

Turkey: Procedural Changes Bring Swifter Justice in Employment Cases

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Turkey's Labor Courts Act (No. 7036) has introduced a number of changes to the administration of justice in employment disputes, including mandatory mediation, which must now be undertaken prior to initiating court proceedings, and a new appeal procedure for challenging a court's decision.

Mediation

With the Labor Courts Act, it has become mandatory to apply for mediation in the following situations:

- Both employers and employees must do so for claims about employee "receivables" and compensation arising from either the Labor Act, the employment agreement, and/or a relevant collective bargaining agreement.
- Employees must do so for claims regarding reinstatement,

Where mediation is mandatory, the process must be completed within three weeks. If required, the mediator can extend this period by a maximum of one week. A court case can be commenced only if mediation is unsuccessful in resolving the matter. If parties do not apply for mediation before bringing one of the above-listed claims, their claims will be dismissed, as they will not have fulfilled the specified requirements under the Turkish Procedural Code.

Appeals

Before the Labor Courts Act came into effect, an appeal against a labor court decision was required to be filed within eight days of the oral announcement of the judgment at the final hearing. This requirement was criticized by many scholars as not being in line with the Turkish Procedural Code, which states that the appeal period begins at receipt of the written reasoned judgment.

The Labor Courts Act corrects this anomaly and specifies that the Turkish Procedural Code also applies to judgments rendered by labor courts. In this regard, the time period for appealing a decision to the Regional Court of Appeal is now two weeks from receipt of the written reasoned judgment.

However, the Labor Courts Act also introduces an amendment that states that some kinds of judgments are out of scope for further appeal to the Supreme Court. As a result, parties can apply only to the Regional Court of Appeal (and not from there to the Supreme Court), and the decision of the Regional Court of Appeal will be final. The affected judgments include the following:

- Judgments in relation to reinstatement claims

- Judgments in actions filed for cancellation of disciplinary penalties given by the employer to the employee according to the workplace regulations or collective bargaining agreements
- Judgments in relation to unjust terminations of union representatives
- Judgments relating to the conclusion of enterprise collective bargaining agreements
- Judgments relating to the interpretation of collective bargaining agreements
- Judgments for determinations of lawfulness of a strike or a lockout

The monetary threshold set out by the Turkish Procedural Code for appeals before the Supreme Court still applies for labor cases regardless of their subject matter. Labor cases worth less than TRY 47.530 (USD 7,000 : GBP 5,400 : EUR 6,000) will be able to progress only as far as the Regional Appeal Courts.

Comment

As well as bringing the procedural rules for labor case appeals in line with the Turkish Procedural Code, this reform is also aimed at shortening the duration of cases that, by their nature, should be resolved as quickly as possible. This is achieved by limiting the number of appeals, which should also help address the heavy workload of the Supreme Court. The mandatory mediation scheme should also reduce the burden on the Turkish court system.

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