

The Scope of Turkish Labor Law

Labor Contract:

The parties of labor contracts are employer and employee in individual aspect. These contracts govern the employment relation between the parties concerned unless it contradicts the legislation related to labor law. Considering this feature of these contracts, it has binding character for each parties.

Collective Labor contracts:

Collective labor contracts are the contracts concluded between the labor unions and employers. The collective labor contracts needs to be flexible and must be renewed as least every two years. Considering instability of working conditions and the requirement of changes in the business manner, it cannot be expected from these type of contracts to fulfil all type of gaps related to business conditions.

Regulative Measures concerning Business Place:

In Turkish legislation concerning labor law, there is no any reference to regulative measures which can be taken by the employer in his/her business place. Nowadays, generally parties reflect these regulative measures and customs to collective labor contracts. Accordingly, these measures can be seen less than the past in practise. In case that, the collective labor contract does not encompass all matters, the regulative measures concerned shall be applicable. On the other hand, these regulations cannot contradict with the main legislation.

Practices in Business Places as Customary Working Manner

Article 22 of labor law states that business implementations which are already become as a customary working manner (continuity) in the business place must be regarded as a source of law.

For instance, premiums granted by the employer to employees every year prior to Ramadan or Sacrifice holidays can be considered as implementations as a customary working manner.

Labor Law's Scope of Application As Regards To Individuals

Employee:

In the consideration of labor law, being a person who is employed with a labor contract is sufficient to be defined as an employee under the law.

Employer:

Article 2 of the labor law define the employer as a person or a legal entity (or organisations without legal entity) which employ an employee on the basis of a labor contract.

In addition to this, employer is a party providing a fee or a salary on condition of a performance.

Representative of an Employer

A person who is appointed in order to administer or to manage the business on behalf of a real employer. In labor law, these persons are defined as Representative of an employer. This authorisation can be generally granted via labor contracts or by means of a proxy. Therefore, Representatives of an employer are also regarded as an employee according to Turkish labor law.

Sub-Employer

The sub-employer is a person or a legal entity which is responsible for governing specific part (technological expertise, private security, construction, clean and etc) of a business related to production or service as an assistant. An employer or a sub-employer has joint liability for the claims which can be raised by the employees.

Services and Employment Relations Falling into Outside of the Labor Law

Article 4 of Labor law of Turkey defines the exceptional employment types where the labor law does not have any coverage on the affairs concerned.

1- Shipping and Air transportation affairs

Labor law concerned does not apply to Captain of a transportation ship, pilots of a passenger plane and its hostesses. On the other hand, Law maker also stated that the law is entirely applicable to employees deal with loading affairs from the ship to the ports, from the port to the ships on shore. In addition to this, the employees who work on the ground station facilities. The employees engaged with sea products also fall in the scope of the labor act.

2. The companies employ less than 50 employees in the agriculture sector and forest affairs

Constructions related to agricultural affairs do also fall into the same category. In this sense, the law maker seeks two conditions:

- a) The construction works must be related to the agriculture
- b) This construction works must be in the scope of family economy.

In case one of the conditions was not fulfilled then the labor law (labor act) shall be applicable to the matter concerned.

3. Homemade Handicrafts affairs among the family members (3rd degree of the same parentage)

Labor law is inapplicable among employment relations of the family members who produce homemade handicrafts. Law maker seeks some specific conditions related to this category:

1. The production concerned must be carried out at home.
2. There must be no contribution from third parties, the business must be remained within the family members
3. The production must be related with handicrafts

4. Home Services

This law is inapplicable to the employees engaged in the affairs related to home services. Accordingly, house cleaner, gardener, cooker shall not seek any rights arise from the labor act. Their employment relation must be examined within the context of Turkish Code of Obligations.

5. Apprentices

Regardless of their age, the apprentices do not fall into applicability of labor law. On the other hand, the articles between 77 89 of the labor law is applicable for them. Concerning provisions encompasses the title of security and workers' health.

- 6. Professional Sportsman**
- 7. Employees engaged in Rehabilitation Works**
- 8. Craft mans and little artisans which have maximum 3 employees**