

Turkey: Clarification on compensation payable when an employee dies



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The Turkish Code of Obligations (the "TCO") stipulates under Article 440, that when an employee dies, the employer is obliged to pay compensation to his/her spouse and minor children, or legal dependants.

An employment contract is deemed to terminate upon an employee's death and the employer is then obliged to pay compensation equivalent to one month of the deceased employee's salary. If the employee had worked for the employer for more than five years, the amount of compensation is doubled.

As its name suggests, the payment of death compensation is to compensate the employee's relatives following the sudden loss of income. It is irrelevant whether the employee's death was connected to their work and/or whether the employer is at fault.

Although having been in effect for more than three years now, there is no settled practice of paying death compensation, and most employers are unaware of their obligations. This was evident in a very recent situation where an employee committed suicide and the employer had to determine its approach with regard to payment of death compensation. There is much academic debate as to whether death compensation is different to severance payments regulated under the Turkish Labour Act. The dominant opinion is that the two payments are mutually exclusive and may, therefore, both be claimed in the event of death. In the above matter, it was decided that death compensation should correctly be paid to the deceased employee's family.

Comment

The law prescribes the amount of death compensation to be paid. It is generally acknowledged that the point of death compensation is to help alleviate the sudden loss of income to the employee's family. In such circumstances, the family should correctly be able to claim both death compensation and the severance payment, together with any other benefits arising from the employment relationship. Employers in Turkey must be aware of their obligations to pay both types of compensation if an employee dies while in their service.