

Understanding Collective Bargaining Agreements In Turkey

Asst Prof. Dr. Ceyhun GULER

Dokuz Eylul University

Email corresponding author: ceyhungler@gmail.com

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Abstract

Collective bargaining in Turkey is subject to two different regimes, namely the public and private sector. Public sector CBAs are concluded at the national level to cover all sectors, especially regarding wages and social rights. Additionally, CBAs are concluded at the national level for 11 different service branches. In the private sector, trade unions are organized at sector level and CBAs are concluded at the workplace and enterprise level. The CBA-Database has 68 CBAs for Turkey of which 25 were concluded by public servants' trade unions and 43 by the workers trade unions. It should also be noted that 13 of the relevant CBAs were concluded after the May 2020 period and are the renewed versions of the old CBAs in the CBA-Database. This situation has a very important place in terms of evaluating the reflection of the corona period on CBAs. Thus, the strengths and weaknesses of the collective bargaining system in Turkey will be made visible.

Keywords: CBAs, Turkey, Trade Unions, Database, Collective Bargaining

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I. Background

a. The legal framework of the collective bargaining system in Turkey

The framework of collective bargaining in Turkey is determined by two separate laws for workers and civil servants. Collective bargaining rights of civil servants in Turkey are regulated by the Law No. 4688 on Civil Servants' Unions and Collective Bargaining Agreement, which entered into force in 2012 (Keser, 2014). The Trade Unions and Collective Bargaining Law No. 6356 regulates the trade union rights and freedoms of workers working in the private and public sectors (Yankın, 2017; Astarlı, 2013).

In this context, it should be noted that there are two different collective bargaining regimes in Turkey. Within the scope of these two different systems, it is seen that the structure of collective agreements differs in terms of scope, level and parties. In the sub-headings, the characteristics of collective bargaining and collective agreements concluded within the scope of both systems will be discussed separately, taking into account the CBAs which annotations are entered into the COBRA system (COBRA is the web-based system for the WageIndicator Collective Agreements database).

b. Scope and Level of Collective Bargaining Agreement

If we do not count civil servants in Turkey, collective bargaining agreements covering workers are at the workplace or enterprise level. Group collective bargaining agreement is another type of agreement defined within the scope of Law No. 6356. A group collective bargaining agreement is an agreement concluded between a labor and employers' trade unions that includes the workplaces and enterprises in the same sector of more than one member employer. In the group collective bargaining agreement, more than one employer is a member of a single employer trade union and is established in the same sector. There are also a limited number of group collective bargaining agreements signed between employers and worker trade unions in Turkey (Alpagut, 2022).

Collective agreements are signed only for civil servants within the scope of Law No. 4688 at national and sectoral level. When group collective bargaining agreements are taken into account, the group collective agreements especially signed in the metal sector include the highest number of workers after the civil servants collective bargaining agreement in Turkey.

Another type of CBA defined and recognized within the scope of Law No. 6356 in Turkey is framework agreements. Framework agreements can be signed between employers' and workers trade unions on vocational training, occupational health and safety, social responsibility and employment policies. However, it should be noted that framework agreements are not a common practice in Turkey. In Turkey, no CBA is signed at the sectoral or national level for workers covered by Law No. 6356. On the other hand, for civil servants, the collective bargaining agreement covering all service lines regulates the general rights and wages of civil servants. In addition, CBAs are signed at the level of service branches as an additional part of general CBA for civil servants.

c. Duration of collective agreements

In conjunction with the economic development of Turkey, duration of collective agreement could be the subject of dispute in the process of collective bargaining. For the civil servants the duration of public CBAs are two year. Common practice throughout Turkey for two years. In addition, considering the Collective Bargaining Agreements signed within the scope of Law No. 6356, it is seen that the common practice is 2 years. However, Law No. 6356 states that the duration of Collective Bargaining Agreements can be minimum 1 year and maximum 3 years.

d. Benefiting from collective agreements

According to Law No. 6356, trade union members benefit from CBAs. However, workers who are members of another trade union or who are not members of a trade union can benefit from the CBAs by paying solidarity fees. Trade union approval is not required to benefit from the CBAs with solidarity fees. The solidarity fee can not exceed the membership fee. In practice, the solidarity fee is generally as much as the union membership fee. In the civil servants CBAs, all civil servants benefit from the signed CBAs without solidarity fee etc. It does not matter whether being trade union member or not for civil servants (Süzek, 2018).

e. Collective agreement signing authority

According to the Law No. 6356, the authority to sign a CBA at the workplace and enterprise level depends on exceeding the sector and workplace/enterprise threshold. For the workplace CBAs; the trade unions that represents one percent of the workers in the sector in which it is established and represent more than half of the workers in the workplace and has the most members in that workplace is authorized to sign collective agreements. For the enterprise level CBAs; the trade union, which represents one percent of the workers in the sector in which it is established and represent forty percent of the workers in the enterprise and has the highest number of members in that enterprise, is authorized to sign collective agreements.

For the civil servants collective agreement; Public Employers' Delegation on behalf of the public administration and Civil Servants Trade Unions Delegation on behalf of the civil servants attend collective bargaining negotiations. President of the Public Employer Delegation on behalf of the public administration and Public servants trade union confederation with the highest number of members and trade union with the highest number of members in each services branch have the signing authority civil servants CBA.

f. Parties of the collective agreement

For Workplace and Enterprise CBAs; workers trade unions, employer or employers trade unions, for Group CBAs; workers trade unions and employers trade unions, for civil servants CBAs; Public Employers' Delegation on behalf of public administration and Public Servants Trade Unions Delegation are the parties of collective agreement.

The Public Employers' Delegation is under the chairmanship of the Deputy President or minister appointed by the President of the Republic, consists of representatives of ministries and public institutions and organizations determined by the President. Public Servants Trade Union Delegation is chaired by the representation of The confederation with the highest number of members in terms of

the total number of members of the affiliated trade unions. One representative to be determined by the trade unions with the highest number of members in each service branch and one representatives which determined by the each confederations in the first, second and third place in terms of total number of members, based on the number of members of the affiliated trade unions.

II. Methodology

a. Turkish WageIndicator CBA Database

The COBRA system, a web-based platform created by Wageindicator, allows CBAs from more than 196 countries around the world to be uploaded to the system and annotated. Wageindicator allows the annotation of CBAs under 12 main headings (1-Job Titles, 2-Training, 3-Social Security & Pensions, 4-Employment Contracts, 5-Sickness & Disability, 6-Health & Medical Assistance, 7-Work/Family, Balance Arrangements, 8-Gender Equality Issues, 9-Working hours, 10-Wages, 11-Workers' Representation & Conflicts, 12- New Technologies & Green Clauses) through the questionnaire form created within the scope of the COBRA system. Collective agreements uploaded to COBRA in html format are evaluated for each headings mentioned. The aforementioned titles are inspired by the regulations that are most heavily involved in collective bargaining agreements around the world. In addition, each main heading consists of many sub-questions that give the chance to analyze the relevant subject in depth (Medas ad Cecon, 2021). This inquiry also allows to make a national and international comparison between the CBAs.

CBAs concluded in Turkey were also obtained in pdf, jpeg and word formats, then converted to html format and uploaded to the COBRA system, and their annotations were entered by answering the aforementioned questions (Tijdens, 2021). In this context, there are a total of 69 CBAs for which annotations were entered within the COBRA system, and it should be noted that 25 of these CBAs cover civil servants within the scope of Law No. 4688, and 44 of them cover public and private sector workers within the scope of Law No. 6356.

