

Labor Law Related Aspects of the Omnibus Law Numbered 7244

The Law Numbered 7244 amending the Law on Mitigating the Effects of the Outbreak of the New Coronavirus (“COVID-19”) on Economic and Social Life and Certain Other Laws was published in the Official Gazette on 17 April 2020 and came into force on the same date (“Omnibus Law”).

The Omnibus Law includes important provisions concerning employees and employers such as provisions on termination of employment, unpaid leave and government wage support. These provisions will be briefly addressed below.

Amendment regarding Short-Time Work Allowance

With the adoption of the Omnibus Law, it is regulated that statements of employers on short-time work in conjunction with COVID-19 included in their requests submitted to the Turkish Employment Agency shall be deemed sufficient and the Agency shall approve the said requests without conducting an evaluation.

Prohibition on Termination of Employment

Pursuant to the Provisional Article 10 included in the Labor Law (Law No. 4857) by the Omnibus Law, employers are prohibited from dismissing their employees for a period of 3 months as of 17 April 2020. Please note that this period can be extended to a maximum of 6 months by the President of the Republic of Turkey. The exception to this prohibition is termination of employment on the basis of one of the causes under “II- Actions Offending Morals and Goodwill and Others” of Section 2 of Article 25 of the Labor Law regulating immediate termination.

On the other hand, there is no prohibition in the Omnibus Law regarding employees terminating their employment contracts.

Employers or their representatives, who terminate employees’ employment contracts in violation of the said provision, shall be fined in the amount of the gross minimum salary of each relevant employee at the time of termination.

Amendment regarding Unpaid Leave

According to the Provisional Article 10 included in the Labor Law by the Omnibus Law, employers are granted the right to have their employees take unpaid leave, in part or whole, during the same 3 months applicable to the prohibition on termination of the employment agreement as explained above. There is no requirement to obtain the consent of the employees therefor. Having to take unpaid leave pursuant to this article is not a ground for employees to rightfully terminate their employment contracts.

It is regulated by the Omnibus Law that, employees having to take unpaid leave shall receive, in the relevant period, a wage support from the government in the amount of 39.24 TL/day (1,177.20 TL/month) to be paid by the Unemployment Fund.

In case it is ascertained after the fact that the employee, who has received the said wage support as a result of taking unpaid leave, continued to work, the employer shall be fined in the amount of the sum of the gross minimum salary of the relevant employee for each month he/she continued to work and the wage support paid out by the Unemployment Fund shall be collected from the employer together with the legal interest rate applied as of the date when the wage support had commenced.

The employees, who shall receive wage support from the government as per the Omnibus Law, provided that they do not receive old age pension from any social security institution, are;

- the employees, who were made take unpaid leave by the employer according to the Provisional Article 10 included in Labor Law and who cannot benefit from the short-time work allowance,
- the employees whose employment contracts were terminated and who cannot receive unemployment compensation pursuant to Article 51 of the Unemployment Insurance Law (Law No. 4447), which stipulates the conditions of entitlement to unemployment compensation.

In short, retired employees who continue to be employed, are not eligible to receive wage support from the government under the Omnibus Law.