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Automatic enrolment in private pension plans system

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Introduction

A long-awaited legal arrangement on employees' automatic enrolment in private pension plans by their employers was introduced into Turkish law by way of an amendment law published on August 25 2016. The amendment law adds new provisions to the Private Pension Savings and Investment System Act 2001.

Accordingly, employees (including public officials) under the age of 45 will be enrolled in a private pension plan with a pension agreement between the employer and a pension company, which is executed under the terms of the act.

Private Pension Savings and Investment System Act

The Private Pension Savings and Investment System Act sets out the employee's contribution to the plan as 3% of his or her average earnings, taken as basic to social security premiums, and obliges the employer to place this amount in the plan on the day following payment of the employee's salary (at the latest). The employee may request a higher percentage contribution to the plan from his or her employer. The employer is liable for any monetary loss in the employee's savings arising from any missing, late or non-payment.

Since 2013, as per Additional Article 1 of the Private Pension Savings and Investment System Act, the state's contribution to private pension plans has been 25% of individuals' contributions. The new Additional Article 2 provides that automatically enrolled employees will also receive the state's contribution.

Additional Article 2

Employees who have been automatically enrolled in a private pension plan may withdraw from the plan within two months of enrolment. For employees who choose to remain, there will be an additional one-off state contribution of TL1,000 (approximately €250) at the time of enrolment. Employees who exercise their right to withdraw from the plan may be enrolled again in two years by decree of the Undersecretariat of Treasury.

An employee who is enrolled in the private pension plan under the Private Pension Savings and Investment System Act will qualify to receive his or her pension at the age of 56, provided that the employee has been in the system for at least 10 years. The act also sets forth an administrative fine of TL100 (approximately €25) for each violation by the employer of the obligations imposed by the amendment law.

Secondary legislation

The amending provisions entered into force on January 1 2017. The following day a regulation set forth the effective dates of enrolment, which depend on the number of employees at a workplace:

- Employees of an employer with 1,000 or more employees were enrolled as of January 1 2017.
- Employees of an employer with 250-999 employees, as well as public officials, were enrolled as of April 1 2017.
- Employees of an employer with 100-249 employees will be enrolled as of July 1 2017.
- Employees of an employer with 50-99 employees will be enrolled as of January 1 2018.
- Employees of an employer with 10-49 employees will be enrolled as of July 1 2018.
- Employees of an employer with five to nine employees will be enrolled as of January 1 2019.

In the past eight months, another regulation amending the existing Regulation on Private Pension System was passed. Broadly speaking, the amendment regulation adapted the general principles applied to private pensions for automatic enrolment and set out the following:

- the criteria that an employer should consider when choosing the company with which it will sign the pension agreement for its employees;
- the minimum content of the pension agreement;
- the employer's obligations to transfer employees' contributions to the pension company; and
- pension companies' obligations when managing employee funds.

An employee's right to be informed of his or her pension plan is set out in the amendment regulation, yet the details of employers' and pension companies' obligations have yet to be published. The amendment regulation also described the procedure for transferring funds to another pension plan when an employee changes his or her employer.

Comment

Since its introduction last August, the automatic enrolment system has been popularly disputed by different segments of the public and various interest groups. Despite continuing legislative studies to improve the system, automatic enrolment seems unpopular with employees, and recent trends suggest that the popularity of the system is unlikely to improve.

According to surveys:

- Almost 40,000 banking sector employees were enrolled in the system as of January 1 2017; yet a considerable majority (almost 55%) exercised their right to withdraw from the plan within two weeks.
- Only 700,000-750,000 employees out of approximately 1.8 million who were enrolled by the beginning of 2017 have remained in the system as of April.
- Employees choosing to remain in the plan are those with lower incomes, while those who earn more than the minimum wage often withdraw.

This negative trend is believed to derive from the fact that no employer contribution has been outlined in the Private Pension Savings and Investment System Act. However, relevant sector authorities agree that employer contributions will be compulsory in the near future and will reflect similar contribution models in other countries.

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