



# **DATA UPDATE – Women, Business and the Law 2023**

**Türkiye**

**Ministry of Treasury and Finance**

## **1. Marriage**

### **Comment received from Government:**

*1. Does a woman have the same rights to remarry as a man?*

According to Article 132 of the Turkish Civil Code (Code), woman cannot marry for 300 days starting from end of marriage and court lifts this waiting period upon finding that woman is not pregnant, or divorced spouses want to re-marry each other. In practice, upon a request to lift waiting period, court obtains pregnancy test result as evidence and makes its judgement on the same day it receives test result. Determination of pregnancy status of woman is important for declaration of kinship between the child and the father. Likewise, determination of paternity has consequences in many areas such as personal law, family law and inheritance law. Therefore, the fact that kinship is not determined correctly or is not determined at all will lead to personal and social problems. As seen in the articles above, maternity is established directly through birth, whereas paternity can be established through marriage with mother, acknowledgement or court decision. Legal presumption in Article 285 is that father of child, which was born during marriage or within 300 days starting from end of marriage, is husband. Establishment of kinship between husband and child born after this period can only be possible with verification showing that mother was pregnant during marriage. Should this waiting period did not exist, if child is born within 300 days from end of first marriage and mother has remarried in meantime, husband in second marriage would be presumed as father, whereas real father could have been first husband. Therefore, this article on waiting period is provided as a safety mechanism and court lifts this waiting period upon finding that woman is not pregnant. If this article did not exist, it would have been ambiguous to determine the paternity and there would be disputes on the paternity. In this respect, Article 132 aims to correctly establish the kinship between father and child and to protect rights and interests of child. This rule is not an obstacle that prevents women from having same rights as men in remarriage. Hence, response should change from “No” to “Yes” in order to reflect Türkiye's current situation. Please note that our detailed explanations regarding the question of "Does the Women have the same rights to remarry as men?" has been sent as attachment via email.

Suggested data modification: The response should change from “No” to “Yes” in order to reflect Türkiye's current situation.

Legal basis: Article 132, 282, 285 and 287 of the Civil Code

### **Response from *Women, Business and the Law* team:**

According to the *Women, Business and the Law* methodology, the answer to this question is “Yes” if women and men have an equal right to remarry. The answer is “No” if there are legal provisions limiting a woman’s right to remarry, such as requiring a waiting period before remarriage to which a man is not subject.

According to Article 132 of the Turkish Civil Code (Code), a woman cannot marry for 300 days starting from the end of a marriage. This period ends when a woman gives birth. Men are not subject to a similar waiting period. Therefore, the answer to this question is "No."

## **2. Pension**

### **Comment received from Government:**

*1. Is the age at which men and women can retire with full pension benefits the same?*

According to Law no. 5510, Article 28 insured women can retire at age 58 and man can retire at age of 60. However, these pensionable ages will increase gradually and after 2048, both men and women will retire at the age of 65. In Türkiye the amount of pension is not related to the age of retirement. The pension amount is a function of number of contribution days and the amount of contribution (social security premiums). In order to get full pension both women and men need to pay contribution for 7200 days that they worked. Therefore, correlating minimum retirement age to the amount of pension is not completely valid. Moreover, minimum retirement age is not mandatory. People can keep working after minimum retirement age and these extra days will increase their pensions. Setting lower minimum pension age is reverse discrimination for women. Since the amount of pension is not related to minimum pensionable age the answer of below question should be changed to “Yes”.

Suggested data modification: The response should change from no to yes.

Legal basis: Law no. 5510 of 2006 Article 28

**Response from Women, Business and the Law team:**

According to the *Women, Business and the Law* methodology, the answer to this question is “Yes” if the statutory age at which men and women can retire and receive irrevocable minimum old-age pension is the same. The answer is “No” if there is a difference in the statutory age or if there is no national law on pension benefits. If transitional provisions gradually increase, decrease or equalize the statutory retirement age, the answer will reflect the retirement age as of October 1, 2022, even if the law provides for changes over time.

According to Article 28 of Law No. 5510 of 31 May 2006, a gradual equalization of retirement ages will take effect starting in 2036. Following the schedule provided in the law, retirement ages are only set to equalize by 2048, when both men and women will be able to retire with full pension benefits at 65 years of age. Therefore, the answer remains "No." The team will keep monitoring application of the legal texts above, based on *Women, Business and the Law* methodology and will make adjustments in the future as required.

**Comment received from Government:**

*2. Are periods of absence from work due to childcare accounted for in pension benefits?*

According to Law no. 5510 Article 41, an insured woman who did not work for two years after giving birth to her child has right to pay insurance premiums for this two-year period. Then, these two years will be recognized as insurance periods. By doing this the woman will need less contribution days (In Türkiye in order to get pension you need 7200 contribution days). These contribution days will also increase the amount of pension as normal working days do. Insured women can use this right for up to 3 children. This means a mother can get 6 years of contribution days (2160 days) without working. Since these 6 years of absence due to childcare can be accounted for both getting pension and increases the amount of pension the answer of below question should be changed to “Yes”.

Suggested data modification: The response should change from no to yes.

Legal basis: Law no. 5510 of 2006 Article 41

**Response from Women, Business and the Law team:**

This question examines the existence of compensating mechanisms in the mandatory contributory pension scheme(s) that offset interruptions in employment and contributory history due to childcare leave in the protection of pension entitlements. According to *Women, Business and the Law* methodology, the answer to this question is “Yes” if pension contributions are paid or credited during maternity or parental leave, or if the leave period is considered a qualifying period of employment used for the purpose of calculating pension benefits. The answer is also “Yes” if there are mechanisms to compensate for any contribution gaps and to ensure that the leave period does not reduce the assessment base or pension amounts, or if there are no mandatory contributory pension schemes, but there is a noncontributory universal social pension conditioned on noncontributory requirements with no means test attached. The answer is “No” if there are no compensating pension arrangements for periods of childcare, or if there is no mandatory contributory pension scheme(s) for private sector workers and no noncontributory universal social pension scheme(s) in place.

According to Article 41 of the Law No. 5510 of 31 May 2006, a woman has the right to pay insurance premiums for maternity leave periods to recognize it as insurance period. However, this mechanism is voluntary and does not ensure the compensation of contribution gaps during periods of maternity leave. Therefore, the answer to this question is “No”.

## **Communications**

For questions on this note, please contact:

Tea Trumbic  
Women, Business and the Law  
Global Indicators Group – Development  
Economics  
World Bank Group  
2121 Pennsylvania Avenue NW  
Washington D.C. 20433  
Tel: +1 (202) 473-0577  
E-mail: [ttrumbic@worldbank.org](mailto:ttrumbic@worldbank.org)

Marina Elefante  
Women, Business and the Law  
Global Indicators Group – Development  
Economics  
World Bank Group  
2121 Pennsylvania Avenue NW  
Washington D.C. 20433  
Tel: +1 (202) 473-5556  
E-mail: [melefante@worldbank.org](mailto:melefante@worldbank.org)