

Government incentives and restrictions introduced under the labour legislation during coronavirus pandemic

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Dear Colleagues, Clients and Friends,

Covid-19 continues to remain as a major threat to economy and business life, effecting a large number of employers suspending production and services in many sectors. In this briefing, we would like give you information on government incentives and restrictions introduced under various pieces of legislation with respect to working life in Turkey, with an aim to reduce negative effects of Covid-19.

1. Termination restrictions due to Covid-19

According to the provisional article added to the Labour Law No. 4857 ("**Labour Law**") through the Law on Reducing the Effects of the New Coronavirus (Covid-19) Pandemic on Economic and Social Life and the Law Amending Certain Laws No. 7244, published in the Official Gazette dated 17 April 2020 and numbered 31102 (the "**New Omnibus Law**"), all employers have been prohibited to terminate all kinds of employment and service agreements, and dismiss employees for a period of three months starting between 17 April and 17 July 2020. Only exception to this prohibition is employer's dismissing the employee on just causes based on employee's behaviours contradicting with morality and good faith principles regulated under Article 25/II of the Labour Law. The President is authorized to extend the termination prohibition period up to six months. Acting contrary to this restriction will be subject to an administrative fine corresponding to monthly minimum gross wage on the termination date of each employee.

Accordingly, during the same period, employers can request its employees to take unpaid leave, partially or completely, without seeking consent of such employees. Such unilateral act of the employer will not give the employees right to terminate their employment agreement based on just cause and by requesting payment of statutory severance compensation.

2. Covid-19 Related Short-time Working Allowance

Short-time working is an implementation that provides insured employees an income during a temporary unworked period due to economic, sectoral or regional crisis, or force majeure, which results in a temporary and significant (*at least a third*) reduction of the weekly working hours at the workplace or complete or partial business activity (*at least for a period of four weeks*).

Pursuant to the Regulation on Short-Time Working and Short-Time Working Allowance, pandemic is considered as a “force majeure” in terms of implementation of the short-time working and Covid-19 outbreak has been qualified as a “force majeure due to periodical situations arising from external effects” by the Turkish Employment Agency (the “**Agency**”) as well. The Agency started accepting applications from the employers who wants its eligible employees to benefit from the short-time working allowance as of 23 March 2020.

According to the Law on Making Amendments on Certain Laws No. 7226, published in the Official Gazette dated 26 March 2020 and numbered 31080 (“**Omnibus Law**”), condition to benefit from this allowance for the employer has been determined as not dismissing any employees during the short-time working period, except for just causes mentioned under article 25/II of the Labour Law. Also, short-time work allowance will be provided only to eligible employees who (i) has been employed for at least 60 days before the date of allowance application, and (ii) have paid at least 450 days of unemployment insurance premium within last three years.

Application to the Agency requires submission of documents evidencing adverse effects of Covid-19 outbreak on businesses along with the short-time working request form and a list of employees who are eligible for short-time working. Based on the provisional article added to the Unemployment Insurance Law No. 4447 (the “**Unemployment Insurance Law**”) through the New Omnibus Law, short-time working allowance will be granted based on applicant’s declarations, without waiting for completion of Agency’s eligibility audit. Any over or improper short-time working allowance made to the employees from the Unemployment Insurance Fund, will be collected from his/her employer together with the legal interests.

During short-time working, employers will be exempt from paying salary or state health insurance premiums for a maximum period of three months, which can be extended up to six months by the President. Daily amount of short-time working allowance corresponds to 60% of eligible employee’s daily average gross earnings during last 12 months, which cannot exceed 150% of the statutory monthly minimum gross salary (i.e. gross 4,414.50 Turkish Liras). If the workplace is not entirely shut down, but working hours have been reduced, the employer will continue to proportionally pay the salary to the employee for actual hours worked, and remaining pro-rata will be paid by the Agency.

3. Monetary salary support

Pursuant to the provisional article included to the Unemployment Insurance Law with the New Omnibus Law, effective as of 17 April 2020, monetary salary support corresponding to a daily amount of TRY 39.24 (minus stamp duty only) from the Unemployment Insurance Fund can be requested for employees:

- i. who have been put on unpaid leave by their employers but could not benefit from the short-time working allowance; or
- ii. whose employment agreements have been terminated after 15 March 2020 in accordance with article 51 of the Unemployment Insurance Law, but who cannot benefit from unemployment allowance provided thereunder.

Entitlement to monetary salary support is not possible for employees who receive old-age pension from any social security institution. Employers continue to actively employ the employees who are put on annual leave and benefiting from the monetary wage support, will be subject to an administrative fine per employee corresponding to monthly minimum gross salary applicable on the violation date plus monetary salary support paid to the employee alongside its legal interest accrued as of the payment date.

In addition, the Omnibus Law extended the scope of individuals to be covered by state health insurance to include dependents of employees who benefit from monetary salary support as well as the employees who are not considered to benefit from such insurance, whereas the insurance premiums of these persons will be funded by the Unemployment Insurance Fund.

Please do not hesitate to contact us for any further information on this briefing.



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