

Basic Principles of Turkish Labor Law

The main legal instrument of labor law is the labor contracts which govern the rules between the employee and the employer. According to Turkish law, labor contract must encompass three necessary elements. These elements can be mentioned under the titles of **technical**, economic and legal. As regards to **technical feature** of labor contract, in the contract there must be provisions regulating the rules of the business and clarifying the essence of the employment. **Economical feature** of the labor contract is the fee which must be definite in the contract. The contract must contain provisions related to fee which must be continuous and well scheduled. Legal feature of the labor contract deals with the hierarchy between the employer and the employee.

It must be born in mind that the attorney agreements and work agreements can't be included into the same category of labor contracts. In addition to this, the rules applying to government employee does not fall into the scope of labor law due to unique relationship between the state and the employee. This relationship can solely be governed with the rules of administration.

The basic principles of Turkish Labor Law:

The Principle Concerning Protection of an employee

Development in industry obliged the governments to use necessary instruments in order to protect the workers and nowadays this reality still remains as a primary principle. On the other hand, this principle can remain in force unless it does not contradict with public weal. Accordingly, the economic conditions of the country shall be taken into account when discussing the protection of the workers. Accordingly, article 65 of Turkish Constitution states that: "The State shall fulfill its duties as laid down in the Constitution in the social and economic fields within the capacity of its financial resources, taking into consideration the priorities appropriate with the aims of these duties."

To my opinion, the purpose of this article aims to enable the government to disclaim high amount of compensations and obligations which can be demanded by the employees due to lack of working conditions. Therefore, according to me, it can't be said that the spirit of the article is capable to protect the employees entirely.

The Principle of interpretation in favor for Workers' benefits

Unless any explicit and clear provision defining the case related to labor relation cannot be found in the context of the legislation, in other words legal gaps in the legislation concerned, must be construed in favor of the employees.

In Turkish law, the labor contract constitutes the elementary legal structure of employment relation. For the cases which do not fall into the scope of Labor law such as contracts of service, code of obligation shall be in force regardless of the status of the parties.

As regards to Turkish legislation related to labor law, there are three specific laws which applies to certain employment relations.

- 1) Labor law numbered 4857**
- 2) Maritime Labor Law 854 which is applicable for the individuals defined as shipman.**
- 3) Law related to press employees which is applicable for the journalists**

The laws mentioned above were applicable laws for individuals. Considering the legislation related to collective structures of labor law, there are also three different laws must be mentioned.

- 1) Law of Labor Unions**
- 2) Law related to Collective Labor Agreement, Law concerning strike and lock-out**
- 3 Law of Government Employees' Labor Unions**

As it is well known, Turkey belongs to the family of continental law where the legislations and laws have much more superiority as compared to customary laws. On the other hand, in case of applicable legislation is lacking to deal with a certain case, unwritten law as a customary law shall be applied to the case. Customary law shall apply particularly to the employment relation in the agricultural sector where the customs and traditional rules are combined with manner of work.