It should be noted that the CBAs signed for civil servants contain very general provisions, and the comprehensive economic and social rights of civil servants are handled within the scope of the relevant legislations. For this reason, it is seen that the answers to many questions in the annotations entered into the COBRA system for the CBAs signed for civil servants are negative. Although the rights regarding the questions in the COBRA system are granted to the civil servants by laws, it should be noted that the relevant headings are not included in the CBAs. Therefore, in this study, CBAs concluded for civil servants are excluded from the scope in order to make a sound evaluation. In addition, if an existing (but expired) CBA in the database is renewed, the expired CBA is excluded from the scope of this study. Because it has been noted that there is no significant difference between the renewed CBA and the expired CBA in terms of the provisions it contains.

In this context, analysis was carried out on a total of 28 CBAs for which explanations were entered into the COBRA system. 14 of these CBAs belong to private sector and 14 of them belong to public and semi-public. It should be noted that 11 of these CBAs were signed after 2020. This situation is especially important in terms of the answers given to the questions about the pandemic process.

Table 1. Profile of Analyzed Turkish CBAs

	Sector	Start Date	End Date	Private/ Public	Trade Union Name	Workplace/ Enterprise Name
1	Energy	01.03.2022	29.02.2024	Public	TES-İS	İSKİ
2	Metal	01.07.2021	31.12.2023	Private	OZ CELİK-İS	THY Technical
3	Communication	01.01.2022	31.12.2024	Sem-Pub	OZ İLETİŞİM İS	TURKSAT
4	Energy	01.03.2021	28.02.2023	Public	TES-İS	TEDAS
5	Energy	01.03.2021	28.02.2023	Public	TES-İS	EUAS
6	Transportation	01.01.2022	31.12.2023	Sem-Pub.	Hava-İs	THY A.O.
7	Energy	01.03.2021	28.02.2023	Public	TES-İS	Energy and Natural Resources Ministry
8	Energy	01.03.2021	28.02.2023	Public	TES-İS	İLBANK
9	Commerce Bureau Education	01.01.2021	31.12.2022	Public	OZ-BURO-İS	Culture and Tourism Ministry
10	Energy	01.03.2021	28.02.2023	Public	TES-İS	DSİ
11	Energy	01.03.2021	28.02.2023	Public	TES-İS	TEİAS
12	Food Industry	01.02.2015	31.01.2017	Public	Seker-İs	Sugar Industry
13	General Industry	01.03.2016	28.02.2018	Public	Hizmet-İs	The Istanbul Metropolitan Municipality
14	General Industry	01.03.2016	28.02.2018	Private	Hizmet-İs	İSPARK
15	Transportation	01.01.2017	31.12.2018	Private	TDS	Istanbul City Lines
16	General Industry	01.03.2016	28.02.2018	Private	Hizmet-İs	İETT
17	Energy	01.03.2017	28.02.2019	Sem-Pub.	Petrol-İs	Istanbul Energy Industry and Trade Inc.
18	Commerce Bureau Education	01.03.2019	28.02.2021	Public	Tez-Koop İS	Ministry of Youth and Sports
19	Transportation	01.01.2018	31.12.2019	Private	TUMTİS	DHL
20	Commerce Bureau Education	01.03.2016	28.02.2019	Private	Tez-Koop İS	MS
21	Commerce Bureau Education	01.01.2019	31.12.2020	Private	Sosyal-İs	Metro Gross
22	Commerce Bureau Education	01.01.2018	31.12.2020	Private	Sosyal-İs	Lufthansa Call Centre

23	Commerce Bureau Education	15.01.2018	14.01.2020	Private	Sosyal-İs	İZFAS
24	Commerce Bureau Education	01.01.2019	31.12.2021	Private	Sosyal-İs	Amnesty International
25	Transportation	01.01.2019	31.12.2021	Private	TUMTİS	UPS
26	Commerce Bureau Education	01.01.2018	31.12.2019	Private	Sosyal-İs	UNİBEL
27	Commerce Bureau Education	01.04.2019	31.03.2022	Private	Tez-Koop-İs	British Council
28	Transportation	01.01.2018	31.12.2020	Private	TUMTİS	Aras Cargo

Of the cCBAs included in the study, 8 belong to the energy sector, 5 to transportation, 9 to Commerce Bureau Education, 3 to general industry, 1 to metal, 1 to food industry and 1 to communication sector. While the majority of the CBAs are for two years, it was noted that two CBAs in the trade and office sectors were signed for 3 years.

