

Law Bulletin

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AMENDMENTS TO LABOR LAW THROUGH OMNIBUS LAW

Law No. 7244 on Reducing the Effects of the Novel Coronavirus (COVID-19) Pandemic on Economic and Social Life and the Amendment of Certain Laws (the **"Omnibus Law"**) was published in the Official Gazette last Friday, 17 April 2020. The Omnibus Law brings a number of amendments, some of which have a significant importance from an employment law perspective.

I. Restriction on Termination of Employment Contracts

One of the most important amendments introduced through the Omnibus Law is the restriction on unilateral termination of employment contracts by employers. For the purposes of sustaining employment relationships, the Omnibus Law prohibits termination of employees' (regardless of whether or not they are covered by the Labor Law) contracts by employers, for a term of three months starting from 17 April 2020 (the **"Restriction Period"**). The only exception to this restriction is terminations due to employees' immoral, dishonorable or malicious conduct or other similar behaviors that are stipulated under Article 25/II of the Labor Law and similar provisions under relevant laws.

If an employer or employer's representative terminates the employment contract during the Restriction Period, such termination will be regarded as an invalid one and an administrative fine amounting to the monthly gross minimum wage valid on the termination date will be imposed on the employer or employer's representative for each termination.

The President may extend the Restriction Period for a further six months.

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II. Unpaid Leave Arrangement

In principle, unpaid leave requests must be directed by the employee or at least, the employee's consent for unpaid leave must be obtained by the employer. That being said, taking into account the termination restriction's financial burden on employers, the Omnibus Law allows employers to send employees on unpaid leave completely or partially, during the Restriction Period. Under the Omnibus Law, employees are not entitled to terminate their employment contracts based on just cause due to the employers' decision to send them on unpaid leave.

III. Cash Allowance Support

Employees who (i) are sent on unpaid leave and cannot benefit from short term working allowance and (ii) were already dismissed after 15 March 2020 as per Article 51 of the Unemployment Insurance Law and are not entitled to benefit from unemployment allowance, will receive a daily cash allowance of TRY 39.24 from the Unemployment Insurance Fund during the unpaid leave term / the term that they remain unemployed -which cannot be longer than the Restriction Period. Employees will be entitled to benefit from this support provided that they are not receiving a retirement pension from the Social Security Institution. This allowance will not be subject to any deduction, except stamp tax. Employees who benefit from the allowance and are not covered by the general health insurance will be deemed covered by the general health insurance and their respective premiums will be paid from the Unemployment Insurance Fund.

If it is determined that an employer keeps its employees physically working while they are on unpaid leave and receiving cash allowance, the employer will be (i) imposed an administrative fine amounting to the monthly minimum wage per employee and for each month that it kept an employee physically working while he/she is on unpaid leave and (ii) required to return the daily cash allowance together with statutory interest accrued from the payment date of the allowance.

IV. Evaluation of Short-Term Working Allowance Applications

Law No. 7226 on Amendment of Certain Laws, which was published in the Official Gazette on 26 March 2020, had previously introduced certain amendments to be applicable throughout the COVID-19 outbreak and regulated short term working allowance applications to be finalized within 60 days. Based on the Omnibus Law, eligibility assessment to be conducted by the Turkish Employment Agency is left out from this 60-day period.

V. Short-Term Working Allowance

According to the current regulations, employees receive short-term working allowance payment on the fifth day of each month. Due to the excessive number of applications, the application procedure takes longer than expected. The Omnibus Law allows the short-term working allowances to be paid without waiting for completion of the eligibility assessment, based on the employer's declaration, as of 29 February 2020. Employers will be required to return overpayments

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and payments made due to incorrect information and/or document provided by themselves, together with statutory interest.

VI. Postponement of Collective Bargaining Agreements

Periods stipulated under Law No. 6356 on Trade Unions and Collective Bargaining Agreements regarding granting authorization, execution of collective bargaining agreements, settlement of collective labor disputes and strike and lockout are extended for three months. The President is entitled to extend this period up to six months.

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