

## **Turkey: Reform Introduces Requirement to Mediate Before an Employment Claim**

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New legislation came into force in January 2018 that will require employees to submit to mediation before commencing most employment-related claims.

The Labor Courts Act No. 7036 (Act) aims to ease the judiciary's workload and accelerate the judicial process in employment cases. The most significant changes include the following:

- Mandatory mediation is introduced for both employers and employees prior to initiating lawsuits.
- There is a new obligation on courts to provide calculations for damages in reinstatement cases.
- The time period for bringing an employment claim has been reduced, although it still stands at five years.

### *Mandatory Mediation*

Mandatory mediation will be required before an employee (or employer) can initiate a lawsuit relating to money claims, compensation from the Labor Act, employment agreements, collective bargaining agreements, or reinstatement claims.

Mandatory mediation is not applicable for claims arising from occupational accidents and diseases.

The mediation phase must be completed within three weeks although the mediator can extend this period by another week.

### *Amendments to Re-instatement Cases*

In the future, courts will have to justify any compensation awarded in reinstatement cases. Currently, courts can order that an employee be reinstated and the employer pay compensation of up to four months of gross salary and other benefits (increased by a further four to eight months of gross salary if the employer does not reinstate the employee). However, courts have not until now had to justify their figures or provide calculations. From now on courts will be required to specify precise calculations in a move that employers hope will limit compensation awards.

### *Statute of Limitations*

The time period for bringing a compensation claim has been reduced to five years in relation to claims for untaken annual leave, severance pay, notice pay, bad faith claims, and claims based on the principle of breach of equity.

## **Comment**

Although primarily intended to reduce the burden on the judiciary, employers hope that these reforms will reduce the risk of being involved in expensive litigation. It will be interesting to see the impact that the reform has on the number of employment cases being brought and the compensation awarded.

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