

EVALUATION ON THE LAW ON REDUCING THE EFFECTS OF THE NOVEL CORONAVIRUS (COVID-19) PANDEMIC ON ECONOMIC AND SOCIAL LIFE AND THE LAW ON THE AMENDMENT OF CERTAIN LAWS

Within this publication, you may kindly find the regulations introduced by the Law on Reducing the Effects of the Novel Coronavirus (COVID-19) Pandemic on Economic and Social Life and the Law on the Amendment of Certain Laws (“**Law No. 7244**”) which was published in the Official Gazette No. 31102 and dated 17 April 2020.

A. REGULATIONS REGARDING LABOR LAW

1. Within the Scope of the Labor Law No. 4857

Provisional Article 10 has been added to the Labor Law No. 4857 (“**Labor Law**”) in accordance with the Article 9 of the Law No. 7244. Pursuant to this article, prohibition on the termination of all kinds of employment and service contracts has been introduced for a certain time period, along with administrative fines regarding the breach of such prohibition.

According to the regulation, employers cannot terminate employment or service contracts of their employees for a period of 3 months as of April 17, 2020. The exception of the said prohibition is that the employment contract can be terminated in the presence of employees’ behaviors contrary to the rules of ethics and goodwill regulated in paragraph (II) of Article 25 of the Labor Law.

On the other hand, during the said prohibition period, employers would impose unpaid leave on their employees, completely or partially. Excluding the circumstances provided by law, an unpaid leave must be established on the mutual acceptance of parties. However, through this regulation it is allowed to be imposed by the unilateral determination of the employer and in such case, the employee shall not be entitled to terminate the contract on the grounds of just cause against the decision of the employer. However, there is no hindrance preventing the employee to exercise her/his other rights of termination prescribed by the Labor Law.

In case of the termination of the employment contract contrary to the prohibition of termination, which shall last for 3 months as of 17 April 2020, the employer or the employer representative shall be subject to an **administrative fine at the amount of monthly gross minimum wage** for each employee whose employment contract has been terminated.

The President has been authorized to extend the said prohibition period on termination up to 6 months.

One of the most frequently asked questions within the scope of the regulation is whether the employer may be subjected to any prerequisites, in case the employer would like to benefit from the opportunity of mandating the unpaid leave, more specifically whether the employer must initially apply for the short-term working or not. It can be said with respect to the literal interpretation of the regulation, that the employer has not been subjected to any prerequisites. In this respect, it is not mandatory to have previously applied for short-term working or to have undertaken other remedies as per the literary interpretation of the regulation. Evidently,

the decision has been left to the sole discretion of the employer. However, by considering the principle of interpretation in favor of the employee, which is present in the spirit of the Labor Law, we consider that applying for short-term working first, given that the conditions for short-term working are met, and make use of the opportunity of unpaid leave thereupon would be more accurate and in line with the spirit of the Labor Law.

2. Within the Scope of the Unemployment Insurance Law

Pursuant to the Provisional Article 25 of the Unemployment Insurance Law No. 4447, which was introduced by Article 8 of the Law No. 7244, the short-term working applications made by the employers due to the compelling reason caused by the Covid-19 epidemic shall be concluded in accordance with the employer's declaration without completing a compliance inspection. However, any overpayments or groundless payments made as a result of misinformation caused by the employer shall be collected from the employer with statutory interest.

Provisional Article 24 has been added to the Unemployment Insurance Law in accordance with Article 7 of the Law No.7244. Accordingly;

- a) Employees on unpaid leave pursuant to the Provisional Article 10 of the Labor Law and who cannot benefit from the short-term working wage,
- b) Employees whose employment contracts have been terminated after the date of 15 March 2020 pursuant to Article 51 of the Unemployment Insurance Law and who do not benefit from the employment allowance shall be given a daily wage support from the unemployment insurance fund in the amount of 39,42 TL provided that they do not receive retirement wage from any social security institution.

It has been also regulated within the same article that an administrative fine shall be applied to the employers in case it is detected that the employee who benefits from the wage support is in fact employed by the employer during the unpaid leave. According to this regulation, the administrative fine shall be applied to the employer for each employee that is employed in this manner and for each month individually **in the amount of gross minimum wage** according to the Article 39 of the Labor Law. Moreover, the wage support shall be collected from the employer with the statutory interest to be accrued from the date of payment.

B. REGULATIONS REGARDING THE TURKISH COMMERCIAL CODE

Provisional Article 13 has been added to the Turkish Commercial Code in accordance with Article 12 of the Law No. 7244, thereby introducing an arrangement regarding the dividend payments.

According to the regulation, capital companies may adopt a resolution to distribute maximum up to twenty-five percent of their net profit for the 2019 financial year until 30 September 2020; whereas the past years' profits and free reserve funds shall not be subject to the distribution. Moreover, the general assembly cannot grant the board of directors the authorization to distribute the advance dividends.

The President has been entitled to extend or shorten this period, envisaged as 30 September 2020 as per the Provisional Article 13, for three months.

Companies in which the state, special provincial administrations, municipalities, village administrations, other public legal entities, or publicly owned funds (where the public owns more than fifty percent of the fund) directly or indirectly owns more than fifty percent of the shares have been excluded from the scope of the regulation.

The distribution of dividends exceeding 25% of the net profit for the 2019 fiscal year shall also be postponed until 30 September 2020, provided that the general assembly has previously adopted a resolution to distribute dividends for the 2019 financial year but the payments have not been made or have been partially made.

C. REGULATIONS REGARDING THE LAW ON THE REGULATION OF RETAIL TRADE

Certain amendments regarding the Law on Regulation of Retail Trade has been introduced with the Law No. 7244. One of such amendments relates to the protection of individuals in the retail sector against unfair price increases and stockpiling practices due to the Coronavirus pandemic, and the protection of the competition environment.

It has been regulated that the price of a good or a service cannot be increased exorbitantly by manufacturers, suppliers and retail entities pursuant to Additional Article 1 of the Law on Regulation of Retail Trade titled “Exorbitant Price Increase, Stockpiling and Unfair Price Assessment Board”. On the other hand, it has been regulated in the second clause of Additional Article 1 that manufacturers, suppliers and retail entities cannot engage in activities narrowing the market, preventing the consumer from accessing goods, or disrupting the market balance and free competition.

The Unfair Price Assessment Board" ("**Board**") has been established by the General Director of Domestic Trade in order to i) make regulations regarding the unfair price increase and stockpiling of manufacturers, suppliers and retail entities, ii) impose administrative fines by examining and auditing, iii) take any necessary measures.

Another amendment to the Law on Regulation of Retail Trade introduced by the Law No. 7244 concerns the administrative fine to be applied in case of the breach of the regulations regarding exorbitant price and stockpiling. Accordingly, an **administrative fine between ten thousand Turkish Liras and one hundred thousand Turkish Liras (10.000 TL – 100.000 TL)** shall be imposed on those who act contrary to the regulation regarding exorbitant price. Whereas an **administrative fine between fifty thousand Turkish Liras and five hundred thousand Turkish Liras (50.000 TL – 500.000 TL)** shall be imposed on those engaged in activities narrowing the market, upsetting the balance and free competition, and preventing consumers from accessing goods.

D. REGULATIONS REGARDING POSTPONEMENT, CANCELLATION AND RESTRUCTURING OF CERTAIN RECEIVABLES

Postponement, cancellation and restructuring of certain receivables has been regulated in Article 1 of the Law No. 7244 due to compelling reason of Covid-19 pandemic on economic and social life. Such receivables and the relevant regulations have been illustrated in the following table.

Type of Receivable	Postponement Period	Extension of the Postponement Period	Collection of Postponed Receivables	Competent Public Authority for Postponement or Extension
Occupancy fees and contractual fees for the treasury's immovable properties concerning the 3-month period as of 1 April 2020. ¹	3 months	The 3-month period may be extended up to 3 months as of the ending date.	The postponed receivables shall be collected at the end of the postponement duration on the basis of equated monthly installments and without any delay interest.	The Ministry of Environment and Urbanization
Excluding the permits granted for the tourism facilities; permits given on behalf of real or legal persons pursuant to the Forest Law and payments to be collected, which occurred for three months as of 1 April 2020, concerning recreational areas and immovable properties rented by the General Directorate of Forestry in accordance with the Public Procurement Law. ²	3 months	The 3-month period may be extended up to 3 months as of the ending date.	The postponed receivables shall be collected at the end of the postponement duration on the basis of equated monthly installments and without any delay interest. ³	The Ministry of Agriculture and Forestry

¹ Without the requirement of an application.

² Without the requirement of an application.

³ In addition, construction site delivery can be conducted by obtaining a bank letter of guarantee for the first-year fee accrued during the postponement period of the granted permits.

<p>Receivables concerning the 3-month period as of 1 April 2020 and related to the rental of areas subject to National Parks Law according to the Law No. 2886.⁴</p>	<p>3 months</p>	<p>The 3-month period may be extended up to 3 months as of the ending date.</p>	<p>The postponed receivables shall be collected at the end of the postponement duration on the basis of equated monthly installments and without any delay interest.</p>	<p>The Ministry of Agriculture and Forestry</p>
<p>Payments concerning the 3-month period as of 19 March 2020, due to the sale, rental and occupancy fees of immovable properties owned by, or in the possession of metropolitan municipalities, municipalities, provincial public administrations and their local administrative unions.</p>	<p>3 months</p>	<p>The 3-month period may be extended up to 3 months as of the ending date.</p>	<p>The postponed receivables shall be collected at the end of the postponement duration on the basis of equated monthly installments and without any delay interest.</p>	<p>Metropolitan municipalities, municipalities, provincial private administrations, assemblies in unions; authorized decision-making bodies in subsidiaries shall be entitled to postpone. The Ministry of Environment and Urbanization or the Ministry of Internal Affairs shall be entitled to extend the periods as relevant.</p>

⁴ Without the requirement of an application.

Payments concerning the 3-month period as of 17 April 2020, in connection with the income tax declaration and payment dates, all social insurance premium payments and annual installment payments to the Directorate General For State Hydraulic Works for metropolitan municipalities, municipalities and affiliates according to the Article 4 (M) of the Law numbered 1053.	3-month	The 3-month period may be extended up to 3 months as of the ending date.	The postponed receivables shall be collected at the end of the postponement duration on the basis of equated monthly installments and without any delay interest. ⁵	The President
Limited to the payments concerning 3-month period as of 17 April 2020; water bill receivables of metropolitan municipalities, municipalities and affiliates which related to residences, and workplaces that stopped the activity or operation.	3-month	The 3-month period may be extended up to 3 months as of the ending date.	The postponed receivables shall be collected at the end of the postponement duration on the basis of monthly installments and without any delay interest.	Municipal Council
Limited to 3-month period as of 17 April 2020; loan debts within the scope of the Article 16 of the Higher Education Loan and Dormitory Services Law.	3-month	The 3-month period may be extended up to 3 months as of the ending date.	Aforementioned debts shall be collected at the end of the postponement duration on the basis of monthly installments and without any delay interest or	The Ministry of Youth and Sports

⁵ During the postponement period, the period of limitation for the assessment and fine stipulated in the Tax Procedural Law shall not progress and the limitation shall extend as per this period.

			PPI/CPI.	
Annual announcement and advertisement taxes and annual environmental cleaning taxes shall not be collected from the companies that cannot operate or whose activities discontinued for such periods.				
The current installment payment of 2020, originated from Support and Price Stabilization Fund of the agricultural sales cooperatives unions, restructured according to Provisional Article 4 of the Law on Agriculture Sales Cooperatives and Associations and paid once in a year are postponed to the year 2021 without any interest. The installment amounts to be paid in the later years including 2021 are also postponed for one year without any interest.				
The annual fee regulated in Article 35 of the Law No. 1618 shall not be collected in 2020.				
Receivables of TEDAŞ arising from electricity consumption (which have been transferred to TEDAŞ during the privatization transfer processes) shall be structured as per the following provisions.				

