



Beril Yayla Sapan

Regulation on Annual Paid Leave amended to allow employees to divide annual leave

GÜN + PARTNERS
AVUKATLIK BÜROSU



Ezgi Kut

October 11 2017 | Contributed by Gün + Partners

Employment & Benefits, Turkey

- 🔍 Introduction
- 🔍 Dividing annual leave
- 🔍 Comment

Introduction

The right of employees to annual paid leave is regulated by Articles 53 to 60 of the Labour Act (4857) and the Regulation on Annual Paid Leave.

According to the act and the regulation, employees can use their annual paid leave if they have worked for their employer for at least one year. Employees are entitled to at least:

- 14 days' annual paid leave for one to five years of service;
- 20 days' annual paid leave for five to 15 years of service; and
- 26 days' annual paid leave for 15 years of service or more. **(1)**

Dividing annual leave

In principle, employees are expected to take their annual leave *en bloc*. Before Article 56 of the Labour Act was amended, employees could divide their holidays into a maximum of three parts:

- with their employer's agreement; and
- on the condition that one part lasted at least 10 days.

Under Article 103 of the act, an administrative fine will be imposed on employers who divide holidays contrary to Article 56. However, in practice, dividing the holiday period into three, providing that one part lasts at least 10 days, causes problems, as most employees prefer to divide their annual leave into several parts throughout the year and employers that grant permission to employees to divide their annual leave into more than three separate parts are subject to administrative fines.

The legislature considered the abovementioned problem and on April 14 2016 amended Article 56 of the act. Under the amendment, holidays may be divided without any limitation on the parties' agreement on the condition that one part lasts at least 10 days. However, the Labour Act preserves the administrative fine imposed on employers that divide holidays contrary to Article 56.

Although the Labour Act was amended, Article 6 of the Regulation on Annual Paid Leave still allows employees to divide their holiday periods into a maximum of three parts, contrary to the act. On August 18 2017 the Regulation Amending the Regulation on Annual Paid Leave was published in the *Official Gazette* and entered into force. Article 6 of the amended regulation allows employees to divide their holidays into different parts in accordance with the Labour Act.

Following the amendment to the Regulation on Annual Paid Leave, the Labour Act and the regulation were made compatible with each other regarding employees' rights to divide their holiday periods more than three times. Further, the regulation also preserves the condition of using at least 10 days leave *en bloc*, as it aims to provide employees with a minimum amount of uninterrupted rest. **(2)**

Comment

Following the amendments to the Labour Act and the Regulation on Annual Paid Leave, employees' rights to continuous rest have been maintained, but they now have the flexibility to divide their holidays into several parts in a given year.

For further information on this topic please contact Beril Yayla Sapan or Ezgi Kut at Gün & Partners by telephone (+90 212 354 00 00) or email (beril.yayla@gun.av.tr or ezgi.kut@gun.av.tr). The Gün & Partners website can be accessed at www.gun.av.tr.

Endnotes

(1) For employees who are younger than 18 or older than 50, annual paid leave must not be less than 20 working days and may be increased by employment agreements.

(2) As explained in the Labour Act's preamble, the aim of the 10-day holiday period is to give employees more time to rest compared with the rest of their annual leave. This rule is also supported by some Turkish legal scholars, who state that employees will be better able to rest physically and mentally during an undivided 10-day holiday period.

The materials contained on this website are for general information purposes only and are subject to the disclaimer.

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription.