

Labour Courts Act has came into force on 25 October 2017

On 25 October 2017, the Labour Courts Act No. 7036 ("Act") was published in the Official Gazette and officially came into effect. The Act aims to ease the judiciary's workload and accelerate the judicial process in employment cases.

The Act brought a number of changes to employment cases. The most important changes can be summarized as follows;

- Mandatory mediation is introduced for both employers and employees prior to initiating lawsuits.
- The procedure of re-instatement cases is amended.
- The statute of limitations for several types of compensation is decreased to 5 years.

The Act also provides certain amendments to several codes, including the Labour Act No. 4857, the Law on Negotiation in Legal Disputes No. 6325 and the Law on Trade Unions and Collective Bargaining Agreements No.6356.

Mandatory mediation

As per the Act, it is mandatory to apply for mediation before initiating lawsuits regarding the following:

- For the employees; employee receivables and compensations arising from the Labour Act, employment agreements and collective bargaining agreements and re-instatement claims,
- For the employers; employer receivables and compensations arising from the Labour Act, employment agreements and collective bargaining agreements.

Mandatory mediation is not applicable for claims involving pecuniary and non-pecuniary damages arising from occupational accidents and diseases.

The mediation phase must be completed within three weeks and the mediator must deliver their decision on the application within this period. If required, the mediator can extend this period by a maximum of a one-week period.

If the parties do not apply for mandatory mediation before filing the above listed lawsuits, their claim will be dismissed due to the lack of requirements for initiating a lawsuit as provided under Procedural Code. In such cases, the court will grant no additional time to the parties to correct the deficiency and will instead dismiss the claim based on procedural grounds. At that point, in terms of re-instatement actions, the employee will have the right to apply for mediation only within two weeks from the finalisation of the court's dismissal decision.

The regulations regarding mandatory regulation shall came into force on 01 January 2018.

Amendments to the re-instatement cases

The Act has an impact particularly on the re-instatement cases. As per the Act;

- Employees who wish to file a re-instatement case should first apply for mediation within one month from the date of the termination notice.
- If the matter is not settled in mediation, a re-instatement case should be filed before the first instance labour court within two weeks from the date on which the final minutes were issued by the mediator.
- Decisions concerning re-instatement cases cannot be appealed before the Supreme Court. After the decision of the first instance labour courts, the parties can only apply to regional appeal courts.
- Currently, in re-instatement cases, the court can order that the employee be re-instated and the employer pay compensation equivalent to 4 months of gross salary and other benefits. Further compensation of 4 to 8 months of gross salary would be payable if the employer does not re-instate the employee. However, in their decisions, the courts do not state the figures. With the Act, the mediator or the courts are now required to state in their decisions the exact figures related to (i) compensation amounts (paid if the employer does not re-instate the employee) and salary and other benefits (paid for the unemployed period of the employee).

Statute of limitations

With the Act, the statute of limitations for the below listed compensations are regulated as 5 years;

- Untaken annual leave compensation,
- Severance compensation,
- Notice compensation,
- Bad faith compensation,
- A compensation to be paid for breach of equity principle.



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