

**MINISTRY OF EMPLOYMENT AND
PROFESSIONAL INTEGRATION OF YOUTH**

Decree n° 2009-1052 dated 13 April 2009, completing decree n° 2009-349 dated 9 February 2009, fixing the program of the national fund of employment, the conditions and the methods of their grant.

The President of the Republic,

On a proposal from the Minister of Employment and Professional Integration of Youth,

Having regard to law n° 60-30 dated 14 December 1960, relating to the organization of the social security systems as amended and completed by the subsequent texts, notably law n° 2007-51 dated 23 July 2007,

Having regard to the labor code promulgated by law n° 66-27 dated 30 April 1966, as amended and completed by the subsequent texts notably law n° 2007-19 dated 2 April 2007,

Having regard to the investments incentives code promulgated by law n° 93-120 dated 27 December 1993 all amending or completing texts notably law n° 2009-5 dated 26 January 2009,

Having regard to law n° 95-34 dated 17 May 1995 relating to the ailing firms recovery, amending or completing texts notably law n° 2003-79 dated 26 December 2003,

Having regard to law n° 99-101 dated 31 December 1999, relating to finance law for the year 2000, and notably its article 13 creating the national fund for employment,

Having regard to law n° 2008-79 dated 30 December 2008, relating to economic measures and support to the ailing firms to carry on their activities,

Having regard to decree n° 2007-1717 dated 5 July 2007 fixing the attributions of the Ministry of Employment and Professional Integration of Youth,

Having regard to decree n° 2008-3931 dated 30 December 2008, fixing the methods and procedures of implementing the provisions of law n° 2008-79 dated 30 December 2008, relating to economic measures and support to the ailing firms to carry on their activities,

Having regard to decree n° 2009-349 dated 9 February 2009, fixing the programs of the national fund of employment, the conditions and the methods of their grant,

Having regard to the opinion of the Minister of Social Affairs, Solidarity and Tunisian Abroad, the Minister of Finance, the Minister of Development and International Cooperation and the Minister of Industry, Energy and Small and Medium- Sized Enterprises

Having regard to the opinion of the Administrative Court.

Decreases the following :

Article one - Are added to decree n° 2009-349 dated 9 February 2009 the following articles 42 (bis), 42 (ter), 42 (quarter) and 42 (quinquies):

Article 42(bis) - The national fund of employment takes in charge 50% of the employer's contribution to the national legal regime of social security for the salaries paid to the concerned workers in reducing the number of hours of work from eight hours per week to the minimum by reason of the slow down of activity, concerning the totally export enterprises as defined in paragraph 2 of article 10 of the investments incentives code,

The national fund of employment takes in charge of the employer's contribution to the national legal regime of social security for the salaries paid to the workers who are laid off by the totally export enterprises as defined in paragraph 2 of article 10 of the investments incentives code by reason of the slow down of their activities, in connection with the foreign markets,

Article 42 (ter): The totally export enterprises as defined in paragraph 2 of article 10 of the investments incentives code aiming at benefiting from the advantages provided for in article 42(bis) of this decree, shall lodge a request for the purpose at the territorially competent labor inspection or before the general directorate, in order to rule on the reducing of the number of hours of work or the laid off according to the procedures provided for in articles 21 to 21-11 of the labor code, with an express mention about the request of the relevant advantage.

In case of the acceptance, of the regional or central commission of supervising dismissal, of the reducing of eight hours per week of the usual number of the hours of work or the put on laid off by reason of the slow down of their activities, in connection with the foreign markets, the relevant departments of the Ministry of social affairs submit a copy of the minute of the commission of supervising dismissal joint with the nominative list of the concerned workers to the consultative commission provided for in article 12 of decree n° 2008-3931 dated 30 December 2008,

The advantages provided for in article 42(bis) are granted by order of the Minister of Social Affairs after opinion of the consultative commission provided for in article 12 of decree n° 2008-3931 dated 30 December 2008.

Article 42 (quarter) : The resumption of work according to a number of hours per week does not allow to the enterprise to benefit from the advantage provided for in article 42(bis) or the resumption of workers laid off suspends the benefice from the advantages granted according to article 42(bis) of this decree.

The concerned enterprise shall, immediately, inform the territorially competent labor inspection or the general directorate of labor inspection, as well as the national fund of social security and concerned departments of the Ministry of Employment and Professional Integration of Youth.

If the enterprise breaches the duty of declaration or non payment of the due contributions according to article 42 (bis) of this decree during the period of benefitting from the advantage, the latter shall be withdrawn and the enterprise shall reimburse it with the penalties of delay as provided by article 63 of the investments incentives code by a pleased order of the Minister of Finance after opinion of or upon a proposal from the concerned departments, after hearing the beneficiaries of this advantage.

The amounts granted according to article 42(bis) of this decree, to the workers of the concerned companies are deemed to be an integral part of their salaries and shall not be returned or deduced from their legal rights.

Article 42 (quinquies): The provisions of articles 12, 13 and 14 of decree n° 2008-3931 dated 30 December 2008 are applicable to the enterprises benefitting from the advantages provided for in article 42(bis).

Art. 2 - The provisions of this article shall apply as from 17 February 2009 until 30 June 2009.

Art. 3 - The Minister of Social Affairs, Solidarity and Tunisians Abroad, the Minister of Development and International Cooperation, the Minister of Finance, the Minister of Industry, Energy and Small and Medium- Sized Enterprise and the Minister of Employment and Professional Integration of Youth, each in his respective capacity, shall implement the decree herein which shall be published in the Official Gazette of the Republic of Tunisia.

Tunis, 13 April 2009.

Zine El Abidine Ben Ali