

# Overview of Turkish Labour Code and Employment in Turkey

Employment laws in Turkey apply to Turkish nationals and foreign nationals alike. In addition, special provisions exist which regulate the employment and residence permits of foreign nationals who intend to work in Turkey.

Prior to the commencement of the work, the newly established companies in Turkey must be registered with the local labour office as an employer. Moreover, the employer must inform the Social Security Institution (SSI) about each employee that works in his workplace for whom the employer will be paying social security premiums. Under the social security laws, each employee becomes insured from the first day of work. Employees must ensure that employers' and employees' contributions to the Social Security are paid in monthly basis.

Employers have to pay the social security premium (approximately 34.5 percent) and unemployment social security fund payment (2 percent) on the gross wage. Moreover, under the provisions of the Income Tax Law, employment income is taxed through withholding. Employers are obliged to withhold the income tax before disbursing employee salaries.

The yearly income tax rates for the year of 2015 are as follows:

TRY 0 to 12,000	: 15%
TRY 12,001 to 29,000	: 20%
TRY 29,001 to 106,000	: 27%
More than TRY 106,000	: 35%

Overtime work is defined as the working hours exceeding 45 hours in a week. Wages to be paid for the overtime work are calculated by increasing the hourly normal working wage by 50 percent for each hour. Days on which overtime work is done cannot exceed 270 hours a year.

A working week in Turkey consists of a maximum of 45 hours. A weekly normal working period may be distributed unevenly for the working days in a month with the mutual agreement of the parties, provided that the daily working period shall not exceed 11 hours. It is obligatory to hold a holiday, one day in a week.

The Turkish Labor Law sets a minimum wage, which is checked against inflation once or twice a year. As of 01.01.2015, the gross monthly minimum wage is TL 1201,00 (approximately, \$461). After deducting a worker's share of the social security premium, income and stamp tax, unemployment security fund payment, the net wage stands at TL 949.07 (approximately, \$365).

High skilled workers' pay depends on sector and also personal skills and experience, which is often at comparable levels with EU countries depending on the position. However, the wages of less-skilled workers and fresh university graduates are relatively low.

Employers with more than 50 or more employees are required to employ disabled and ex-convict employees in workplaces.



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There is no regulation mandating or allowing the establishment of a work council in the workplace in Turkey. Nevertheless, collective labour regulations stipulate the formation of industry-wide based labour unions.

### **Employment Contracts and Annual Leaves**

In principle, employment contracts are not subject to a certain form requirement. However, employment contracts with a period of one or more years are required to be executed in writing.

Employment contracts are considered as contracts with indefinite periods unless the employment relationship is bound with a definite period. The employment contract renewed more than once shall be accepted as an employment contract with indefinite period from the beginning.

The maximum probationary period may be two months. Such term may be extended to four months only in the collective bargaining agreements.

Employees who have worked for at least one year, including the probationary period, can be granted the right to annual leave. The period of annual leave shall be 14 days for employees working for a period of one to five years; 20 days for employees working for a period of five to 15 years.

Certain benefits such as lunch, transportation and private health insurance may be granted to the employee through the employment contract.

The parties' choice of law in an employment agreement bearing a foreign element is valid and enforceable on the condition that the minimum standard of protection ensured by the laws of the country where the work is being performed is reserved. Where the parties have not explicitly chosen an applicable law, the laws of the country where the work is performed is applicable.

### **Termination of Employment**

Both the employees and employers are entitled to terminate employment contracts by following certain minimum notification periods, depending upon the length of the service of employees, without indicating any reason. Any party that fails to fulfill the notification obligation should pay compensation (ie, notification payment or lieu of notice, equivalent to the wages corresponding to the notification period).

<b>Notification Periods</b>	<b>Length of the Service of Employees</b>
Two weeks	Less than six months
Four weeks	Six to 18 months
Six weeks	18 months to three years
Eight weeks	More than three years

As per the Labour Law, in cases where an employee contract is terminated with notification by the employer (other than cases an employee contract is terminated after at least one year for reasons which are incompatible with morals and goodwill and similar circumstances) the employer pays the employee a severance payment at the rate of 30 days' wages for each full year as of the date of the employment.

The employer's right to terminate the employment contract for just cause such as serious misconduct or malicious or immoral behavior of the employee is reserved by the law. Either employees or employers can terminate the employment relationship without having to comply with the legal notice periods. A just cause gives the parties the right to effect immediate termination without a severance payment.

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The notice of the termination should be given by employers in written form, including the reason for the termination which must be specified in clear and precise terms. The employment of an employee engaged under a contract with indefinite term should not be terminated for reasons related to the employee's conduct or performance before he is provided with the opportunity to defend himself against the allegations.

Where the length of the service of an employee is at least six months and there are at least 30 employees working at the workplace, then an employer is obligated to provide a valid reason either relating to the efficiency, behavior of the employee or the requirements of the enterprise, workplace or the work in order to terminate the contract. Otherwise, under the Turkish Labour Code, employees have the right to sue the employer for the reinstatement to work.

In case of collective payoff the employer must inform the names and qualifications of employees to the relevant Labour Office along with a reason for their dismissal at least one month following the date of dismissal.

### **Employment of Foreigners**

Foreign capital entities can employ foreign personnel in Turkey, provided that the work permits are obtained from the Ministry of Labour and Social Security.

Individuals who want to work in Turkey must first apply for a visa at Turkish embassies in their home countries, unless employer-specific "facilitations" apply. To obtain a work permit from the local authorities, a prospective employee must present a valid residence permit and a completed work permit application signed by the future employer.

A real person will be considered as fully tax liable if they are a Turkish citizen or a resident of Turkey. In this regard, foreign nationals who have been living in Turkey for a period of more than six months will be considered to be a resident in Turkey. These people are fully liable for the income tax and obliged to pay it on all sources of income.

Double taxation agreements may exist between Turkey and the country of which the employee is a resident. In that case, the provisions of any relevant treaties will be applied.

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