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Development of Occupational Health and Safety in Turkey: A Legal Evaluation from the Republic to the Present

Türkiye'de İş Sağlığı ve Güvenliğinin Gelişimi: Cumhuriyetten Günümüze Hukuki Bir Değerlendirme

ABSTRACT

A healthy and safe working environment is the fundamental right of all workers. It is essential to protect the physical and mental integrity of all employees, regardless of their status and field of work. The main responsibility for ensuring occupational health and safety in workplaces belongs to the employer. The limits of this responsibility of the employer are generally determined by public power. Although the emergence of the concept and practices of occupational health and safety is quite old, its development in Turkey is not very old. When the historical process is examined, it is seen that the practices in the sense of occupational health and safety emerged in the last periods of the Ottoman Empire, albeit at a limited level. The reason why these practices are expressed as very limited is both the absence of a working class and the concentration of existing industrialization activities in certain regions. With the adoption of the Republic, the newly established state started efforts to create legislation to facilitate daily life and working life as well as industrialization movements. Regulations on working life are constantly changing depending on the needs and developments that arise over time. The main law in the field of occupational health and safety in Turkey today is the Occupational Health and Safety Law No. 6331. Apart from this Law, there are many regulations that contain direct and indirect provisions on occupational health and safety. However, Law No. 6331 is extremely important in terms of being the basic law on occupational health and safety, gathering the scattered provisions under a single roof and having a wide scope of application in terms of both location and persons.
Keywords: Occupational Health and Safety, Occupational Health and Safety Law No. 6331, protection of employees.

ÖZET

Sağlıklı ve güvenli bir çalışma ortamı tüm çalışanların temel hakkıdır. Çalışma hayatında statülerine ve çalışma alanlarına bakılmaksızın tüm çalışanların beden ve ruh bütünlüklerinin korunması esastır. İşyerlerinde iş sağlığı ve güvenliğinin sağlanması konusunda temel sorumluluk işverene aittir. İşverenin söz konusu sorumluluğunun sınırları da genellikle kamu gücüyle belirlenmektedir. İş sağlığı ve güvenliği kavramının ve uygulamalarının ortaya çıkışı oldukça eskilere dayanmakla birlikte, Türkiye'deki gelişimi aslında çok eski değildir. Tarihsel süreç incelendiğinde iş sağlığı ve güvenliği anlamındaki uygulamaların, sınırlı bir düzeyde olmakla birlikte Osmanlı Devleti'nin son dönemlerinde ortaya çıktığı görülmektedir. Söz konusu uygulamaların oldukça sınırlı olarak ifade edilmesinin nedeni hem bir işçi sınıfının bulunmayışı hem de mevcut sanayileşme faaliyetlerinin belli bölgelerde toplanmasıdır. Cumhuriyetin kabulü ile birlikte yeni kurulan devlet, sanayileşme hareketlerinin yanında günlük hayatı ve çalışma hayatını kolaylaştırmak adına mevzuat oluşturma çabalarına da başlamıştır. Çalışma hayatına ilişkin düzenlemeler zaman içeresinde ortaya çıkan ihtiyaçlara ve gelişmelere bağlı olarak sürekli değişmektedir. Türkiye'de günümüzde iş sağlığı ve güvenliği alanında temel kanun 6331 sayılı İş Sağlığı ve Güvenliği Kanunu'dur. Bu kanun dışında iş sağlığı ve güvenliği ile ilgili dolaylı ve doğrudan hükümler içeren birçok düzenleme bulunmaktadır. Ancak 6331 sayılı Kanun, iş sağlığı ve güvenliğine ilişkin temel kanun olması, dağınık haldeki hükümleri tek bir çatı altında toplaması, kapsamının hem yer hem de kişiler açısından uygulama alanının geniş bir çerçevede belirmiş olması bakımından son derece önemlidir.
Anahtar Kelimeler: İş Sağlığı ve güvenliği, 6331 sayılı İş Sağlığı ve Güvenliği Kanunu, işçinin korunması.

1. INTRODUCTION

Every employee has the right to work in a healthy and safe environment. Therefore, it is essential to protect the health and safety of employees. Although the main responsibility for the protection of employees the existing legal regulations are extremely important in terms of determining the scope of employers' responsibilities. Employers are held responsible for taking all measures to protect the health and bodily integrity of employees. However, employees are also expected to comply with occupational health and safety measures while fulfilling their labour obligations and not to expose themselves, the work environment, and other employees to danger. In this respect, both employees and employers must fulfill all their obligations in accordance with legal regulations.

Although it is stated that the regulations in the field of occupational health and safety in Turkey started to develop with the proclamation of the Republic, it is seen that there were limited regulations in the pre-Republican period. It is possible to state that these regulations, especially for the employees in mining regions, were the first steps in the development of labor law in Turkey. The reason why labor law, and therefore regulations on occupational health and safety, did not emerge in Turkey until the 1900s is that industrialization movements were not developed and widespread in the pre-Republican period. The lack of an existing working class and large production sites delayed the regulations regarding the employees in this sector. The main regulations in this period were the Dilaver Paşa Regulation, the Maadin Regulation, Law No. 151 and Law No. 114.

In the post-Republican period, as industrialization movements and production started to be carried out intensively in large production sites, the working class also started to form. This led to the introduction of regulations for the working class. Unlike the pre-Republican period, the regulations made were aimed at protecting all working people and working life. The basic regulations for the post-Republican period continued with the Code of Obligations No. 818, Labor Law No. 3008, Labour Law No. 931, and Labour Law No. 1475.

Today, the basis of the legislative provisions on occupational health and safety is the Constitution and the Occupational Health and Safety Law No. 6331. At the same time, Labour Law No. 4857 and Turkish Code of Obligations No. 6098 are other important laws with direct and indirect provisions on occupational health and safety. Apart from these, there are also many laws, regulations, communiqués, and circulars that include regulations on occupational health and safety.

Occupational health and safety practices are important in terms of ensuring that both employees and the working environment are healthy and safe in working life. With the transition of people to production, it has always been aimed to protect the employees first in the simplest working forms and order. For this purpose, the concept of occupational health and safety, which started with the examination of the causes of accidents and diseases occurring in the working environment, has always maintained its place among the important issues of working life with the effect of technology and development in the following periods. In this study, the development of national legislation in terms of regulations on occupational health and safety and the process of change will be discussed.

In line with the legislative provisions that will be examined in terms of their basic regulations in terms of periods, a systematic historical literature process regarding occupational health and safety will be tried to be revealed. At the same time, especially within the framework of the Occupational Health and Safety Law No. 6331, a general evaluation will be made of the urent situation regarding occupational health and safety in working life. In this way, the formation process of occupational health and safety legislation in Turkey from the Republic to the present day will be analyzed and suggestions will be made on the positive and deficient aspects of the system. The study will be an updated text on the subject in terms of creating a general chronological text on occupational health and safety legislation and planning to reveal the positive and negative aspects of the current system.

2. IMPORTANCE OF OCCUPATIONAL HEALTH AND SAFETY

Labour regulations are the main determinant of the safety, health, and welfare of employees. To establish an effective working life, each factor affecting these regulations should be considered in detail (Tamers et al., 2020, p. 1069). Technological developments cause changes and transformations in working life. These developments make it necessary to constantly renew and update the regulations on working life.

