

Labour Courts Act comes into effect

November 29 2017 | Contributed by [Gün + Partners](#)

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Introduction

On October 25 2017 the Labour Courts Act (7036) was published in the *Official Gazette* and officially came into effect. The act aims to ease the judiciary's workload and accelerate the judicial process in employment cases. It has introduced a number of changes, the most important of which include:

- mandatory mediation for employers and employees before initiating lawsuits;
- an amended procedure for reinstatement cases; and
- a reduced statute of limitations of five years for several types of compensation.

The act also amends several pieces of legislation, including:

- the Labour Act (4857);
- the Law on Negotiation in Legal Disputes (6325); and
- the Law on Trade Unions and Collective Bargaining Agreements (6356).

Mandatory mediation

Under the act, mediation must be undertaken before initiating lawsuits regarding:

- employee receivables and compensation arising from the Labour Act;
- employment and collective bargaining agreements; and
- reinstatement claims.

Mandatory mediation is not applicable to claims involving pecuniary and non-pecuniary damages that arise from occupational accidents and illnesses.

The mediation phase must be completed within three weeks and the mediator must deliver his or her decision on the application within this period. If required, the mediator can extend this period by a maximum of one week.

If the parties do not apply for mandatory mediation before filing the above lawsuits, their claim will be dismissed due to the lack of requirements to initiate a lawsuit, as provided under the Procedural Code. In such cases, the court will grant no additional time to the parties to correct the deficiency. Instead, it will dismiss the claim based on procedural grounds. At that point, in terms of reinstatement actions, the employee will have the right to apply for mediation within two weeks from the finalisation of the court's dismissal decision.

The regulations regarding mandatory mediation will come into force on January 1 2018.

Amendments to reinstatement cases

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The act has introduced the following changes to reinstatement cases, among others:

- Employees who wish to file a reinstatement case should first apply for mediation within one month from the date of the termination notice.
- If the matter is not settled by mediation, a reinstatement case should be filed before the first-instance labour court within two weeks from the date on which the mediator issued final minutes.
- Decisions concerning reinstatement cases cannot be appealed before the Supreme Court. Following the first-instance labour court decision, the parties can apply only to regional appeal courts.
- At present, a court hearing a reinstatement case can order that the employee be reinstated and that the employer pay compensation equivalent to four months gross salary and other benefits. Further, compensation of between four and eight months' gross salary is payable if the employer does not re-employ the employee. However, in their decisions, the courts have not stated such figures. Under the act, the mediator or the courts must now calculate and state in their decisions the exact figures concerning:
 - compensation (paid if the employer does not reinstate the employee); and
 - the employee's salary and other benefits (paid for the duration of the employee's unemployment).

Statute of limitations

Under the act, the statute of limitations is five years for claiming:

- untaken annual leave compensation;
- severance compensation;
- notice compensation;
- bad-faith compensation; and
- compensation for breach of the equity principle.

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