the Code also states that the employer may break the contract, whether for a definite or indefinite period, before its expiry or without having to comply with the prescribed notice periods, in such cases, for instance if the employee sexually harasses another employee of the employer.

If the actions subject to the mobbing bear discriminatory feature in terms of gender, ethnicity, religious belief, language or political view, the employees are also protected under the Code of Human Rights and Equality Institution of Turkey (“CHREIT”) and Article 5 of Turkish Labor Code providing for equal treatment at the workplace.

## **4.2. Legislation Governing Labor Unions and Collective Bargaining Agreements**

Workers and public servants have different union legislation. Workers were covered by the Unions and Collective Agreements Law No. 6356, published in Official Gazette No. 28460 dated 07.11.2012, whereas public servants are subject to Law No. 4688 on Civil Service Trade Unions and Collective Bargaining Agreements, published in the Official Gazette no. 24460 dated July 12, 2001. There are four types of collective labor agreements regulated by local law: workplace collective bargaining agreement, enterprise collective agreements, group collective agreements and framework agreements. A workplace agreement is created for a workplace, while an enterprise level agreement is created for more than one workplace in the same industry, owned by the same employer. A group collective agreement can be created between a trade union and an employers' union for workplaces in the same industry, owned by different employers.

According to Article 25 of Law No. 6356; employers cannot recruit employees subject to any condition as to their joining or refraining from joining a given trade union, their remaining a member of or withdrawing from a given trade union or their membership or non-membership of a trade union. The employer shall not discriminate between workers who are members of a trade union and those who are not, or those who are members of another trade union, with respect to working conditions or termination of employment.

Furthermore, if an employer acts in violation of these provisions, he shall be liable to pay union compensation which shall not be less than the worker's annual wage. Thus, the law guarantees individual freedom of trade union.

Pursuant to Law 4688, it is free to become member of a trade union. Public servants can become a member of a trade union established in the service branch of the business they are working in. Membership in multiple unions is not allowed. In case of membership with multiple unions, the membership with later unions shall be invalid. Public servants cannot be subject to a different treatment or cannot be removed from office due to participation in the activities of grade unions or confederations which are mentioned in the Law, outside working hours or during working hours with the permission of the employer. Public employer cannot change the employment place of the workplace trade union representative, trade union's workplace representative, provincial and district representative of the trade union, and trade union and branch managers without clearly and precisely specifying reasons thereof. Public employer cannot unequally treat public servants based on their membership or non-membership with a trade union.

The Constitution and other relevant laws include provisions concerning the protection of trade union rights and freedoms and require payment of compensation in case of violations.



## **5. BRIEF OVERVIEW OF LEGISLATION ON OCCUPATIONAL HEALTH AND SAFETY**

Occupational Health and Safety Law No. 6331 regulates the duties, responsibilities, rights and obligations of employers and employees in order to ensure occupational health and safety (OHS) in the workplace and to improve the existing health and safety conditions. This Law applies to all public and private businesses and workplaces, employers and employers' deputies of these workplaces and all employees, direct and contracted workers, including foreign workers and apprentices and trainees, regardless of their field of activity. The OHS law imposes a general obligation on employers to provide employees with a safe and healthy working environment and to inform workers of the potential risks their jobs may present to their health and safety.

The overview below provides key aspects of legislation which relates to the items set out in ESS2, paragraphs 24 to 30:

- Anyone in the project has right to stop activity until unsafe act/condition is properly resolved.
- All potential hazards to project workers' health and life will be identified for construction activity (Risk Assessment to be prepared and shared with workers).
- Any party who employs workers will develop and implement procedures to establish and maintain a safe working environment, including that workplaces, machinery, equipment and processes under their control are safe and without risk to health. This will include use of appropriate measures related to chemical, physical and biological substances and agents.
- Whenever avoidance of health and safety hazards is not possible, appropriate protective measures will be provided. These measures include controlling the hazard at source using protective solutions and providing adequate personal protective equipment (PPE) at no cost to the project/sub-projects worker.
- Any party who employs workers for the project, the employer will assign occupational health and safety specialist(s) at construction sites. The employer is obliged to assign health and safety specialist, according to workplace's hazard class, according to legislative requirement. Besides legislative required OHS specialist, each construction site will be appointed the dedicated OHS specialist(s) (at least C class).
- Project workers will receive OHS training at the beginning of their employment, as induction, and on a regular basis thereafter, to cover legislative requirement. Training will cover the relevant aspects of OHS associated with daily work, including the ability to stop work without imminent danger and respond to emergency situations. Training records will be kept on file. These records will include a description of the training, the number of hours of training provided, training attendance records, and results of evaluations.

The employer shall ensure the safety and health of workers in every aspect related to the work. The employer takes measures necessary for the safety and health protection of workers, including prevention of occupational risks and provision of information and training, as well as provision of the necessary organization and means and to ensure that the measures are adjusted taking account of changing circumstances and aim to improve existing situations (Occupational Health and Safety Law, Article 4).

The employer shall carry out a risk assessment or get one carried out (Occupational Health and Safety Law, Article 4 and 5).

The employer has to take appropriate measures to ensure that workers other than those who have received adequate information and instructions are denied access to areas where there is life-threatening and special hazard (Occupational Health and Safety Law, Article 4).