It is not possible to think of the concept of occupational health and safety as fundamentally independent from labour law. In this sense, occupational health and safety is a fundamental sub-field of labour law.

Labour law is a branch of law that has developed with industrialization, involves an economic and personal dependency on the employer, and therefore was born to solve the problems arising from this dependency in terms of the balance of interests. The rules of labour law regulate the relations between the employee, the employer, and the state. The duty of the state at this point is to prevent the occurrence of undesirable events in the developing industrial society. Accordingly, the state imposes obligations on the employer because of public law to protect and ensure the safety of the employee. In addition, it also works towards the regulation of employment contracts with a more social content and the establishment of labor jurisdiction. As mentioned above, labour law has emerged with the need to protect the employee. However, this need for protection should be realized not only for workers but for all employees. Although the issue is also valid in terms of occupational health and safety, protection should not only cover the protection of employees at the workplace level but also outside the workplace. For these purposes, it is necessary to protect both the physical and mental integrity of employees in a broad sense and to protect them in terms of occupational health and safety (Başbuğ, 2013, p. 1-2). The interventions of the state on the subject are also through legal regulations. With its status as a legislator, the state determines the rights and obligations of the parties and their areas of responsibility.

In the doctrine, the concepts of occupational health and occupational safety are generally defined separately. Occupational health is the state of complete physical, mental, or social well-being of the employee, where the employee’s health is affected by his/her work and working environment. Occupational health refers to raising and maintaining the physical, mental, and social well-being of all employees to the highest possible level regardless of their work, preventing health problems arising from working conditions, protecting employees from risks harmful to their health related to their work, ensuring that employees work in an occupational environment suitable for their physical and biological capacities, and making the work suitable for the person and the person for the work. Occupational safety, on the other hand, is the protection of employees against risks that may arise due to the machinery, equipment and materials used in the workplace and that have technical characteristics for the health and life of employees (Sümer, 2022, p. 4). If it is necessary to make a general definition of the concept of occupational health and safety; it is the efforts to eliminate or reduce the hazards and factors that cause hazards that affect the health and safety of all persons (such as employees, workers, subcontractor workers, visitors, customers, public) affected by the activities carried out by an enterprise or workplace without being limited to workplaces and employees (Kılkış, 2014, p. 5). In another definition, occupational health and safety is a concept that includes, on the one hand, technical measures to protect employees against occupational risks such as work accidents and occupational diseases and, on the other hand, health measures to protect the health and life of workers (Sümer, 2022, p. 5; Mollamahmutoğlu et al., 2022, p. 1427). In another definition, occupational health and safety is a branch of science defined as the anticipation, recognition, assessment and control of hazards and risks arising in or from the workplace that may impair the health and well-being of employees, considering their possible effects on the people around them (Alli, 2008, p. 7).

Employers are expected to fulfill certain responsibilities in line with the legal obligations imposed by the state. The obligations imposed on employers by the state are shaped by international regulations as well as national conditions. At this point, the conventions and documents of the International Labor Organization and the directives of the European Union provide guidance. The most important legal texts in this sense are the ILO Conventions No. 155 and 161 and the European Union Directive No. 89/331.

These international instruments played a major role in the preparation of the Labor Law No. 4857 and the Occupational Health and Safety Law No. 6331. Article 6/2 of Directive 89/331 helped to determine the obligations of employers in the workplace. According to the said article, employers are obliged to avoid risks, assess risks that cannot be avoided, to combat risks at their source, to make the work suitable for employees, especially in the design of the workplace, in the selection of work tools and materials, in the selection of working and production methods, and to reduce the effects of work on health. At the same time, employers are also obliged to adapt to technological developments, replace hazardous situations with non-hazardous or less hazardous ones, and develop policies covering technology, working conditions, work organization, and social relations, to give priority to collective protection measures instead of individual protection measures and to provide appropriate information and instructions to employees (Blanpain, 2006, p. 581).

The development of occupational health and safety in Turkey is closely related to the development process of working life. The structure of labor law, which has developed and changed with industrialization, is like the development of occupational health and safety. Therefore, it would be appropriate to examine the process in Turkey from a historical perspective.

3. PRE-REPUBLICAN PERIOD

The first legal text regarding occupational health and safety in the pre-Republican period is the Dilaver Paşa Regulation dated 1867. The regulation was prepared by Dilaver Paşa, the director of mines of the period and District Governor of Ereğli Sanjak (Makal, 1997, p. 285). The Regulation is also known as the Ereğli Maadin-i Hümayun Teamülnamesi (Gülmez, 1991, p. 287). Consisting of 100 articles, the Ordinance is very limited in that it only addresses workers working in the Zonguldak Coal Basin and in the mining sector (Makal, 1997, p. 283). The purpose of the regulation is to improve the working conditions of the workers working in the coal mines of the Ereğli Coal Enterprises, the management of which is transferred to the Ministry of the Sea. Another purpose of the Regulation is that during this period, the employees in the coal mines frequently contracted lung diseases, which led to a decrease in production, and the production was to be increased again. Since the regulation was not approved by the sultan, it did not qualify as a regulation and remained as a legal regulation applied in the Ereğli Coal Basin (TMMOB, 2012, p. 9; Tokol, 1997, p. 9). The regulation included provisions on wages, working conditions and other protective measures, rest and vacation times, accommodation and working hours (Kala, 2018, p. 51-52; Çilengiroğlu, 2006, p. 28; Makal, 1997, p. 286). In addition to a provision for the presence of a physician in the mines, there was no provision for occupational accidents in the mines. However, it should be noted that although the main purpose of the Ordinance was to increase production, it was important in terms of being the first legal regulation on occupational health and safety in Turkish labor law (Demirkaya, 2014, p. 5).

The second regulation of the period was the Maadin Regulation of 1869. Unlike the Dilaver Paşa Regulation, the Regulation included provisions on occupational health and safety, particularly with regard to occupational accidents. The Regulation imposes responsibilities on employers such as taking prevention and protection measures against occupational accidents, keeping physicians and necessary medicines in the mines, and making payments to those who are exposed to occupational accidents or to their relatives in the event of the death of the employee, in an amount determined by the court. In addition, the Regulation also includes provisions on fines to be imposed on the employer if the accident occurs due to the employer's fault, the payment of a fine of 15-20 gold coins by the worker if the worker is at fault, and the obligation of the employer to employ a physician with a diploma and to keep a pharmacy in the coal basins (Kala, 2018, p. 52; TMMOB, 2012, p. 10; Çilengiroğlu, 2006, p. 28; Makal, 1997, p. 287). Although the Maadin Regulation introduced provisions that could be considered more comprehensive and advanced compared to the Dilaver Paşa Regulation, it was not implemented by employers.

In the later years of the pre-Republican period, various regulations were enacted on the subject. However, these regulations were generally for social aid purposes. In 1908, although issues related to occupational health and safety were put on the agenda in the trade unions that started to be established, no progress could be made and working conditions could not be improved (Demirkaya, 2014, p. 6; TMMOB, 2012, p. 10).

