

10 QUESTIONS AND ANSWERS ABOUT LABOR LAW IN TURKEY

The continuous economic growth in Turkey has caused a growth in job opportunities, since the activities of foreign companies make the Turkish employment market interesting for foreign as well as Turkish citizens. In the framework of the harmonization of Turkish and EU legislation and the EU accession negotiations, the Turkish Labor Law was changed drastically. The following questions and answers give a survey across the structure of the new Labor Law in Turkey.

1. What is the employment structure in Turkey?

Employees can be divided into 6 groups:

Children: Persons who have not yet reached the age of 15. Apprentices: Children employed for the aim of education, who have reached the age of 13 but not yet the age of 15.

Adolescent employees: Employees who have reached the age of 15, but not the age of 18. Disabled persons: Employees with a physical or mental defect about 40-70%; if there is only one disabled person employed in the enterprise, the disability of the person has to be at least 60%. Otherwise the mandatory disability rate is not achieved.

Employees: Persons who have signed a working contract and do not belong to one of the other mentioned groups. Freelance workers: Workers for whom no social security payment is made and who are not on the regular payroll of the enterprise.

2. How is working time regulated?

In general the weekly working time is 45 hours. If there is no other agreement, the working time has to be apportioned equally on the regular working days of the enterprise.

By agreement of the parties the working time can be apportioned on the working days of the enterprise in a different manner, provided that the daily working time does not exceed 11 hours.

If the working contract provides a weekly working time of less than 45 hours, then - according to the above mentioned principles – the working hours which belong to the average weekly working time but do not exceed 45 hours are so called extra work. Each hour of extra work has to be paid at a rate 25 % higher than the regular hourly wage rate.

3. What is the structure of the salaries?

The salary contains the following elements:

SSK Brut: The deductible income for the social security premium. For the first half of 2011 the minimum level of the SSK gross is 796.50 TL (for the second half of 2011, 837.00 TL). The upper limit for the calculation of the premium in the first half of 2011 is 5.177,40 TL (for the second half of 2011 5.440,50 TL);

SSK Premium: The percentage of employer's share on the premiums is 19,5%, the employee's share is 7,5%; Tax-free amount: disestablished on the January the 1st, 2004; in 2003 the tax-free amount was 45.000.000,- TL (45,00 TL) per month and employee; Income tax and stamp duty, the fee for the balance sheet is 23,20 TL, for the declaration of the corporation tax 40,10 TL, for the declaration of the withholding tax and the purchase tax 19,90 TL each and for the declaration of the social insurance premium 14,80 TL.

4. What are the non-wage labor costs?

The social contributions are regulated in Article 73 of the Turkish Social Insurance Law. The percentage varies according to the category of danger, for which the working place is classified.

There exist five different groups of social duties:

- a- Duties for industrial accidents and industrial illness are 1.5 to 7%. They are completely carried by the employer.
- b- Premiums for illness are 11%. 5% of this is carried by the employer and 6% by the employee.
- c- Premiums for maternity are 1% and are paid only by the employer.
- d- Premiums for age, death and disability are 20%. 9 % of this is carried by the employer and 11% by the employee. In the areas of mining and press the premiums are 22% (9% employer, 13% employee).
- e- Fees for unemployment are 3%; 1% of this is carried by the employer and 2% by the employee. The government supports this fee additionally with 1%.

5. What is the income tax on wages?

The income tax is calculated on basis of annual income and is banded as follows since January 1st, 2011:

- Up to 9,400,-TL: 15 %
- Up to 23.000,- TL: on the first 9.400,-TL 1.410,-TL and 20 % on the remaining sum
- Up to 53.000,- TL: on the first 23.000,-TL 4.139,- TL and 27 % on the remaining sum
- More than 53.000,- TL: on the first 53.000,-TL 12.230,-TL and 35 % on the remaining sum.

6. How is the age compensation regulated?

Age compensation is one of the most important matters in Turkish working life. It is paid if the employee retires or the working contract has been terminated by the employer without justifying reasons. Its amount is related to the employee's seniority. To make a claim for age compensation, it is obligatory that the employee worked in the enterprise at least one year without interruption. The calculation of the working time is made by including part time work and the work in different branches of the same employer.

7. How is the protection against unfair dismissal regulated?

In enterprises falling within the scope of the Labor Law and employing 30 employees or more under a working contract, the dismissals protection is applied to all unlimited working contracts. The dismissals protection requires that the employee concerned was employed at least 6 months in the enterprise and did not undertake any leading or administrative tasks in the entire enterprise representing the employer. If the court decides that the dismissal was made without legal cause and if the employee is not further occupied by the employer, the employee has the claim on:

Age addition (=age compensation),
Fee for the notice period,
Compensation adjudged by the court,
Salary for 4 months of unemployment

8. What is the minimum wage?

To control the financial and social situation of every kind of contractual employee and of workers covered by this law and workers who are not, the minimum wage commission of the Ministry for Employment and Social Security determines the minimum wages every second year.

The decisions of the commission become legally effective with the announcement in the Law Gazette. Each year the minimum wage is adapted to inflation. There are two different minimum wages

depending on the age of the employee. For the first half of 2011 the minimum wage for employees under the age of 16 is 679.50 TL gross and for employees older than 16 796.50 TL gross. For the second half of 2011 the minimum wages for employees under the age of 16 are 715.50 TL and for employees older than 16 are 837.00 TL. It has to be mentioned that living just with the minimum wage is impossible.

9. How is the right on paid leave regulated?

The duration of the annual leave of each employee may not be less than

- 14 days between 1 and 5 years (including the 5th year) of employment,
- 20 days for more than 5 and less than 15 years of employment,
- 26 days for 15 or more years of employment.

The duration of the paid annual leave may not be less than 20 days for employees aged 18 or younger or aged 50 or older. The duration of the paid annual leave can be extended in the working contract or in the collective labor agreement.

10. How is the time probationary period regulated?

If there is a probationary period stipulated in the contract, it may not exceed two months. In the collective labor agreement it can be extended up to four months.