The workers' obligations in the field of safety and health at work shall not affect the principle of the responsibility of the employer (Occupational Health and Safety Law, Article 4). The employer shall provide occupational health and safety services including activities related to the protection and prevention of occupational risks (Occupational Health and Safety Law, Article 5, 6 and 7).

The employer shall provide occupational physicians and occupational safety specialists (Occupational Health and Safety Law, Article 8).

The employer shall assess the foreseeable emergency situations which could arise and identify those that might possibly and potentially affect workers and work environment considering the work environment, substances used, equipment and environmental conditions present in the workplace and take measures to prevent and limit adverse effects of emergency. The employer shall conduct measurement and assessments to afford protection, to prepare emergency plans (Occupational Health and Safety Law, Article 11).

The employer shall act and give instructions to enable workers to stop work and/or immediately to leave the workplace and proceed to a place of safety (Occupational Health and Safety Law, Article 12).

The employer will provide medical checks and health surveillance to workers. Workers to be employed in enterprises classified as hazardous and very hazardous shall receive a medical report before employment. The employer to cover all expenses related to the surveillance (Occupational Health and Safety Law, Article 4 and 15).

The employer will develop and implement reporting system for any accidents, diseases and incidents. Every accident will be reported to the employer, investigated and relevant measures will be designed to avoid the accident in the future. Also, remedies for adverse impacts such as occupational injuries, disabilities and diseases will be provided (Occupational Health and Safety Law, Article 14).

The employer shall inform the workers and workers' representatives about the safety and health risks and protective and preventive measures, their legal rights and responsibilities, workers designated to handle first aid, extra-ordinary situations, disasters, firefighting and the evacuation (Occupational Health and Safety Law, Article 16).

The employer shall ensure that each worker receives safety and health training. This training shall be provided on recruitment, in the event of a transfer or a change of job, in the event of a changed risks and repeated periodically if necessary (Occupational Health and Safety Law, Article 17).

Regulation on Occupational Health and Safety at Construction Sites, published in the Official Gazette no. 28786 dated 05.10.2013, Attachment 4, Articles 53-67 provide that project workers will be provided with facilities appropriate to the circumstances of their work, including access to canteens, hygiene facilities, and appropriate areas for rest.

The Law on OHS, 6331 numbered, defines basic requirements and general principles of occupational safety for jobs that are hazardous, very hazardous and less hazardous (Occupational Health and Safety Law, Article 9). The list of such jobs is provided in the ordinance of Ministry of Labor and Social Security. According to the mentioned list, the construction works for wastewater treatment plant, drinking water transmission and network

lines, sewage system and electrical works are generally considered to be inherently very hazardous, waste segregation (non-hazardous) work is considered as hazardous.

The law imposes a general obligation on employers to provide employees with a safe and healthy working environment and to inform workers of the potential risks their jobs may present to their health and safety. Measures that must be taken include, but are not limited to, training and information campaigns as well as adoption of relevant preventive measures. The law includes requirements for organizing and managing health and safety programs, providing emergency care and services, and responding to accidents. Other requirements include controlling access to hazardous workplaces, providing personal protective equipment at no charge to workers, and medical examinations (Occupational Health and Safety Law, Article 9-10-11).

The same Law stipulates administrative fines for employers who fail to fulfill the obligations arising from the Law, and sets out requirements concerning inspection and grievance mechanisms. According to Article 20 “Worker’s Representative” of the Law, in the event that no person can be elected or chosen to represent workers, the employer shall designate a workers' representative considering the risks present at work and the number of workers with special attention to balanced participation of workers. The number of representatives shall be identified in the following way:

- a) One representative for enterprises with between two and fifty workers.
- b) Two representatives for enterprises with between fifty-one and one hundred workers.
- c) Three representatives for enterprises with between one hundred one and five hundred workers.
- ç) Four representatives for enterprises with between five hundred one and one thousand workers.
- d) Five representatives for enterprises with between one thousand one and two thousand workers.
- e) Six representatives for enterprises with between two thousand one and more workers.

(2) Where there is more than one workers' representative, the chief representative shall be elected among the other workers' representative.

(3) Workers' representatives shall have the right to ask the employer to take appropriate measures and to submit proposals to him to that end to mitigate hazards for workers and/or to remove sources of danger.

(4) Workers' representatives may not be placed at a disadvantage because of their respective activities and the employer shall provide them with the necessary means to enable such representatives to exercise their rights and functions.

(5) Where there is an authorized trade union represented in the enterprise, the trade union representative shall act as workers' representative.

Also, the Law includes provisions that allow employees to take part in consultation process regarding health and safety issues, provide recommendations and raise concerns related to risks and hazards (Occupational Health and Safety Law, Article 25). The grievance mechanism is further discussed in this document (see section 8).

The Labor Law does not cover enterprises carrying out agricultural and forestry work and employing less than 50 employees, family-run construction work related to agriculture, works and handicrafts performed in the home, domestic work, sportsmen, people in rehabilitation, enterprises with three or less employees working as tradesmen or producing small handicraft

(Article 4 titled “Exceptions”). In this project, all employment facilitation will support formally registered jobs.

## **6. RESPONSIBLE STAFF**

There are two currently established Project Implementation Units (PIUs) which are under the purview of the MoLSS-DGILF and İŞKUR and are likely to take over the proposed project management responsibility. An additional PIU will be located in TRC. These units will be responsible for the procurement, financial management, social and environmental requirements, monitoring and regular reporting on the implementation of the project, in compliance with WB fiduciary and reporting requirements as well as communication and outreach activities.