Another regulation of the period is Law No. 114 of 1921 on the Law on Coal Dust Trade in Zonguldak and Ereğli Region for the Benefit of Employees[1]. The law aims to improve the working conditions of employees in terms of health, economy, and social aspects. The law consists of four articles. The law aimed to sell the coal dust left near the mines and not used by the miners and to benefit the employees (Makal, 1999, p. 323). The law stipulated that the coal dust would be sold by the Employees' Administrative Committee through an auction and the price would be deposited in the Ministry of Agriculture (Tokol, 1997, p. 23). Despite entering into force, the Law could not be implemented due to the inability to accumulate coal dust (Makal, 1999, p. 324).

Rights of Mining Employees in Ereğli Region Law No. 151[2] is another regulation related to the period. Consisting of 15 articles, Law No. 151 introduced regulations on the working conditions of employees in the mines of the Ereğli coal region, which could be considered advanced compared to the period (Makal, 2007, p. 329; Özdamar, 1996, p. 65). The Law is also considered by some authors as the first labour law (if it had covered employees in all branches of labor and had a scope of application) since it included protective measures for employees in terms of individual labor relations and provisions on social insurance (Makal, 2007, p. 324; Tokol, 1997, p. 23-24). One of the most important regulations introduced by the law was the prohibition of forced labour in mines and the employment of minors under the age of 18 in mines. The law also stipulated those wards and bathhouses be built near the mines for the accommodation of

[1] O.G.D., 09.05.2021, I.14.

[2] Adopted on 10.09.1921, the Law entered into force without being published in the Official Gazette.

employees, that the employer would pay for the treatment of employees who fell ill or had accidents, that mine owners would open hospitals and pharmacies near the mines, and that a doctor with a diploma would be available at the workplace. The families of employees who were injured or killed in the mines were also given the right to sue the mine inspectors or the Ministry of Economy. As a result of the lawsuits to be heard by magistrates, it was also stipulated that the employer would pay 500-5000 liras in excess compensation if found to be at fault. Mine owners were also required to open a mosque in the mines, build a school for night classes for young employees and hire teachers (Kala, 2018, p. 43; TMMOB, 2012, p. 11; Çilengiroğlu, 2006, p. 30; Özdamar, 1996, p. 65).

In terms of occupational health and safety, the attempts taken in the pre-republican period are quite limited. It is seen that the regulations made in this period were limited to those working in the mines of the Ereğli coal region due to industrialization and the lack of a widespread working class. In addition, it would be appropriate to state these regulations introduced were not very comprehensive in terms of the regulations introduced, and that there were basic regulations.

4. POST-REPUBLIC PERIOD

Regulations on occupational health and safety were more comprehensive in this period due to the legislative movements that started with the effect of the newly established order and rapid industrialization efforts. The legal regulations, with some exceptions, are generally intended to cover the entire working life and all employees. It would be appropriate to examine the legal regulations by periodizing them based on the studies on the “History of Turkish Labour Relations” in the post-Republican period (Makal et al., 2018). Accordingly, it is necessary to examine the regulations on occupational health and safety as the Single Party Period between 1923-1946, the Multi-Party Period between 1946-1963, the Institutionalization Period between 1960-1980, the Flexibilization and Deregulation Period between 1980-2010 and after 2010.

It would be correct to consider these periods within the framework of the basic regulations specific to the field of labour law. The right of employees to work in a healthy and safe environment and therefore the right to occupational health and safety is a fundamental social right. For this reason, it would be appropriate to consider the legal developments in the post-Republican period in terms of labour law and to approach the regulations on occupational health and safety from a very broad perspective, from protection in terms of social security to the right to rest and leave.

4.1. Single Party Period Between 1923-1946

The first law to be considered in the post-republican period in terms of occupational health and safety is the Code of Obligations No. 818[3], which entered into force in 1926. The Law indirectly regulates employee and employer relations and includes provisions on service contracts (Oğuz, 2011, p. 49; Gülmez, 1991, p. 293). The provisions of the Law are extremely important as they cover those who are outside the scope of labour laws and those who work for less than 30 days. Although there is no provision in the Law on the employer’s protection of the employees’ personality, there are provisions on the protection of the employee against the risks to which the employee may be exposed by taking protective measures by the employer. At the same time, the Law also contains provisions on the employer’s obligation to take care of the employee and its responsibility in cases of occupational accidents and occupational diseases. Article 332 of the Law, entitled “precautions and workplaces”, obliges the employer to take the necessary precautions against the risks that the employee is or may be exposed to due to his/her work, within the special conditions of the contract and the scope of the work, and to the extent that may be required of him/her in equity. Pursuant to Article 337 of the Law, the employer is also responsible for providing employees with a suitable and healthy working environment and, if employees live together, a place suitable for their health conditions. At the same time, Article 337/2 stipulates that the employer is obliged to supervise and treat the employee who is unable to fulfill his/her performance of work without his/her own fault (Güneş and Mutlay, 2011, p. 260; Kaplan, 2003, p. 5; Centel, 2000, p. 22). The Law was repealed with the adoption of the Turkish Code of Obligations No. 6098.

Another important regulation of the period is the Labour Law dated 1936 and numbered 3008[4]. Consisting of 148 articles, the third section of the Law is titled “protection of employees’ health and occupational safety”. According to the Law, every employer is obliged to take all kinds of measures to protect the health of employees and ensure occupational safety in the workplace, and to keep all necessary equipment in full

[3] O.G.D., 08.05.1926, I. 336.
[4] O.G.D., 15.06.1936, I. 3330.

(art. 54). Employees must also comply with all conditions and procedures. To determine the occupational accidents and occupational diseases that may be caused by the tools and machinery used in the workplace and the necessary measures and tools to prevent them from occurring in the workplace, it was decided that a regulation would be issued by the relevant Ministries. To open or establish a new workplace, employers are obliged to make the necessary applications, submit documents showing the installation and equipment of the workplace to be established, the details of the machinery and devices, and request a determination that the workplace complies with the provisions of the regulation (art. 56). The Law also prohibits employees from bringing spirits into the workplace, coming to work drunk, or using or selling liquor in the workplace (art. 57). Another provision of the Law is that the heavy and hazardous work, the heavy and hazardous work that women and children under the age of 18 can be employed in, and the diseases that can be contracted by employees in these jobs are also determined by a regulation (art. 58). The Law also prohibits the employment and work of those who will work in heavy and dangerous jobs without a doctor's report (art. 59). It is also mandatory for children between the ages of 12 and 18 to obtain a medical certificate before starting work (art. 60). The periods and jobs during which pregnant and lactating women are prohibited from working, as well as the conditions regarding breastfeeding rooms and childcare facilities, are also stipulated to be determined by a regulation (art. 61). The Law also stipulates that, except for heavy and hazardous work, the jobs that are subject to medical examination, the repetition of medical examinations, the dismissal of employees whose illness will harm their work or other employees, the collection of aid fees to support examination rooms in the workplace, the construction of bathrooms, sleeping rooms, rest and dining halls, employees' houses and vocational training places will be determined by regulation (art. 62). The Law was repealed by the Labour Law No. 931.