III. Research Findings

Job description, training, trial period and social security

It is seen that 11 of 28 CBAs include a **job description or job classification system**. While job description was included in only one CBA, job classification was included in 10 CBAs. It should be noted that job classification systems are classified in CBAs with names such as job group, job classification scale, job value grades.

In 16 of 28 CBAs, regulations regarding **training and apprenticeship** are included. While training provided to workers was mentioned in all of the 16 CBAs, but only 7 of them mentioned apprenticeship opportunities. It has been observed that all of the 8 CBAs that include regulations regarding apprenticeship opportunities are in the energy sector.

According to the labor law, the **trial period** is at most two months. With a collective agreement, this period can be extended up to four months. It is noteworthy that 27 of 28 CBAs include a trial period. It was observed that 3 of these CBAs had a trial period of 120 days, 9 of them 30 days, 5 of them 60 days and 10 of them 90 days of trial period. It is noteworthy that all CBAs with a trial period of 120 days are concluded in the Commerce Bureau Education.

Only 5 of 28 CBAs included regulations on **social security and pension**. In these CBAs, the employer pays a contribution to the disability fund for its employees. It is understood that the employer does not contribute to the unemployment fund and pension fund in any of the CBAs. The fact that both unemployment insurance and pension arrangements are regulated within the scope of special laws on the subject is one of the main reasons why these rights are not included in the collective bargaining agreements. Also 24 CBAs have clauses on sickness and disability. It was noted that in 14 of these 24

CBA, workers were paid in cases of disability due to work accident. In addition, all 28 CBAs contain regulations regarding the provision of health and medicine support to workers. It should be noted that within the scope of the right to social security, this support is provided to the workers within the scope of the law. However, it should be noted that the mentioned right covers the relatives of the workers only in 8 CBAs. Considering that only 1 CBA includes employer's contribution regarding health insurance, it is understood that the regulations in the CBAs do not include a protection above the legal regulations for health and medicine aids. However, considering the legal framework regarding working life and the right to social security in Turkey, it should be underlined that all insured workers are covered by health insurance. In addition, 5 CBAs signed in the public sector included regulations regarding the right of regular or yearly medical checkup or visits. It is also noteworthy that only 1 CBA included regulations regarding Covid-19.

Working hours

All analyzed CBAs have clauses on standard working hours, schedules, holidays. It has been observed that in the vast majority of CBAs, daily and weekly working hours are determined. In this context, it should be noted that working 8 hours a day is common in general. While the weekly working hours are accepted as 45 hours in the majority of the CBAs, only 6 CBAs accept the weekly working hours as 40 hours. According to the labor law in Turkey in Turkey, work exceeding 45 hours per week is considered overtime. 27 CBAs include compensation for overtime work. In addition, in case of working on Sundays, premium is given in 13 CBAs. Additional payments for Sunday work can be determined as Number of days of regular wage or Percentage of regular wage.

CBAs regulations related Wages

According to the Turkish labour law, the wage is paid at least once a month. This period can be reduced for up to one week with individual employment agreements or collective agreements. According to the labour law, the wage is paid at least once a month. This period can be reduced for up to one week with individual employment agreements or collective agreements. The equalization period is two months and can be extended up to four months by collective agreements.

Wages are the main causes of disputes in the collective bargaining process in Turkey. Increase of wages is usually calculated separately for each year in a two-year agreement. The increase is reflected in the wage in 6-month periods. (Exm. 1st Six Month, 2nd Six Month, 3th Six Month and 4th Six Month). Increases by seniority is common practice in Turkey. Usually after equally increases. Wage increases are given according to seniority additionally. Consumer price indexes and inflation are also taken in to consideration in wage increases. It was noted that the wage regulations in all CBAs included in the scope of the research are compatible with the mentioned conditions and processes.