MoLSS-DGILF will be responsible for the following:

- Application of this labor management procedure to all project employee categories including direct workers, working in MoLSS PIU
- Update this labor management procedure when necessary in the course of preparation, development and implementation of the Project, as well as in case the domestic legislation changes in any aspects of importance for this LMP
- Maintain records of recruitment and employment process of direct workers to be employed for the project
- Monitor employment process of contracted workers to ensure it is carried out in accordance with this labor management procedure and national labor law
- Develop, and implement workers' grievance mechanism and address the grievance received from the direct, contracted and community

İŞKUR will be responsible for the following:

- Application of this labor management procedure to İŞKUR staff working in relation to this project
- Comply with labor management procedure, national employment, health and safety laws
- Maintain records of recruitment and employment process of direct workers
- Monitor ATP process of project beneficiaries to ensure it is carried out in accordance with this labor management procedure
- Monitor compliance of the employers providing ATP with this Labor Management Procedures, provisions related to project beneficiaries
- Monitor training of the project workers on OHS
- Implement workers' grievance mechanism and address the grievance received from the direct, and project beneficiaries
- Communicate clearly job description and ATP conditions to project beneficiaries

Employers participating in ATP will be responsible to comply with İŞKUR policies on ATP, national labor and social insurance laws, and with provisions of this LMP related to project beneficiaries. With regard to TRC, Human Resources Department of TRC will have the overall responsibility for applying all aspects of Labor Management Procedures, to the staff working for the project.

## 7. POLICIES AND PROCEDURES

For civil servants involved in project operations, the provisions of these Labor Management Procedures shall apply, including terms and conditions of appointment in the public sector and national legislation on occupational health and safety<sup>5</sup>. For other employees, the following framework will be followed, in addition to the applicable legislation:

- All contracted project workers shall be provided with employment contracts in writing, including terms of reference, working hours, working conditions and wage level (including overtime work pays). Workers will sign the employment contract and keep one copy.
- Clear job descriptions will be provided in advance of recruitment and will explain the skills required for each post.
- Applications for employment will be considered in accordance with the application procedures established by the MoLSS, İŞKUR and TRC.
- In addition to written documentation, an oral explanation of conditions and terms of employment will be provided to workers who may have difficulties with understanding the documentation.
- Working hours of 45 hours per week, and in case of necessity of overtime work, workers will be paid for overtime work as prescribed by the Labor Law. Employer may request employees to work overtime, not exceeding 270 hours per year, as stipulated in the Labor Code. Further, the employee's consent shall be required for overtime work, in January each year, as required by the Labor Code
- Workers are entitled to a regular salary, as well as to compensation of salary for periods of absence from work or specific conditions of work such as overtime work, work on holidays, weekends, etc. This condition will not be applied for project workers (such as consultants) who is not working on regular basis, but specific jobs evaluated by the performance or the amount of tasks completed.
- Project workers will have access to the grievance mechanism as described in Chapter 10 of this Procedure,
- Implementation of measures of protection at work and safety for jobs with increased risk of injury and damage to health, as well as organization of training for workers in such jobs
- Keeping records of workers who are working on tasks with increased risk of injury and harm to health.

MoLSS will inform the Bank promptly about any incident or accident related to the project which has, or is likely to have a significant adverse effect on the environment, the affected communities, the public or workers (related to labor, occupational health and safety, general health such as outbreak of pandemic or communicable diseases, or security) as soon as reasonably practicable, but no later than three business days after identifying and confirming the occurrence of the event. Such events can include strikes or other labor protests, serious worker injuries or fatalities, project-caused damages to community members or property

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<sup>5</sup> Effectiveness of Articles 6 and 7 of Occupational Health and Safety Law has been postponed with respect to public institutions.

damage. If applicable, MoLSS will also inform the World Bank about respective corrective action within 30 calendar days.

TRC's HR regulations and procedures are in compliance with the national legislation and regulations. TRC applies HR practices and standards endorsed by the IFRC. Project's direct workers will be hired and managed by TRC's internal HR rules, procedures and processes.

TRC's internal regulations and procedures are summarized below:

- (a) *Personnel Regulation* regulates the working conditions, qualifications, rights and obligations and wages of the personnel subject to the employment contract. These include personnel selection and placement, appointments, works hours, overtime, public holidays, leave and unpaid leave, wages and benefits, temporary assignments, travel and travel expenses, staff planning, performance management, workplace principles, code of conduct, working rules, etc.).
- (b) *Disciplinary Regulation* covers the situations, behaviors, acts and disciplinary penalties and disciplinary penalties applied to employees.
- (c) *Performance Regulation* covers principles and procedures of the Performance Management System by explaining the measurement and evaluation methods. The Performance Management system is applied for all employees.
- (d) *Budget Regulation (provisions on Organization, Employment and Social Rights)* covers the procedures and principles regarding the preparation and implementation of the Turkish Red Crescent annual budget, including the scope of in-kind and cash benefits to be paid to the personnel.
- (e) *Termination Procedure* determines the procedures and principles of the cease of employment for employees and their assignment. The provisions are based on the Labor Law No. 4857. It is stated in the procedure that the employee leaving the job will be entitled to severance pay according to the type of departure.
- (f) *Leave Procedure* covers paid and unpaid leave processes applied by TRC. This covers both the paid leave as required by law and additional leave and benefits provided by TRC to its employees.