Another regulation that is still in force is the Public Hygiene Law No. 1593 dated 1930[5]. The law does not actually contain any provisions directly related to working life. The law does not actually contain any provisions directly related to working life. However, it introduces important provisions for the protection of national and public health (Gülmez, 1991, p. 295; Makal, 2007, p. 330). Although the Law is a very old law, it is an important law because it is still valid, it is one of the first regulations in the field of occupational health and safety, and it contains contemporary provisions for its time (Oğuz, 2011, p. 52). In particular, the Law contains provisions for the protection of women and children in working life. In this sense, the Law is the most comprehensive regulation adopted after Law No. 151 (Makal, 2007, p. 330). The seventh section of the Law (articles 173-180) is titled employees' health and welfare. According to the law, children under the age of 12 were prohibited from working as labourers and apprentices in all kinds of industrial workplaces and mines (art. 173). In the same article, girls between the ages of 12 and 16 are prohibited from working more than eight hours a day, and in Article 174, children between the ages of 12 and 16 are prohibited from working at night. Another provision of the Law is that night work and underground work cannot be more than 8 hours in a 24-hour period for all employees. The Law also strictly prohibits children under the age of 18 from working in bars, cabarets, dance halls, coffee houses and casinos (art. 176). Pregnant women are also prohibited from working in jobs that may harm themselves and their children in the three months preceding childbirth (art. 177). At the same time, within six months after childbirth, lactating women are allowed two breastfeeding leaves of half an hour each per day during working hours (art. 177). The sale of alcoholic beverages or the opening of public houses is prohibited in and near all industrial workplaces, construction sites and mines (art. 178). It is also stipulated that a regulation to be issued by the Ministry of Economy and the Ministry of Health and Social Welfare will determine the qualifications and conditions of workplaces and their dwellings or other annexes, and the measures to be taken against accidents and occupational diseases that may arise due to the tools, equipment, machinery, and primitive materials used in workplaces (art.179). Employers who employ at least fifty employees on a permanent basis are also required to employ one or more doctors to check the health status of workers, conduct health inspections and treat patients (art. 180). At the same time, in larger and more accident-prone workplaces, it is mandatory for a doctor to be permanently present at or near the workplace. Where hospitals are not available, employers are obliged to provide a sick room and first aid equipment. In addition, they are obliged to open an infirmary in workplaces with 100-500 permanent employees and a hospital in workplaces with more than 500 employees, with one bed for every 100 employees. The provisions of the Law were not repealed with the adoption of Law No. 6331. Thus, issues not regulated in Law No. 6331 continue to be regulated in Law No. 1593.

[5] O.G.D., 06.05.1930, I. 1489.

In 1930, in Law No. 2739 on National Holidays and General Holidays[6], general holidays were specified, and private workplaces were obliged to close on these days. In the law, the week holiday is determined as Sunday. It is stated that this holiday should not be less than 35 hours and should start at 13 p.m. on Saturday at the latest.

The Municipality Law No. 1580 of 1930 is another law of the period. According to Article 15 of the Law, municipalities were charged with the duties of maintaining the cleanliness and order of public places to ensure the health and welfare of the people, preventing epidemics and infectious diseases, removing things that could cause accidents in public places and disrupt the public cleanliness of the town, taking measures against fire, keeping neighbourhood's always clean, opening and managing courses and classes to train professionals, and conducting sanitary inspections of factories, workers and dwellings.

In Labour Law No. 3008, it was decided to gradually establish different insurance branches. Despite the delay, these regulations were initiated with Law No. 4772 dated 1945 on Occupational Accidents, Occupational Diseases and Maternity Insurance[7] (Makal, 2002, p. 392). It is stated that those covered by the Labour Law No. 3008 will benefit from the allowances and benefits specified in the Law and that the Law will be applied in the workplaces covered by the Labour Law (art. 1). An occupational accident is an event that occurs while the insured is at the workplace, due to the work being carried out by the employer or the employer's representative, while the insured is working in the workplace for the benefit and benefit of the employer or the workplace or the work carried out, during the times that should be counted within the daily work period according to article 40 of the Labour Law No. 3008, and that causes immediate or subsequent physical or mental damage to the insured (art. 2/I). Occupational diseases, on the other hand, are temporary or permanent illnesses or disabilities suffered by the insured due to recurring causes or due to the conditions of the execution of the work (art. 2/II). The Law lists the benefits to be provided in cases of occupational accident, occupational disease, and maternity. Accordingly, the benefits to be provided to the insured are health benefits, temporary incapacity allowance, permanent incapacity allowance, provision, fitting and renewal of orthopaedic therapy prosthetic tools and equipment, travel allowance for the insured to go to another place for treatment, money to be spent for the funeral, allowances to be paid to the beneficiaries of the insured, and allowances to be paid to the insured woman in case of maternity and to the insured man in case of his wife's maternity (art. 4). The Law also provides detailed provisions on health benefits and allowances, intent and fault, premiums, notification, and other procedures. The Law holds the employer responsible for occupational accidents occurring in the workplace in accordance with the principle of strict liability. At the same time, instead of compensation for illness or accident, the Law undertook the treatment of the worker with direct medical assistance (Yaşar, 2017, p. 220). In addition, the Ministry of Labour was established in 1945 with Law No. 4763.

One of the regulations containing indirect provisions regarding the period is the Week Holiday Law No. 394[8]. The law is extremely important in that it contains provisions on the right to rest for employees and makes it compulsory. The law granted the right to week holidays to a large segment of employees, except for some exceptional cases and individuals.

4.2. Multi-Party Period Between 1946-1960

With the multi-party period, several developments and changes have been experienced in labour life. In this period, especially with the amendments made to the Labour Law No. 3008 with Law No. 5518, there has been a serious development in terms of individual and collective labour relations. In particular, the amendments on employee health and occupational safety aimed to increase the measures (Makal, 2002, p. 339).

In 1946, the Labour Insurance Institution was established by Law No. 4792[9]. In 1949, Old Age Insurance was established with Law No. 5417[10]. Law No. 5502 on Sickness and Maternity Insurance adopted in 1950 is the regulation that should be evaluated in relation to the period. With this law, the provisions on sickness and maternity were regulated under an independent law. In 1957, the Law No. 6900 on Disability, Old Age and Death Insurance[11] was adopted. The Laws, and regulations regarding the social security rights of public and private sector employees were shaped around the Labour Insurance Institution. In addition,

[6] O.G.D., 01.06.1935, I. 3017.
[7] O.G.D., 07.07.1945, I. 6051.
[8] O.G.D., 21.01.1924, I. 54.
[9] O.G.D., 09.07.1945, I. 6058.
[10] O.G.D., 08.06.1949, I. 7227.
[11] O.G.D., 13.02.1957, I. 9534.

during this period, the Pension Fund was also established for civil servants of the status of public sector with Law No. 5434[12]. It is necessary to indirectly associate these organizations with occupational health and safety.

One of the regulations that needs to be addressed in this period is Law No. 5837[13] dated 1951 on the Payment of Week Holiday and General Holiday Wages to Workers. The Law is a continuation of the Week Holiday Law and aims to pay a wage to the employee who takes a week's holiday. Otherwise, it is stated that the purpose of resting the worker expected from the week holiday cannot be achieved (Makal, 2002, p. 357). According to the provision in the Law, it is agreed that the employee who works six days a week in accordance with the daily working hours in the workplaces where the Labour Law is applied, will be paid half a day's wage without any work (art. 1-2). In addition, it has been decided that the employee who does not work on national holidays and general holidays specified in Law No. 5739 shall be paid 50% more wages for this day, without any remuneration for work, if they do not take a holiday on that day (art. 3). With the regulations, it is tried to prevent the fatigue of the employees or the inability to rest sufficiently, which is shown as a reason for occupational accidents.