Occupational health and safety

Another important issue regarding collective bargaining agreements in Turkey is occupational health and safety. In this context, the legal framework provides workers with a very detailed scope of protection. Occupational Health and Safety Law No. 6331 includes the rights and obligations of workers and employers regarding occupational health and safety. It should be noted that the articles in the CBAs

generally refer to the relevant law and in this context, the obligations brought by the law are mentioned. In accordance with the stated determination, it has been observed that workplace policies regarding occupational health and safety are in all CBAs included in this study. However, it should be noted that the number of CBAs regulating occupational health and safety training is extremely limited. In this context, while occupational health and safety trainings were mentioned in only 6 of 28 CBAs, it is noteworthy that 5 of these CBAs were signed in the public sector. In addition, in a total of 10 CBAs, the agreement contain health and safety clauses related to pregnancy. But there is not special health and safety provisions during pregnancy.

Regulations on social rights

Education allowance, military allowance, marriage allowance, fuel aid, funeral assistance or related benefits, maternity allowance, disability assistance, travel assistance, clothing aid, cleaning materials and kitchen packages, feast bonuses, determination of work equipment by workers are additional rights issued by the employer, which are arranged in CBAs generally in Turkey. Permissions for trade union activities are also covered and determined by CBAs. For example, 24 of the CBAs analyzed within the scope of this study provide funeral assistance or related benefits for employees. Paid leave in case of death of relatives can be counted among the common arrangements in CBAs.

Additionally breast feeding rooms, nursery, maternity leave, maternity allowances are the most common regulations in CBAs. There are advanced regulations in a very limited number of CBAs. Although paid maternity leave was regulated in 15 of the analyzed CBAs, just as in other rights related to social security, the basis for the said right was established by laws. Whether it is mentioned in the CBA or not, the laws regulate to working life entitle the woman workers who gives birth to paid maternity leave for a total of 16 weeks, 8 week before the birth and 8 weeks after the birth. In multiple pregnancies, this leave period may increase, and afterwards the female worker has the right to request unpaid leave. The existence of the aforementioned legal regulations may prevent the issue from being directly mentioned in the CBAs. Paid paternity leave is also very common in the CBAs concluded in Turkey. Although its duration was short, 25 of 28 CBAs included paternity leave regulations. It is seen that this leave varies between 5 and 6 days in case of paternity. Giving the relevant leave in case of adoption is one of the strengths of the CBAs concluded in Turkey. Additionally 12 CBAs contain clauses on employer-provided childcare facilities. However, despite all these regulations, only 4 CBAs contain clauses addressing discrimination at work. In this context, the sensitivity of the CBAs examined towards gender is not at the expected level. In short, the CBAs analyzed within the scope of this study are not gender-blind, but it will be difficult to state that there is a high level of sensitivity.

Conclusion

Intensity of competition between trade unions in Turkey is among the important obstacles to access to collective agreement texts. Many unions are hesitant to share the collective agreement texts with the public. Therefore, the difficulty of accessing the collective bargaining agreement texts is among the important limitations of this study. This situation also delays the creation of a database on collective bargaining agreements in Turkey.

Considering the findings obtained within the scope of the study, it is seen that the content of CBA is concentrated in certain areas. The main subject of CBA is wages and wage supplements in both the public and private sectors. Inflation is one of the most important factors in determining the wage level. Considering this effect, wages in Turkey within the scope of collective bargaining are updated according to consumer prices in semi-annual periods. The qualifications, responsibilities and contributions of the workers to production also have an important place in determining the wages within the scope of the CBAs. CBAs in Turkey include important regulations in terms of job security, working hours, occupational health and safety and guaranteeing union rights, in addition to wages. When CBAs are evaluated in terms of social rights, social benefits and maternity rights come to the fore.

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