TRC provides orientation to all newly hired staff on OHS as required by the national legislation and regulations. TRC's Directorate of Occupational Health and Safety and TRC Human Resources are responsible for OHS compliance. TRC provides periodic trainings and sensitization activities are undertaken to ensure all TRC workers are informed about OHS procedures and activities. In addition, TRC adheres to standards applied by the International Federation of Red Cross and Red Crescent Societies.

## 8. AGE OF EMPLOYMENT

The minimum working age of project workers will be 18 years but age 16-18 years old will be allowed in line with national law with certain exceptions (please see Section 4.1.11). İŞKUR's employment programs are eligible to 16-18 years old and given that half of the participants of the ongoing Employment Support Project for SuTP and Turkish Citizens are young people, under certain limitations 16-18 years old will benefit from the Project.

The contractors/employers will be required to verify the identity and age of all workers. This will require workers to provide official documentation, which could include a birth certificate, certificate based on the results of a medical examination, national identification card, and passport.

If a child under the minimum age is discovered working on the project, measures will be taken to immediately terminate the employment or engagement of the child in a responsible manner, taking into account the best interest of the child.

### **Regulations on the Principles and Procedures for the Employment of Children and Young Persons (2004)**

This regulation governs ways in which persons above the age of 15 and below 18 years can be engaged in work in a manner which does not interfere in their health, physical, mental, spiritual, moral and social development. This regulation also includes types of jobs in which persons below the age of 18 years cannot be engaged.

The employers participating in the ATP will be required to verify the age of all workers. This will require workers to provide official documentation, which could include a national identification card, passport, birth certificate, certificate based on the results of a medical examination, or any other government issued document.

- Employers participating in the ATP may employ persons from 16 to 18 years old. The following measures will be implemented to ensure that the work is not hazardous and does not interfere child's health, physical, mental, spiritual, moral and social development: Workers between the ages 16 and 18 years will not be engaged in hazardous jobs, including underground, underwater work, working at heights or confined spaces, working with dangerous machinery, equipment or tools, or involving handling or transport of heavy loads, in unhealthy environments exposing them to hazardous substances, agents, or processes, or to temperatures, noise, or vibration damaging to health; or under difficult conditions such as work for long hours, during the night or in confinement on the premises of the employer.
- Employers will conduct an appropriate risk assessment prior to the work commencing to ensure that the work is not hazardous. The employers are obliged to maintain records of such risk assessments.
- Employers are obliged to provide the workers between the ages of 16 and 18 years regular occupational health and safety trainings, and to maintain the records of such trainings.
- Employers will be obliged to create and maintain a separate record of all workers over the age of 16 and under 18. This record may include details of their enrolment in school or vocational training programs; and details about their weekly working hours.
- Workers under age of 18 will be prohibited to work overtime.
- The daily working periods of workers between the ages of 16 and 18 years will be applied taking into consideration an uninterrupted 14-hour rest in a 24-hour period.



- A rest break will be given of 30 minutes in jobs of two to four daily hours and one hour in the middle of the work period in jobs of four to seven daily hours
- Periods spent in training which the employer must give, and periods spent in courses and in vocational training programs arranged by the authorized institutions and establishments shall count as working hours. The weekly periods of rest for workers between the ages 16 and 18 years will not be less than 40 hours of uninterrupted rest. The weekly rest shall be paid. They will not work on national and public holidays.
- The annual paid leave to be given to workers between the ages of 16 and 18 years may not be less than 20 days and it may be taken in two parts at most. Annual paid leave shall be given to young workers continuing school education in periods when it is the school holidays or when their course or other training programs is not ongoing.
- The employers will give workers between the ages of 16 and 18 years the necessary training about the work to be carried out according to the risks in the workplace, their work rights and legal rights according to the nature of the work before they start working.
- The employers will conduct monthly monitoring of health, safety and working conditions, hours of work, and trainings provided to workers between the ages of 16 and 18 years. ISKUR will be able to access these records, as necessary.

If a child under the minimum age is discovered working on the project, measures will be taken to immediately terminate the employment or engagement of the child in a responsible manner, taking into account the best interest of the child.

## **9. TERMS AND CONDITIONS**

The terms and conditions applying to MoLSS and İŞKUR personnel are set out in the Civil Servants Law No. 657. Terms and conditions of direct workers, who are employed as consultants and as contract workers in İŞKUR, are determined by their individual contracts, in line with the Labor Code and Law of Obligations.

The provisions of the national legislation and TRC HR policies govern terms and conditions of employment by TRC. TRC employees are provided with all the benefits and social rights as mandated by the national legislation (i.e. overtime, paid annual leave, family leave, sick leave, unpaid leave, maternity and paternity leave, etc.). Maximum weekly working hours allowed by national legislation is 45 hours per week; however according to TRC's employment policy and regulations, work is undertaken 40 hours per week and 8 hours per day. According to national legislation, TRC employees (workers who are subject to Law No. 4857) can form unions or be member of unions.

In addition to the relevant legislation and legal remedies, the mechanisms defined in Chapter 7 of the Stakeholder Engagement Plan will apply.

Grievance mechanism for project beneficiaries is described in the Chapter 11.

## 10. CONTRACTOR MANAGEMENT

MoLSS, İŞKUR and TRC shall ensure that contractors are legitimate and reliable entities and that they have procedures established for management of labor in compliance with this Procedure.