One of the indirect regulations of the period is Law No. 5953 on the Compensation of Relations Between Employees and Employers in the Press Profession[14]. The Law is important in terms of regulating the labour relations of press employees, determining their leaves, working conditions in case of pregnancy, social insurance and working hours.

Maritime Labour Law No. 6379[15] is one of the regulations related to the period. The Law includes provisions on seafarers' working hours, overtime work, arrangement of residence places by the employer, leaves of absence and social insurance. The Law was repealed with the adoption of Maritime Labour Law No. 854.

Another important law of the period is Law No. 6301 of 1954 on Lunch Break[16]. According to the provision in the law, all employees employed in factories, workshops, shops, stores, shops, offices, offices, offices and the like, and all commercial and industrial workplaces in cities and towns with a population of ten thousand or more were obliged to take a lunch break of not less than one hour (art. 1).

For employees to continue their working lives in a safe and healthy manner, they need to rest and take a break from working life. The 1960 Law No. 7467 on Annual Paid Leave[17] is extremely important in this respect. The Law stipulates that employees who have worked for at least one year from the date of commencement of employment in the workplace shall be granted annual paid leave in proportion to their seniority (art. 3). Accordingly, those with 1-5 years of service will be granted 12 days of paid annual leave, those with 5 years-15 years of service will be granted 18 days of paid annual leave, and those with more than 15 years of service will be granted 24 days of paid annual leave. In addition, it has been accepted that those under the age of 18 will be granted annual paid leave of not less than 18 days (art. 5).

Numerous regulations were also adopted during this period. Some of these are the Regulation on Heavy and Dangerous Work dated 1948, the Regulation on Measures to be taken in Workplaces where Flammable, Explosive, Dangerous and Hazardous Substances are Worked with dated 1952, the Regulation on Safety Measures to be taken in Mining Enterprises dated 1953, the Regulation on the Conditions of Employment of Pregnant and Nursing Women, Nursing Rooms and Nurseries dated 1953, and the Regulation on the Health, Food and Residence Conditions of Seafarers dated 1958.

In terms of individual labour relations of the period, it is seen that protective regulations were intensively made especially for dependent employees, and regulations were frequently made to complete the deficiencies of Labour Law No. 3008 and to improve the working conditions of employees (Tuna, 2015, p. 482).

[12] O.G.D., 17.06.1949, I. 7235.
[13] O.G.D., 09.08.1951, I. 7885.
[14] O.G.D., 13.06.1952, I. 8140.
[15] O.G.D., 10.03.1954, I. 8663.
[16] O.G.D., 08.03.1954, I. 8652.
[17] O.G.D., 15.04.1960, I. 10481.

4.3. Institutionalization Period Between 1960-1980

The first law of the period, Law No. 931[18], consisting of 12 articles, entered into force in 1967. Articles 73 to 82 of the Law, which included provisions on occupational health and safety, were annulled by the Constitutional Court in 1971[19] on formal grounds.

The Labour Law No. 1475[20], whose fifth chapter is titled “occupational health and safety” and which was adopted in 1971, is one of the most important regulations of the period. The law obliges employers to take all necessary precautions to ensure the health and safety of their employees and to provide all necessary means to ensure this. Employees are also obliged to comply with all measures taken. Employers are also responsible for informing employees about the dangers arising from the use of machinery and the necessary precautions to be taken in advance. In addition, employers must report accidents occurring in the workplace to the regional labour directorate within two working days at the latest after the accident (art. 73). The Law also stipulates that the scope of employers’ obligations and responsibilities in this regard shall be determined by a by-law. Article 74 of the Law is also related to these by-laws. The Law stipulates that the measures to be taken at the workplace and in the dormitories of employees and in the annexes of the workplace, and the measures to prevent diseases and occupational accidents that may arise from the tools, equipment, machinery, and raw materials used shall be determined by a regulation to be issued by the Ministry. It is also stated that the number of employees in the workplace, the work performed and its characteristics, and the workplaces to be authorized for establishment in terms of severity and danger will also be determined by regulation (art. 74). If a situation arises in a workplace established in accordance with the law that may endanger the lives of employees in any way, work may be suspended by a three-person commission until the danger is eliminated. The commission convenes upon the request of one of the parties, meets on the specified day and time and takes a decision by majority. The occupational safety officer is obliged to attend every meeting. The election of the workers' representative is also specified in this article (art. 75). Workplaces that are not established in accordance with the law, do not have a certificate of operation or have received a temporary certificate of operation may also be closed if they fail to complete the necessary procedures on time (art. 75/2). The employer has the right to appeal against the suspension or closure decision to the labour court within 6 working days. The court examines the decision immediately and renders a final decision. There is no appeal against the decision (art. 75/3). According to the Law, employees may be suspended from work if they are unfit for work due to age, gender, or health conditions (art. 75/4). The employer is also obliged to pay the wages of employees who cannot work due to the suspension of work or closure of the workplace or to employ them in another suitable job (art. 75/5). Article 76 of the Law contains provisions for occupational health and safety committees. The provision for the establishment of occupational health and safety committees was first introduced in Law No. 931. This provision was also included in Law No. 1475 (Erkul and Karaca, 2000, p. 377). According to the relevant article, the establishment of occupational health and safety committees is obligatory to decide on occupational health and safety in workplaces where 50 or more employees work and where work is carried out for more than six months. Unless otherwise stated, it is forbidden to use alcohol or drugs in the workplace and to come to the workplace drunk or on drugs (art. 77). Article 78 on heavy and hazardous work prohibits the employment of children under the age of 16 in heavy and hazardous work. The conditions for heavy and hazardous work, the entry examinations, and periodic examinations of those who will work in these jobs are also determined by regulation. Children between the ages of 12 and 18 are required to obtain a doctor's certificate to work and to renew these certificates every six months (art. 80). Provisions on the work prohibited for pregnant and lactating women and the conditions of breastfeeding rooms or childcare rooms are also determined by regulation (art. 81). Article 82 of the Law also includes various by-laws to be issued on the subject. The Law was repealed by Law No. 4857.

