

Prohibition on termination and unilateral unpaid leave enters into force

29 April 2020 | Contributed by Gün + Partners

Employment & Immigration, Turkey

- 🔍 Introduction
- 🔍 Amendments

Introduction

On 17 April 2020 the Law on Minimising the Impacts of the New Coronavirus (COVID-19) Outbreak on Economic and Social Life and the Amendment of Certain Laws (7244) (the Amendment Law) was published in the *Official Gazette* (31102) and entered into force.

The most significant amendments introduced to the Labour Act, the Act on Trade Unions and Collective Bargaining Agreements and the Unemployment Insurance Act include:

- the prohibition on employers terminating employment contracts for three months as of 17 April 2020;
- the provision that employers can impose unpaid leave without an employee's consent during the three-month prohibition period;
- the three-month extension of the terms regarding:
 - the authorisation of unions;
 - the conclusion of collective bargaining agreements;
 - the resolutions of disputes regarding collective bargaining; and
 - strikes and lock-outs; and
- the fact that the short-time working allowance will be paid based on the employer's statement, without waiting for the finalisation of the eligibility check.

Amendments

Termination of contracts

The termination of employment contracts – including those subject to the Code of Obligations and other employment-related acts such as the Press Labour Act and the Maritime Labour Act – by employers is prohibited for three months as of the effective date of the Amendment Law. The only exception to this is the termination of employment based on just cause due to cases which are incompatible with moral, good will and similar circumstances. The president can extend this three-month term to six months. If employers breach this provision, they will be subject to an administrative fine at the amount of monthly gross minimum wage for each employee terminated.

Unpaid leave

Employers can impose unpaid leave, partially or in full, on employees during the termination prohibition period. Employees cannot terminate the employment contract based on just cause due to the implementation of unpaid leave.

Up until the end of the termination prohibition period, TL39.24 will be provided from the Unemployment Insurance Fund for each of the unemployed days or days that are spent on unpaid leave, provided that the employees are:

- on unpaid leave within the scope of the termination prohibition and unable to benefit from the short-time working allowance;
- dismissed after 15 March 2020 on grounds that are set out under Article 51 of the Unemployment Insurance Act and are unable to benefit from unemployment allowance; and
- not benefiting from an old age pension.

If employers continue to actively employ employees who are put on unpaid leave – and therefore benefit from the monetary support – they will be subject to an administrative fine at the amount of the monthly gross minimum wage per employee who has been employed and per month that they have been employed. In such case, the monetary support will be collected back from the employer with the legal interest to be accrued as of the payment date.

Extension of terms

The terms regarding the authorisation of unions, the conclusion of collective bargaining agreements, the resolutions of disputes regarding collective bargaining and strikes and lock-outs have been extended for three months as of the effective date of the Amendment Law. The president can extend this three-month term to six months.

Payment of short-time working allowance

For applications filed on grounds of compelling reasons caused by COVID-19, a short-time working allowance will be paid based on the employer's statement, without waiting for the completion of the eligibility check. If the allowance is granted based on the false information or documents provided by the employer, the amount paid to the employees will be collected back from the employer with the legal interest to be accrued as of the payment date.

For further information on this topic please contact Beril Yayla Sapan or Asena Aytuğ Keser at Gün + Partners by telephone (+90 212 354 00 00) or email (beril.yayla@gun.av.tr or asena.keser@gun.av.tr). The Gün + Partners website can be accessed at www.gun.av.tr.

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.



Beril Yayla Sapan Asena Aytuğ Keser