Contracts with contractors shall include a provision on the obligation to comply with current legislation on labor and protection at work together with a Code of Conduct that defines the set of ethical aspects required from contractors. During selection of contractors, the PIUs can ask to be provided with an insight into additional documentation, including, without limitations, the following:

- Information in public records, for example, corporate registers and public documents relating to violations of applicable labor law, including reports from labor inspectorates and other enforcement bodies;
- Business licenses, registrations, permits, and approvals;
- Documents relating to a labor management system, including OHS issues, for example, labor management procedures;
- Identification of labor management, safety, and health personnel, their qualifications, and certifications;
- Workers' certifications/permits/training to perform required work;
- Records of safety and health violations, and responses;
- Accident and fatality records and notifications to authorities;
- Records of legally required worker benefits and proof of workers' enrollment in the related programs;
- Worker payroll records, including hours worked and pay received;
- Identification of safety committee members and records of meetings;
- Copies of previous contracts with contractors and suppliers, showing inclusion of provisions and terms reflecting ESS2.

The contracts with selected contractors will include provisions related to labor and occupational health and safety, as provided in the World Bank Standard Bidding Documents and Turkish Law.

Code of Conduct for MoLSS and İŞKUR will follow the national legislation to address environmental and social risks as well as ethical standards and these standards will be applied to all public employees, contracted staff, laborers and other employees. Public institutions are subject to ethical legislation and decisions of Ethics Committee of Public Officials.<sup>6</sup>

TRC also follows the "Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organisations (NGOs) in Disaster Relief" which seeks to maintain the high standards of independence, effectiveness and impact as well as standards of behavior.

The PIUs will monitor the performance of Contractors in relation to contracted workers, focusing on compliance by contractors with their contractual agreements (obligations,

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<sup>6</sup> For more information, please visit [www.etik.gov.tr](http://www.etik.gov.tr) and <https://www.iskur.gov.tr/kurumsal-bilgi/etik-komisyonu/>

representations, and warranties). This may include periodic audits, inspections, and/or spot checks of project locations or work sites and/or of labor management records and reports compiled by contractors. Contractors' labor management records and reports may include: (a) a representative sample of employment contracts or arrangements between third parties and contracted workers; (b) records relating to grievances received and their resolution; (c) reports relating to safety inspections, including fatalities and incidents and implementation of corrective actions; (d) records relating to incidents of non-compliance with national law; and (e) records of training provided for contracted workers to explain labor and working conditions and OHS for the project.

## 11. PROJECT BENEFICIARIES and GRIEVANCE MECHANISM

Project beneficiaries are beneficiaries under Subcomponent 1.1: *Intermediation and Counseling Services and Employment Support for SuTP and Turkish Citizens* provided by İŞKUR, i.e. the persons who will receive Applied-Training Program (ATP) financed under the Project.

*Selection of project beneficiaries for the ATP:* İŞKUR will match the jobseeker with a selected employer from a pool of potential employers from existing eligible employer network of İŞKUR's province and district offices or from vacancies posted with İŞKUR. Assignment and matching of jobseekers to industry, occupation and employers for the ATP will be driven by labor market demand. ATP will build on the wide range of existing programs that İŞKUR has developed and delivered to different groups of the jobseekers in the past. Selected eligible employers compliant with İŞKUR program regulations will offer training to the beneficiaries.

*Duration of engagement in ATP:* The ATP will last maximum six months without any sectoral and occupational limitation except for specific occupations. The ATP will be accessible only to those jobseekers who are not currently benefiting from similar on-the-job training programs provided by İŞKUR. The costs of the provision of the training will be borne by the Project.

*Terms and conditions applying to project beneficiaries:*

- The project beneficiaries will be provided written contracts including information about terms and conditions. A project beneficiary (community worker) shall keep one copy of the signed contract.
- In addition to written documentation, an oral explanation of conditions and terms of employment will be provided to illiterate workers who may have difficulties with understanding the documentation.
- Project beneficiaries will be paid daily stipends which are equivalent to the monthly minimum wage level in Turkey. The stipend levels are set by İŞKUR in line with OJT program regulations.
- The ATP will also pay for workers' occupational health and safety and general health insurance for the duration of the ATP.
- Regular working hours will be max. 45 hours per week. There will be no overtime work.
- Project beneficiaries will work maximum 6 days per week depending on the nature of work.
- National occupational health and safety law will apply to project beneficiaries.
- Engagement of project beneficiaries will be based on the principles of non-discrimination and equal opportunity. There will be no discrimination with respect to any aspects of the employment relationship, such as recruitment, compensation, working conditions and terms of employment, access to training, promotion or termination of employment.
- Recruitment procedures will be transparent, public and non-discriminatory with respect to ethnicity, race, religion, sex, disability, political beliefs, and other grounds included in the Labor Code.

- Clear job descriptions will be provided in advance of recruitment and will explain the skills required for each ATP post.
- In instances where SuTP do not have work permits, but are still eligible to participate in the ATP, ESS2 protections will apply.

As with all İŞKUR ATP programs there will be an employment guarantee provision for a share of participants (project beneficiaries) engaged in the ATP.

İŞKUR has Applied Training Programs Procedures that will be applicable to participants in the ATP: Employers and project beneficiaries.