Article 11 of the Social Insurance Law No. 506[21] adopted in 1964 defines occupational accidents and occupational diseases. According to this article, an occupational accident is an event that occurs while the insured is at the workplace, due to the work being carried out by the employer, during the time spent by the insured without doing his/her main job due to being sent to another place on duty by the employer, during the time allocated for lactating women insured to give milk to their child, during the collective transportation of the insured to and from the place where the work is carried out by a vehicle provided by the employer, and that causes immediate or subsequent physical or mental damage to the insured. An

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[18] O.G.D., 28.07.1967, I. 12672.
[19] O.G.D., 11.05.1971, I. 13833.
[20] O.G.D., 01.09.1971, I. 13943.
[21] O.G.D., 29-31.07.1964, 01.08.1964, I.11766-11779.

occupational disease, on the other hand, is a temporary or permanent illness, disability, or mental malfunction that the insured suffers due to a recurring reason or due to the conditions of the execution of the work. The benefits to be provided in cases of occupational accidents and occupational diseases are listed as health benefits, daily allowance during temporary incapacity for work, income in cases of permanent incapacity for work, provision, repair and renewal of prosthesis tools and equipment, sending the insured to another place for health and prosthesis benefits, sending the insured abroad for treatment, reimbursement of funeral expenses, and income to the beneficiaries in case of death of the insured (art. 12). Article 13 of the Law describes the health benefits in detail. The duration of the health benefits continues as long as the health condition of the insured who has suffered a work accident or occupational disease requires. It is also possible for the insured to receive inpatient treatment in the Institution's rest homes when necessary. These benefits commence as soon as the occupational accident occurs, or the occupational disease is detected (art. 14). The Law stipulates that temporary incapacity benefit will be paid for the duration of the incapacity (art. 16). Permanent incapacity income is granted upon the determination by the Institution that the earning capacity in the occupation has decreased by at least 10% (art. 19). Permanent incapacity income is equal to 70% of the insured's annual earnings in case of permanent and total incapacity. In the case of partial incapacity, it is paid in proportion to the degree of incapacity (art. 20). The Law also includes provisions on the employer's obligation (art.15), notification of work accidents to the Institution and the employer (art. 17, art. 27), determination of occupational disease (art. 18), income to spouse and children (art. 23), income to parents (art.24), control examinations of the insured (art. 25), employer's responsibility (art. 26,), notification of occupational disease (art. 28).

Law No. 1479 on the Social Insurance Institution for Tradesmen and Craftsmen and Other Independent Employees[22] (Bağ-Kur), adopted in 1971, stipulates that the period of premium payment shall not be sought for those who die as a result of occupational accidents and occupational diseases (art. 41), the definition of occupational accident refers to Law No. 506 (art. 82), health insurance benefits shall cover occupational accidents (a. art. 13), and examination and treatment due to occupational accidents shall commence on the date the insured is taken into treatment by the Institution and shall continue for the duration of the health condition (a. art. 14).

The Maritime Labour Law No. 854[23] is also important as it contains indirect provisions on the subject. The provisions in the Law can be related to the subject in terms of working hours, provision of places of residence by the employer, working conditions, leave and holidays.

Law No. 2429 on National Holidays and General Holidays[24] is another indirect regulation regarding the period. The Law regulates the days of holidays and vacations in the national legislation. The law stipulates that the week holiday is on Sunday and that the duration of this holiday shall not be less than 35 hours. In addition, it is also stated that the week holiday shall start on Saturday at 13.00 hours at the latest, unless otherwise stated (art. 3).

4.4. 1980-2010 Period of Flexibilization and Deregulation

The first regulation regarding occupational health and safety is the 1982 Constitution[25]. As with all other legal texts, the Constitution is the highest norm in terms of occupational health and safety. In Turkey, the issue of occupational health and safety was first included in the 1961 Constitution under the title of "Social and Economic Rights". In the 1982 Constitution, these regulations were included without any significant change (Demirkaya, 2014, p. 15; Tokol, et al., 2011, p. 205). Many articles of the Constitution indirectly include provisions on labour life. These provisions also be indirectly related to occupational health and safety. As a requirement of the Constitution's principle of being a social state of law, it has the duty to improve the social conditions of its citizens, to provide a certain level of living and to provide social security (Gözübüyük, 2006, p. 163). It is also stated that the aims and duties of the state regulated in article 5 of the Constitution constitute a basis for occupational health and safety (Akın, 2013, p. 25). According to the Constitution, everyone has the right to life, to develop, improve and protect his/her material and spiritual existence. This is also one of the objectives of the social state (art. 17). One of the duties of the state is to ensure that employees continue their lives in physical and mental health (art. 56). According to the Constitution, no one shall be employed in work that is incompatible with his or her age, sex, and strength. Minors, women, mentally and physically incapacitated persons shall be specially protected at

[22] O.G.D., 14.09.1971, I. 13956.
[23] O.G.D., 20.04.1967, I. 12586.
[24] O.G.D., 17.03.1981, I. 17284.
[25] O.G.D., 09.11.1982, I. 17863 (Repeating).

work. Rest is one of the fundamental rights of workers, therefore workers are entitled to paid weekends and holidays and annual paid leave, the conditions of which are regulated by law (art. 50). Article 60, which deals with the State's obligation to ensure social security and occupational safety, sets out the constitutional relationship between occupational health and safety and social security. According to this article, everyone has the right to social security and the state is obliged to take the necessary measures and establish the necessary organization to ensure this security. Accordingly, the state is obliged to make the necessary arrangements in terms of occupational health and safety (Demirkaya, 2014, p. 16). Article 61 of the Constitution also identifies groups that need special protection.

Articles 77-89 of the Labour Law No. 4857[26] adopted in 2003 are entitled occupational health and safety. In general, employers are obliged to take all kinds of measures related to occupational health and safety, as well as to report occupational accidents and occupational diseases to the relevant regional directorate within two working days at the latest. Employers are also obliged to inspect whether the occupational health and safety measures taken at the workplace are complied with, to provide the necessary training to employees and to inform them of their legal rights and responsibilities (art. 77/2). If a risky and dangerous situation is detected in the workplace in terms of occupational health and safety, the activity in the workplace is completely or partially suspended or the workplace may be closed until the danger in the workplace is eliminated (art. 79/1). Employers are obliged to establish an occupational health and safety committee in workplaces where more than fifty employees are employed continuously and where work is carried out for more than six months (art. 80/1). Employers may also purchase all or part of the occupational health and safety services in the form of services from joint health and safety units established outside the enterprise (art. 81/2). In the event of an urgent and vital danger at the workplace that may impair the health of employees or endanger their bodily integrity, employees have the right to apply to the occupational health and safety committee to request that the situation be determined, and necessary measures be taken (art. 83/1). Employees may also exercise their right to refrain from work until the necessary measures are taken (art. 83/3). The provisions of the Law on occupational health and safety were repealed with the adoption of Law No. 6331.

The Social Insurance and General Health Insurance Law No. 5510[27], which deals with occupational accident and occupational diseases in detail, is another important regulation on the subject. The Law covers the following topics: insured persons (art. 4), notification of insured persons (art. 8), workplace, notification of workplace and transfer and assignment of workplace (art. 11), definition, notification and investigation of occupational accident (art. 13), notification, definition and investigation of occupational disease (art. 14), financed health services and duration (art. 63), travel expenses, daily and attendant expenses (art. 65), liability of the employer, general health insured and third parties (art. 76) and premium rates and state contribution (art. 81) are the articles containing direct and indirect provisions regulating issues related to occupational health and safety. In the Law, which regulates occupational accidents and occupational diseases in detail, not only accidents occurring in the workplace or due to occupational safety measures not taken directly by the employer are not considered as occupational accidents, but also the situations clearly stated in the Law are considered as occupational accidents. According to article 13 of the Law, accidents occurring during the presence of the insured at the workplace, due to the work carried out by the employer or due to the work carried out by the insured if he/she is working on his/her own behalf and account, during the time spent outside the workplace by the insured working for the employer without performing his/her main job, during the time allocated for the breastfeeding leave of the female insured, during the transportation of the insured to and from work in a vehicle provided by the employer are considered as occupational accidents. For the insured to benefit from occupational accident and occupational disease insurance, the premium at the rate specified in the Law (2%) must be notified and paid by the employer (art. 81/1-c). The employer is obliged to immediately provide the necessary health services to the person who has suffered an occupational accident or occupational disease. If the employee suffers damage due to the employer's failure to fulfil this obligation, the employer must compensate the employee. At the same time, if the occupational accident or occupational disease is caused by the employer's failure to take the necessary occupational health and safety measures, the employer shall be compensated for the health expenses incurred by the Institution (art. 76). Employers are obliged to immediately notify the law enforcement authorities of an occupational accident and the Institution within three working days of the accident (art. 13). In addition, the employer must report the occupational disease to the Institution within three working days from the date of learning. Under Law No. 5510, monetary

