

# News Article

A news article page

Date: 22nd June 2015

## Turkey: Scope of employers that benefit from employment protection provisions has been widened



Article written by: Beril Yayla Sapan & Asena Aytuğ Keser, Gün + Partners

**The number of employees in an associated company abroad, must be considered when determining whether an employer has more or less than 30 employees, for the purposes of employment protection under the Turkish Labour Act.**

Article 18 of the Turkish Labour Act provides employment protection for employees who have been working for at least six months at a workplace which has at least 30 employees. In these circumstances, an employer must have a valid reason to terminate an employee's employment contract. Valid reasons can be related to the capability or conduct of the employee, or the requirements of the workplace or employer.

Pursuant to Article 18, if an employer has more than one workplace which carries out the same type of activities, the number of employees shall be determined by including the total number of employees in these multiple workplaces. Previously, it was argued that this rule does not require employers to take into account employees in other countries. However, according to judgments from the Court of Appeal in recent years, the number of employees in a workplace must be determined by including the number of overseas employees.

Recently, the Court of Appeal considered cases in relation to limited liability and joint stock companies. In one case, although the number of employees in the Turkish limited liability company was under 30, the Court of Appeal considered that the number of employees of the associated companies established abroad should be taken into account, which took the total number of employees to over 30. In its reasoning, the Court stated that the rule relating to the number of employees was in place to keep the large scale companies within the scope of employment protection and so employees should not be prejudiced.

These judgments have been heavily criticised but currently remain good law and so should be followed.

Comment: In light of the above, the number of employees employed by associated foreign companies must be considered when determining the total number of employees for employment protection purposes. Where a company has more than 30 employees, it must ensure that (when contemplating dismissing an employee) that it has a valid reason for doing so and that it complies with the procedure under the Turkish Labour Act. Failure to do so may result in reinstatement of employment for affected employees.

© 2015 Gün + Partners