*Eligibility of Employers to participate in ATP:* The applied training program can be implemented at all entities (“Employers”) which are registered with İŞKUR and which have minimum two insured (registered) employees. Here, the term “insured employee” implies the employees subject to subparagraph (a) of the first paragraph of Article 4 of Social Insurance and Universal Health Insurance Law No. 5510, and the employers with employees (minimum two) subject to Labor Law No. 4857 or Tradesmen and Artisans Law No. 507 or subject to special fund deduction can also benefit from the program. It is mandatory to consider only these requirements in determining the entities where program will be implemented in this scope.

The authority and responsibility for accepting or declining the program applications of employers who satisfy the application conditions shall be held solely by İŞKUR provincial directorates/service centers. As deemed necessary when evaluating applications, provincial directorates/service centers may consider whether the employer has acted in compliance with the contractual and legal provisions in previously implemented programs, whether they have fulfilled their obligations duly and in a timely manner, assessments of previous trainees about the employer and their contributions to trainees, growth in their employment, etc. The provincial directorate/service center may visit the entity where the program will be implemented to verify and document that occupational health and safety measures are in place, that the entity has an enabling environment for trainees to learn about the vocation subject to program and that the program official is actually employed at the plant, before signing the contract.

Taking into consideration the field of activity of the entity taking up the program, and provided that the consent of project beneficiaries is obtained, it is possible to deploy trainees in other provinces for a period of not more than seven days for the purposes of practicing the vocation as well as training purposes, subject to the approval of the provincial directorate.

*Obligations of the Employer:* The ATP program officer designated by the employer pursuant to Article 48 of the Regulation on Active Labor Force Services shall be obliged to provide necessary facilitation so that the participant (community worker) gain knowledge and experience about his/her occupation in line with the objectives of the program and to assign duties to the participants (project beneficiaries) as limited solely to the occupation covered by the program. If İŞKUR finds that a participant (community worker) is assigned duties irrelevant to the program’s objectives the employer shall be initially warned, and the provincial directorate shall decide to terminate the contract if such violation continues despite the warning. In this scope, the program officer shall be obliged to regularly fill out the Participant Evaluation Form and ensure that it is sent to the provincial directorate together with the trainee attendance tables prepared by the employer on a monthly basis. The provincial directorate shall evaluate these forms and provide guidance for the future implementation of the program. If the program officer designated by the employer is changed, the employer shall notify such replacement to the provincial directorate / service center in writing. The employer shall be obliged to take necessary measures concerning occupational health and safety. If the participant is exposed to

an occupational accident during the training, the accident shall be immediately reported by the employer to the authorized local law enforcement forces, and to the Social Security Institution within three working days after the accident, at the latest, pursuant to the provisions of the applicable legislation.

Relevant documents from the list of following documents must be submitted when an employer applies to the ATP program: a) Letter of application, b) Employer's letter of undertaking c) Preliminary Request Form, d) Depending on the type of employer, original or notarized copies of trade registry gazette, articles of foundation, association charter, certificate of registration with union or chamber or documents demonstrating the legal status of the employer (copies approved by the provincial directorate / service center may also be acceptable provided that the original copies of documents are seen), e) Document showing the number of insured employees during the last three months or a document showing the insurance extract of the candidate participants for the last three months (to verify that the participant is not an employee of the employer's workplace) f) Specimen signature of the employer or the representative of the employer with signing authority (copy approved by the provincial directorate / service center may also be acceptable provided that its original copy is seen).

*Inspections and Visits.* Pursuant to Article 59 of the Regulation on Active Labor Force Services, program inspections shall be conducted by the Inspection Board set up in accordance with Article 13 of Law No. 4904 on Turkish Employment Agency, without prejudice to the İŞKUR's supervisory powers. Inspections and visits may also be conducted by the Agency staff within the framework of job and vocational counselling services and also by the staff of Directorate General as necessary at any state of the program. The employer shall be obliged to provide necessary facilitation during inspections and visits.

In case it is determined that the employer has failed to fulfill his/her obligations under the letter of undertaking stipulated in the first paragraph of Article 51 of the referred Regulation, pursuant to the first paragraph of Article 60 of the Regulation, ongoing programs shall be terminated, if any, and all of the payments made to participants for the ongoing programs will be collected from the employer together with their legal interest, and the employer will be banned from the courses and programs under this Regulation for a period of twelve months beginning from the date of such finding.

According to Article 93 "Occupational health and safety" of the referred Regulation, it is the responsibility of employer to take necessary occupational health and safety measures during the implementation of courses and programs, to keep all tools and instruments available for this purpose and send required notices to government bodies in case of occupational accidents and diseases within the required timeline. Employers shall be obliged to send required notices to government bodies in case of occupational accidents within the required timeline and also inform the provincial directorate thereof.

According to Article 94 "Accessibility of the persons with disabilities" of the referred Regulation, it is the responsibility of the contractor/employer to take required measures for ensuring the accessibility of the training venue as well as other sections used for access to the venue, in order to promote the participation of disabled individuals in courses and programs.

#### *Grievance mechanism for Project beneficiaries*

The detailed uptake channels of the GRM will also be detailed in the Project Operational Manual and all project beneficiaries will be informed about these channels, as it is also practiced under the Employment Support Project for Syrians under Temporary Protection and Turkish Citizens Project (P161670) implemented by MoLSS and İŞKUR.

Project beneficiaries who access ATP and employment through the facilitation of the project as well as the contracted personnel of the project will be able to utilize MoLSS existing hotline (call center) known as 'ALO 170'. ALO 170 Labour and Social Security Communication Center was established in 2010 to resolve and administer work related grievances.