[26] O.G.D., 10.06.2003, I. 25134.
[27] O.G.D., 16.06.2006, I. 26200.

benefits are provided from the occupational accident and occupational disease insurance. To benefit from monetary benefits, premiums must be paid for a certain period on behalf of the insured. The monetary benefits are temporary incapacity allowance and permanent incapacity income. The health benefits provided to the insured are covered by the general health insurance. The health services to be provided are regulated in Article 63 of the Law. In accordance with article 65 of the Law, health care expenses, daily and companion expenses and travel expenses of the injured insured are covered by the Institution. The responsibility of the employer in cases of occupational accidents and occupational diseases is based on fault liability. The employer is held liable in connection with its fault (art. 76). Law No. 5510 is important in terms of insurance branches on occupational health and safety and is intended to cover the damages of possible consequences that may arise.

Another regulation that can be addressed within the period is the Turkish Criminal Code No. 5237[28], although indirectly. The Turkish Criminal Code is particularly important in terms of compensating the damages incurred due to the occupational health and safety measures not taken and determining the sanctions to be imposed on the parties in proportion to their responsibility.

Law No. 3308 on Vocational Education[29] is another indirect regulation related to the subject. The law is important in terms of occupational health and safety, especially in terms of employing appropriate people in appropriate jobs and determining the conditions for the necessary training in this respect. According to Article 25 of the Law, the employer is responsible for the occupational accidents or occupational diseases of apprentices during their training. It is also clearly stated in the Law that the provisions of Law No. 506 on occupational accidents and occupational diseases will be applied to candidate apprentices, apprentices and students receiving vocational education in enterprises upon the conclusion of the contract.

4.5. After 2010

Turkish Code of Obligations No. 6098[30] was adopted in 2011 and article 417 of the Code is entitled “protection of the personality of the employee”. At the same time, article 418 of the Law is also related to the protection of the personality of the employee in domestic work. These two articles are considered within the scope of the employer’s obligation to look after the employee, and they cover the protection and observation of the employee’s legitimate interests and the prevention of damage to these interests (Kaplan, 2011, p. 41). With the Law, the concepts of “sexual harassment of the employee’s personality, psychological harassment and an order in accordance with the principles of honesty” have been included in the national legislation (Sevimli, 2013, p. 107). The obligation to ensure the health and safety of employees in the workplace and to take measures against occupational accidents and occupational diseases should not be considered only in terms of the employer’s protection of the material existence of employees. What is meant by the protection of the employee’s personality in article 417 of the Law is the protection of persons, both materially and morally (Centel, 2011, p. 13; Bayram, 2006, p. 15). This protection should also include providing the employee with information, guidance, protecting his/her honour and dignity and making the necessary efforts to prevent damage to his/her personal and professional reputation, private life, moral values, and interests (Sevimli, 2013, p. 110; Güneş and Mutlay, 2011, p. 257; Kaplan, 2011, p. 43). According to article 417 of the Law, in addition to protecting and respecting the personality of the employee, the employer is obliged to maintain an order in the workplace in accordance with the principle of honesty, to prevent workers from being subjected to psychological and sexual harassment and to prevent further harm to the worker. In this context, it would be appropriate to consider the protection of the employee against psychological and sexual harassment as an occupational health and safety issue and to evaluate it within the scope of the obligation to take measures in this regard (Demirkaya and Güler, 2021). The employer is responsible for taking all kinds of measures to ensure health and safety in the workplace and for keeping the necessary tools, equipment and supplies in full. At the same time, employees are also obliged to comply with all measures taken (art. 417). The article on the protection of the personality of the employee in the domestic sphere is a provision foreseen for workers who live with the employer in the domestic sphere. Under this article, the employer is obliged to provide adequate food and proper shelter for the workers living with him (art. 418). If employees become incapable of performing their work due to an accident or illness through no fault of their own, the employer is obliged to provide treatment and care for two weeks for workers with at least one year of service who are not eligible for social security benefits. For employees with more than one year of employment, two weeks, not exceeding four weeks, are added to each year of service (art. 418/2). The liability of the employer, on the other hand, is aimed at compensating

[28] O.G.D., 26.09.2004, I. 25611.
[29] O.G.D., 05.06.1986, I. 19139.
[30] O.G.D., 04.02.2011, I. 27836.

the damages arising from the death of the employee, damage to his/her bodily integrity or violation of his/her personal rights due to his/her behaviour contrary to the law or contract (Centel, 2011, p. 15). The conditions for the employer's liability within the scope of the obligation to protect and observe the employee under article 417 are the employer's failure to take measures regarding occupational health and safety, the material and moral damage suffered by the employee due to this, and the existence of an appropriate causal link (art. 112). Regarding the hazard liability under the Law, to be able to talk about the employer's strict liability in workplaces with a significant degree of danger, the damage must arise due to force majeure, gross negligence of a third parties or gross negligence of the injured party (art. 71).

The Occupational Health and Safety Law No. 6331[31] is extremely important as it is Turkey's first national law on occupational health and safety. Adopted in 2012, the Law consists of 39 articles. The Law includes provisions on definitions of occupational health and safety, scope of the Law and exemptions, duties, powers and obligations of employers and employees, National Occupational Health and Safety Council, occupational health and safety board and coordination, inspection, and administrative sanctions. The obligations of the employer are regulated in eleven articles. These are; general obligations of the employer (art. 4), occupational health and safety services (art. 6), occupational physicians and occupational safety specialists (art. 8), risk assessment, control, measurement and research (art. 10), emergency plans, firefighting and first aid (art. 11), evacuation in case of serious, imminent and unavoidable hazards (art. 12), registration and notification of occupational accidents and occupational diseases (art. 14), health surveillance (art. 15), informing employees (art.16), training employees (art. 17) and obtaining the opinions and participation of employees (art.18). While the Law abolishes the provisions on occupational health and safety in the Labour Law No. 4857, it also introduces some new provisions. These are related to employee representative, National Occupational Health and Safety Council, safety report and accident prevention policy, certification-recognition, and cancellation. The Law also regulates occupational health and safety committees to include subcontractors. Although it is stated that the law has some deficiencies (Aydın, 2012, p. 10-18; Akın, 2012, p. 33-43; Aktekin, 2012, p. 93-105; Ekmekçi, 2008, p. 6-7), it is extremely important as it is the first qualified and regular law on occupational health and safety.

