

# Employment Overview of 2021: Significant Changes Introduced to Employment Law in Turkey

*December 2021*



Dear Clients, Colleagues and Friends,

While we are leaving 2021 behind, we would like to remind you about the changes that have been introduced to employment law in Turkey. As 2021 poses to be the second year of pandemic, the regulators were accustomed to the new necessities of the working life while proceeding with their normal agendas. Considering how Coronavirus (Covid-19) pandemic affected the working life in many countries, including Turkey, it is without surprise that the recent significant amendments made within the scope of employment law mainly relate to Covid-19 pandemic and its consequences.

In this publication, we aim to give you a brief insight into the fundamental legislative changes concerning Turkish employment law in 2021 from the newest to the oldest, which can be summarized as follows:

**Minimum monthly wage.** The Ministry of Labour and Social Security of Turkey has announced on 16 December 2021, the gross minimum monthly wage to be applied in 2022 as TRY 5,004.00 (approx. USD 430 as of 28 December 2021), which corresponds to net TRY 4,253.40 (approx. USD 365 as of 28 December 2021). As a novelty, such minimum monthly wage will be exempted from income tax and stamp tax. Pursuant to the recent amendments made on the Income Tax Law numbered 193 and published in the Turkish Official Gazette on 25 December 2021, this income tax and stamp tax exemption will also be applicable for the portion of all salaries corresponding to the minimum wage amount.

**Regulation on the Notifications to be Made Electronically by the SSI.** The Regulation on the Notifications to be Made Electronically by the SSI ("**Regulation**"), published on 24 September 2021 and entered into force on 1 October 2021, which obliges all SSI notifications to be made online, where hard copy notifications will no longer be available. A notification made by the SSI to employers' e-notification addresses will be assumed as

duly notified on the 5<sup>th</sup> day following notification date. The Regulation requires all legal person employers to apply for an electronic notification address within three months of employing an insured employee and for the existing employers this deadline ends on 31 December 2021 (inclusive). The real person employers may also register to the electronic notification system subject to their discretion; however, it is important to note that once registered, the system becomes mandatory.

**Rules concerning the precautions to be taken at workplaces relating to Covid-19.** The Ministry of Labour and Social Security of Turkey has posted an announcement on its website on 3 September 2021 stating that an internal circular has been sent to local governor's offices in Turkey, which (i) sets out employers' obligations to inform employees concerning the risks and precautions relating to the Covid-19 pandemic, (ii) sets out employers' obligation to inform unvaccinated employees diagnosed with Covid-19, and (iii) enabling the employers to request PCR test results from the employees, who are not vaccinated. You may reach our briefing note via the following [link](#).

**Termination restriction, unpaid leave and short-time work allowance due to Covid-19.** Regulations concerning termination restriction, unpaid leave and short-time work allowance continued to remain in effect in the first quarter of the year as a result of numerous extensions. As you may recall, in April 2020, the government had introduced incentives and restrictions through various regulations with respect to working life in Turkey, which were provided in detail in our briefing in the following [link](#). To sum up;

- Pursuant to the Provisional Article 10 of the Labour Law No. 4857 ("**Labour Law**"), all employers were prohibited to terminate all kinds of employment and service agreements and dismiss employees for a period of three months starting from 17 April 2020, except for the just causes based on employee's behaviour contradicting with morality and good faith principles regulated under the respective article of the Labour Law. During the same period, employers could request its employees to take unpaid leave, partially or completely, without seeking consent of such employees.
- Pursuant to the Regulation on Short-Time Working and Short-Time Working Allowance, Covid-19 pandemic was considered as a "force majeure" in terms of implementation of the short-time working, which provided insured employees an income from the state during a temporary unworked period, and the employers, who wanted its eligible employees to benefit from the short-time working allowance, submitted applications as of 23 March 2020.
- 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) was provided to employees, who were put on unpaid leave by their employers but could not benefit from the short-time working allowance or whose employment agreements were terminated after 15 March 2020, but who could not benefit from unemployment allowance provided thereunder, upon request of the employers.

The President was authorized to extend the periods of termination restriction, unpaid leave and short-time work allowance pursuant to the relevant regulations. As per the various Presidential Decrees issued, lastly, the periods for benefiting from the short-time work allowance, the termination restriction, and unpaid leave were extended until 30 June 2021. As the President did not further extend these periods, implementation of the termination restriction, unpaid leave and short-time allowance ended as of 1 June 2021.

Currently, the employees do no longer benefit from short-time work allowance and their employment agreements may be terminated by the employers as in pre-Covid-19 days. Moreover, the employers are required to take employees' consent to send them to unpaid leave.

**Circular on Amendment of the SSI Exit Codes.** As a general rule, employers should notify dismissals to the Turkish Social Security Institution ("**SSI**") by using the exit codes announced by the SSI (previously

numbered from 1 to 41, each representing a termination reason). With the Circular of the SSI dated 1 April 2021 numbered 2021/9, the dismissal code “29 – *Termination by the employer due to employee’s behaviours contradicting with morality and good faith principles*” has been cancelled and nine new codes have been introduced detailing the behaviour contradicting with morality and good faith principles for the dismissal based on just cause as per Article 25/II of the Labour Law, all of which indeed corresponds to the dismissal grounds specified in the same article.

**Regulation on Remote Working.** The Regulation on Remote Working (“**Remote Working Regulation**”) entered into force on 10 March 2021, which sets out the main principles and procedures applicable to remote working. Accordingly, an employee has the right to ask from his/her employer to work remotely by sending a written request whereby the employer has 30 days to evaluate the respective request and notify the employee in writing. If the decision is affirmative then a remote working employment agreement will be signed between the employer and the employee having certain terms and conditions such as description and method of work, duration and place of work, supply of work tools and equipment and principles for the usage, maintenance and repair of such tools and equipment, compulsory expenses associated with the production and method of reimbursement, the costs associated with the organization of the place of remote work, employer’s communication method with the employee and the time interval between these communications. The employer’s obligation within the scope of the occupational health and safety legislation continues in case of remote working. The Remote Working Regulation also contains some provisions regarding the protection of personal data. Accordingly, the definition and scope of data to be protected should be specified in the employment agreement for remote working. The employer must also inform the employee about the relevant rules and legislation for the protection and sharing of the personal data, and take the necessary measures to ensure its protection. The employee’s consent will not be required for the transition to remote working if the remote working is applied to the whole or part of the workplace due to compelling reasons that are specified in the legislation. You may reach our briefing note (in *Turkish*) via the following [link](#).

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

Kind regards,



**Elvan Aziz**

Partner

[eaziz@paksoy.av.tr](mailto:eaziz@paksoy.av.tr)



**Gülce Saydam Pehlivan**

Senior Associate

[gsaydam@paksoy.av.tr](mailto:gsaydam@paksoy.av.tr)



**Selen Toma**

Associate

[stoma@paksoy.av.tr](mailto:stoma@paksoy.av.tr)

This briefing is for information purposes; it is not legal advice. If you have questions, please call us. All rights are reserved.

Paksoy is an independent full-service law firm in Istanbul, Turkey focused on helping clients in a wide range of legal areas including cross-border investments, acquisitions, international business transactions, banking and finance, projects, infrastructure, investigations, compliance, disputes, litigation and arbitration.