The call center will address all sorts of notifications, applications, complaints, feedback related to work life and social security. The GRM can thus be used to submit complaints, feedback, queries, and suggestions related to:

- the violation of project policies, guidelines, or procedures, including those related to principles and procedures governing child and youth labor, health and safety of workers and gender-based violence.
- general feedback, questions, suggestions.

The ALO 170 is providing services 24x7 in English, Arabic and German as well as Turkish and all applications to the call center are logged and have to be resolved within legal timeframe. It also has a website available ([www.alo170.gov.tr](http://www.alo170.gov.tr)) and provides live online chat services. ALO 170 will segregate the grievances related to this project and report each grievance and its resolution to MoLSS PIU GRM Focal Point for monitoring and reporting purposes.

Project beneficiaries, as part of the project intermediation/counseling services and employment support, will receive detailed orientation about the labor legislation, OHS, labor rights and ALO 170. This will ensure that project beneficiaries are fully aware of prevailing legislation in relation to formal employment, know where and how to complain in case of breach of terms and conditions in employment (wages, OHS, working conditions, harassment, gender-based violence etc.).

#### *GRM channels and procedures*

Existing GRM, ALO 170 of MoLSS has four different channels to receive grievances:

- a) Complaint form: By filling online complaint form (<https://www.alo170.gov.tr/>)
- b) Phone 7 day/24 hours accessible also for persons with disabilities: Dialing 170 from any phone
- c) E-mail: By sending e-mails to [iskur@iskur.gov.tr](mailto:iskur@iskur.gov.tr) or to [employmentsupport@csgb.gov.tr](mailto:employmentsupport@csgb.gov.tr)
- d) Fax: +90 (312) 296 18 74, Directorate General of International Labour Force
- e) Postal mail: By applying to the MoLSS with a petition in line with the Law No. 3071 Right for Petition

Submissions can also be made anonymous to these channels with at least one contact information to be provided in case response is requested by the complainant.

Grievances, inquiries, demands received from ALO 170 channels are recorded and an acknowledgement of receipt is shared immediately. Applications are evaluated within 72 hours. Written applications via petitions are evaluated and responded in 15 days according to the relevant Law of Right to Petition.