Another important regulation in the field of occupational health and safety in this period is the regulations. The relevant regulations can be listed as follows: Regulation on Supporting Occupational Health and Safety Services, Regulation on Combating Dust, Regulation on Health and Safety Signs, Regulation on Health and Safety Measures at Work with Chemical Substances, Regulation on Occupational Hygiene Measurement, Testing and Analysis, Regulation on Protection of Employees from Vibration Risks, Regulation on Prevention of Risks of Exposure to Biological Agents, Regulation on Health and Safety Precautions in Work with Carcinogenic or Mutagenic Substances, Regulation on Occupational Health and Safety in Temporary or Fixed Term Works, Regulation on Protection of Employees from Noise-Related Risks, Regulation on Manual Handling Works, Regulation on Conditions of Employment of Female Employees in Night Shifts, Regulation on the Duties, Authorities, Responsibilities and Training of Workplace Physicians and Other Health Personnel, Regulation on Health and Safety Measures to be Taken in Workplace Buildings and Annexes, Regulation on Work Requiring a Maximum of Seven and a Half Hours or Less per Day in Terms of Health Rules, Regulation on Vocational Training for Workers in Dangerous and Very Dangerous Classes, Regulation on the Use of Personal Protective Equipment in Workplaces, Regulation on Emergency Situations in Workplaces, Regulation on the Procedures and Principles of Occupational Health and Safety Training of Employees, Regulation on the Duties, Authorities, Responsibilities and Training of Occupational Safety Experts, Regulation on Occupational Health and Safety Services, Regulation on Occupational Health and Safety Risk Assessment, Regulation on Occupational Health and Safety Boards, Regulation on Health and Safety Measures in Working with Asbestos, Regulation on National Occupational Health and Safety Council, Regulation on Suspension of Work in Workplaces, Regulation on Health and Safety Conditions in the Use of Work Equipment, Regulation on the Protection of Employees from the Dangers of Explosive Atmospheres, Regulation on Health and Safety Measures in Working with Screened Devices, Regulation on Occupational Health and Safety in Construction Works, Regulation on Procedures and Principles Regarding the Public Employment of Relatives of Insured Persons Who Lost Their Lives as a Result of Work Accidents Occurring in Underground Work of Coal and Lignite Mines, Regulation on the Procedures and Principles of Medical Examinations for Health Surveillance of Employees, Regulation on Occupational Health and Safety Services to be Conducted by the Employer or Employer's Representative in Workplaces, Regulation on Occupational Health and Safety in Mining Workplaces, Regulation on Health and Safety Measures for

[31] O.G.D., 30.06.2012, I. 28339.

Work on Fishing Vessels. Apart from these, there are also many regulations with indirect provisions on the subject. At the same time, the communiqués prepared by the Ministry of Labour and Social Security are also related to the subject. These include documents such as the Communiqué on the Major Accident Prevention Policy Document to be Prepared for Major Industrial Accidents, the Communiqué on the Safety Report to be Prepared for Major Industrial Accidents, the Communiqué on the Registration and Training of Persons Authorized to Perform Periodic Inspections of Work Equipment, and the Communiqué on Shelter Rooms to be Established in Underground Mining Workplaces[32].

5. A GENERAL ASSESSMENT

Technological developments are seriously reflected in working life. These changes necessitate the development and modification of legal regulations. Digitalization in all areas of life requires the digitalization of working life and therefore the digitalization of labour law. Occupational health and safety regulations in the classical sense may be insufficient in the face of changing working conditions, risks, and hazards. Therefore, as in every field, legal regulations in the field of labour and social security law are frequently open to change.

Occupational health and safety measures, the first traces of which are found in the Roman period, have always constituted an important area of working life. Hippocrates and Nicander's descriptions of lead poisoning, Pliny's suggestion that workers should wear bags on their heads to protect themselves from dangerous dust in the working environment, Plato's examination of the diseases experienced by artisans and craftsmen depending on their working methods, Juvenal's views that eye diseases in blacksmiths are related to their work and that they may have heirs due to their constant standing constitute the beginning of studies on occupational health and safety. Bernardo Ramazzini is considered as the founder of occupational health and safety due to his studies on occupational health and safety. Ramazzini has particularly studied the relationship between work and illness. With the Industrial Revolution, occupational health and safety started to develop as a science and studies on the subject gained momentum. The establishment of relationships between work and occupations and accidents, the determination of work-related diseases, and frequent accidents, and the serious approaches of international organizations to the subject have made it necessary to establish legal regulations and ensure bindingness. With the support of international organizations, countries have tended to create national legislation in line with their characteristics.

It would be appropriate to state that the development of occupational health and safety in the world and its development in Turkey are similar. Regulations in the field of occupational health and safety have been shaped in line with the possible needs and developments in the field of industry and economy both in the world and in Turkey in the historical process. Especially with the proclamation of the republic, it is seen that the efforts to establish a legal infrastructure with studies on occupational health and safety gained momentum. The regulations, which were quite limited in the first periods, later expanded considerably by covering all employees. In the first period, occupational health and safety provisions, which were frequently provided by provisions added to the basic laws of working life, continued until a separate law was established. The law in question is Law No. 6331 on Occupational Health and Safety. In this sense, the Law adopted in 2012 is extremely important as it is the first stand-alone regulation on occupational health and safety.

Law No. 6331 has introduced serious provisions on occupational health and safety in working life to protect the health and safety of employees, which is a constitutional right. The Law does not make any distinction between the main actors of working life such as workers, other employees, and public officials. It is also clearly stated that the law will apply to employers, employers' representatives, apprentices, and trainees as well as employees. Accordingly, all employees are covered by the Law and the term "employee" is used in the Law. Therefore, the Law has a very broad scope in terms of persons. The Law also does not distinguish between the private and public sectors. In this respect, the Law draws a very wide application area in terms of location. The law holds the employer responsible for ensuring occupational health and safety, and the main obligation of the employer is to "take all occupational health and safety measures in the workplace". In this case, situations such as the employer not knowing the necessary precautions, ignoring new technologies and areas of use, and ignorance do not relieve the employer from responsibility. The fact that the responsibility of the employer is so broad directs him to take protective and preventive measures completely and without any problems. With Law No 6331, the presence of occupational health and safety professionals (such as occupational physicians, occupational safety

[32] See. https://kms.kaysis.gov.tr/Home/Kurum/24304011

specialists, and other health personnel) has also become extremely important. With the Law, a preventive approach policy has been adopted and it has become mandatory to conduct risk assessments in workplaces and to renew them at regular intervals when necessary. In addition, the Law also introduced the practice of employee representation to take occupational health and safety measures in the workplace and to identify and report the necessary risks immediately.

When the Law is evaluated together with all these aspects, it is extremely important both in terms of bringing together the scattered provisions of the legislation (such as various laws, by-laws, and regulations) and in terms of introducing very comprehensive protective regulations. Although there have been some shortcomings in the implementation of the Law, the fact that the protection of employees is the primary objective, that it aims to eliminate risks and hazards before they occur, and that it encourages practices suitable for continuous renewal and development, once again demonstrates the relevance of the Law. Although the Law has caused reactions in some cases in terms of increasing the burden of responsibility on employers and generally finding employers largely at fault, its importance in terms of protecting the mental and physical integrity of people in working life without exception is too correct to be ignored.

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