

Early retirement law has been enacted

March 2023



Dear Colleagues, Clients and Friends,

While we are trying to heal the wounds of the earthquake disaster that our country has experienced, important developments took place concerning the work life in Türkiye. The long awaited “early retirement” was introduced through the enactment of the Law Amending the Social Security and General Health Insurance Law No. 5510 and the Decree No. 375 (“**EYT Law**”), which has been published in the Official Gazette dated 3 March 2023 and numbered 32121. The EYT Law provides early retirement opportunities for employees who are not eligible for retirement or old-age pension (hereinafter be referred to as “retirement pension”) for failing to meet the age criteria. Together with the EYT Law, employees, who have been enrolled in the Turkish social security system (known as the 4/1-(a) status), will be eligible for retirement pension provided that they have (i) started working on or before 8 September 1999, (ii) been insured for 20 years (for women) or 25 years (for men), and (iii) paid the required days of social security premium (ranging from 5000 to 5975 days depending on insurance start date).

In order to receive retirement pension, the employees will initially have to terminate their existing employment relationship with their employer as per the EYT Law. This termination due to retirement raises certain questions for employers in terms of accrued labour entitlements of these employees under the existing and/or future employment relationship.

Obligation to Give Notice Period/Payment in Lieu of Notice: For terminations made within the scope of the EYT Law, neither the employer nor the employee is required to give notice to the other party or make any payment in lieu of notice. Nevertheless, if the retired employee will be rehired by the same employer, the pre-retirement term will not be taken into account when determining the notice period for the post-retirement term.

Severance Payment: Pursuant to Article 14 of the (abolished) Labour Law No. 1475, which still continues to be in force, employees will have the right to request severance payment due to termination based on retirement within the scope of the EYT Law in relation to the period they have worked at the same employer. If, based on an agreement of the parties, for a re-hired employee, no severance payment is made to the employee at the date of termination based on retirement, then the severance payment may need to be paid in future as follows:

- (i) In the event that the post-retirement period ends in a way that entitles the employee to severance payment, the latest salary paid to the employee will be taken as the basis of calculating the severance payment for the entire employment, including the pre-retirement period.
- (ii) In the event that the post-retirement period ends without entitling the employee to severance payment, then pre-retirement salary and length of service of the employee will be taken as the basis of calculating the severance payment, together with accrued interest until final termination date to be determined by applying the highest interest rate applicable to deposit accounts.

Annual Paid Leave: Employees, who terminate their employment relationships within the scope of the EYT Law, will also have the right to claim payment for their unused annual paid leave days. Moreover, in case the employer rehires the retired employees, then based on the consolidation principle, the pre-retirement period of such employees will be taken into account in determining the eligibility of the employees' seniority of the employee.

Execution of New Employment Agreement: It is advisable to execute new employment agreement with the employees who have retired based on the EYT Law and re-hired by the same employer, which also contain detailed provisions regarding payment of pre-retirement periods' legal and contractual entitlements.

Incentive for Social Security Support Premium: The Turkish government introduced a new incentive system to motivate re-employment of the EYT retirees by the same employer. The companies, which have re-hired retired employees pursuant to the EYT Law, within 30 days following their termination/ retirement date, will be eligible to receive an incentive regarding mandatory social security support premium payments whereas 5 (five) points of the employer's contribution of such premium will be funded by the Treasury.

Please feel free to contact us at any time regarding your questions about the impact and implementation of the EYT Law to existing or future employment relationships.

Sincerely,



Elvan Aziz

Partner

eaziz@paksoy.av.tr



Gülce Saydam Pehlivan

Counsel

gsaydam@paksoy.av.tr



Simge Ergin

Senior Associate

sergin@paksoy.av.tr

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