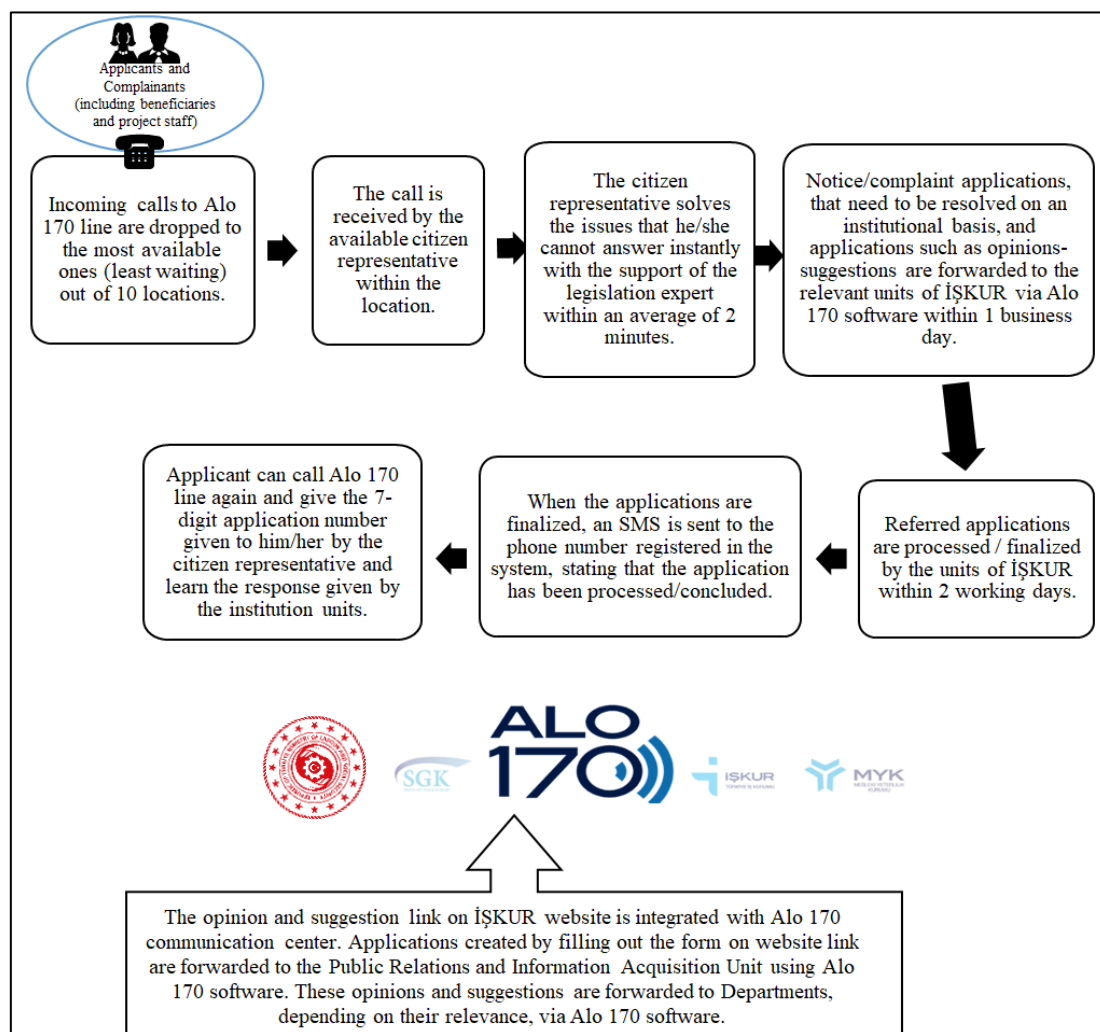


Figure 1: Flowchart of ALO 170

As appeals mechanisms, workers can also apply to CIMER the Presidential Communication Center and/or if there is a labor dispute, there is a compulsory arbitration process for the employer and employee exercised under the Labor Code, before filing a lawsuit in Labor Courts. The arbitration process has faster and more effective hearing procedures and conclude the case in 3 weeks.

#### *GRM monitoring and reporting*

MoLSS and İŞKUR will utilize ALO 170 GRM database, where project beneficiaries' grievances and their resolution will be recorded for monitoring purposes, ensuring that each grievance has an individual reference number and is appropriately tracked and recorded actions completed. This will facilitate feedback regarding project design and of the functionality of the GRM. The PIU will make semi-annually reports available to the World Bank team on the implementation of the workers' GRM. In addition, data on grievances and/or original grievance logs will be made available to World Bank missions.

Handling grievances that are sensitive (such as related to harassment, sexual exploitation and abuse/sexual harassment (SEA/SH) at workplace) will be treated in full confidentiality and national referral system will be followed. Turkey has already a national referral system for GBV, not only domestic violence but also workplace related harassment, bullying, violence as well as SEA/SH at workplace, which all institutions and companies are following. These are

under the auspices of MoLSS and already detailed in both the Turkish Labor code and Turkish Penal code, where unacceptable behaviors are explained, and relevant penalties are detailed. Psychosocial support is already provided and available for GBV survivors. The GRM that will be utilized for the project will also be used for addressing SEA/SH issues at work-place including Alo 170 and will have in place mechanisms for confidential reporting with safe and ethical documenting of SEA/SH issues.

When such sensitive grievances are recorded, the Bank will be notified as well as the Project Manager, Field Coordinator, Safeguard Specialist and Communication Specialist, HR Manager as appropriate, shall be responsible for taking appropriate action in cases in which there is reason to believe that any right has been violated.

The MoLSS PIU's GRM focal point will be responsible also for:

- Analyzing the qualitative data on the number, substance and status of complaints;
- Monitoring outstanding issues and proposing measures to resolve them;
- Submitting semi-annually reports on GRM mechanisms to the Project Coordinator at the MoLSS PIU.
- For those sensitive grievances that need to follow the national referral system, will not be resolved by the GRM focal point only confidentially recorded and forwarded to the relevant authorities as defined in the Turkish Labor and Penal Code.

Semi-annually reports shall include a section related to beneficiaries' GRM which provides updated information on the following:

- Status of GRM implementation (procedures, training, public awareness campaigns, budgeting etc.);
- Qualitative data on number of received grievances \ (applications, suggestions, complaints, requests, positive feedback),
- Quantitative data on the type of grievances and responses, issues provided and grievances that remain unresolved;
- Level of satisfaction by the measures (response) taken;
- Any correction measures taken and solutions.

#### *Turkish Red Crescent Complaint Mechanism for employees*

TRC has a grievance and complaints mechanism for employees. Complaints and grievances can be submitted verbally or via email, written statement, TRC hotline (#168) or via the TRC website. Complaints and grievances are received and processed by TRC Human Resources. After the general evaluation of Human Resources and related department manager, the complaints are referred to the Workplace Disciplinary Board in line with the severity and importance of the matter complained. A written statement or description of the grievance or complaint is required for board review. The reason for receiving the complaint in writing is to prevent malicious or unfounded complaints and to record the complaint for possible legal processes. The response is identified and implemented within the framework of the TRC Disciplinary Regulation. The grievance or complaint is addressed within maximum 30 calendar days. The timing of the action and response depends on the severity of the grievance or complaint. If necessary, administrative or disciplinary action may be imposed. Administrative actions may include warning, return to the original task, banning from team duty, change of

duty, title, position, and suspension of work. Disciplinary actions may include warning, condemnation, fee cut penalty and dismissal from duty. The period of appeal of the personnel to the disciplinary penalty is 6 business days. Any objections to such decisions are accepted only once and examined in a higher committee. If no objection is made within the period, the employee is deemed to have accepted the administrative or disciplinary action.

The internal rulings cannot be challenged for the penalties imposed in accordance with Article 25/2 of the Labor Law (Situations that do not comply with the Code of Ethics and Goodwill). In such decisions, the employee has the right to sue in Labor Courts. Legal disputes arising from individual, as well as collective, employment relations fall under the jurisdiction of the Labor Courts (Labor Courts have the same single-judge structure as Turkish civil courts, which handle labor disputes where no Labor Court is available). Employees are obliged to inform the Human Resources if they witness acts and behaviors that are prohibited and/or criminalized by national and international legislation are performed. In the event that written complaints are received from real and legal persons with clear identity information, contact information and signature, the human resources team is obliged to initiate, process and finalize the processes.

A guideline regarding the steps to be taken by workers in case of grievance and complaints will be prepared in line with the legal and institutional framework presented above and made available to all project workers in two weeks after official project commencement.