E. REGULATIONS REGARDING THE EXTENSION OF PERIODS, POSTPONEMENT OF MEETINGS AND WORKING REMOTELY

Certain provisions have been set forth with Article 2 of the Law No. 7244 regarding the extension of periods, postponement of meetings and working remotely.

- a) Licenses given in accordance with the Licensed Agricultural Product Storage Law that shall expire in 2020 has been extended for a year.
- b) Seaworthiness certificates devised for commercial ships in accordance with the Law on the Protection of Life and Goods that shall expire between 11 March 2020 and 31 July 2020 has been extended until 1 August 2020. The Ministry of Transportation and Infrastructure shall be authorized to extend this period for up to 3 months.
- c) The inspections to be carried out pursuant to the Law on the Protection of Life and Goods shall be postponed until 1 August 2020. The Ministry of Transportation and Infrastructure shall be authorized to extend this period for up to 3 months.
- d) Statements and declarations to be submitted by associations as per the Association Law and the Civil Law and association general assemblies shall be postponed until 31 July 2020. The Ministry of Internal Affairs shall be authorized to extend this period

for up to 3 months. The postponed general assemblies shall be held within 30 days of the end of the postponement. The duties, authorizations and obligations of the current bodies shall continue until the first general assembly to be held after the postponement.

- e) General assemblies within the scope of Cooperative Law shall be postponed until 31 July 2020. The relevant Ministry shall be authorized to extend this period for up to 3 months. The postponed general assemblies shall be held within 3 months of the postponement. The duties, authorizations and obligations of the current bodies shall continue until the first general assembly to be carried out after the postponement.
- f) General assemblies within the scope of the Law on Veterinary Services, Phytosanitary, Food and Feed Law and Agricultural Producers Associations Law shall be postponed until 31 July 2020. The Ministry of Agriculture and Forestry shall be authorized to extend this period for up to 3 months. The postponed general assemblies shall be held within 30 days of the end of the postponement. The duties, authorizations and obligations of the current bodies shall continue until the first general assembly to be held after the postponement.
- g) The Union General Assembly to be held in May 2020 within the scope of the Turkish Union of Chambers and Exchange Commodities Law Article 61 shall be held with the subsequent General Assembly.
- h) The elections to be held within the scope of the Local and Neighborhood Administrations and Community Councils Law Article 33 shall not be held in 2020.
- i) The Ministry of Industry and Technology shall be authorized within the scope of the Law on Supporting Research, Development and Design Activities to allow activities held in R&D and design centers to be also held outside R&D and design centers and allow activities held within the designated area to be held outside the designated area as per the Technology Development Area Law for a period of 4 months. The Ministry of Industry and Technology shall be authorized to extend this period for up to 3 months. In case the extension is granted, any discounts, exemptions, subsidy or incentive shall continue, provided that the Ministry of Industry and Technology is informed.
- j) The detection regulated in Article 30, Paragraph 2, Clause (a) in Public Officials' Unions and Collective Bargaining Agreement Law shall be made based on the date of 15 July 2020 for the year 2020, and shall be submitted to the Ministry of Family, Labor and Social Services by 31 July 2020. The detection to be made within the scope of Clause (b) of the same Paragraph shall be made based on the date of 15 July 2020 and shall be published on the Official Gazette on the first week of September. The President shall be authorized to extend these period until the date of 15 May 2021.
- k) Authorizations, drafting collective bargaining agreements, resolving collective labor disputes and periods regarding strike and lock out within the scope of the Law on Trade Unions and Collective Bargaining Agreement shall be postponed for a period of

3 months as of 17 April 2020. The President shall be authorized to extend this period for up to 3 months. It shall be noted that this is an extension, not a postponement; hence it is possible to resume meetings within this period.

- 1) The sale, lease, exchange, construction in return for land share or flat, and the establishment of limited real rights of real estate owned by the Treasury, and the rental and the establishment of the right of use tenders regarding places fully owned by the State may be executed by electronic means until 31 July 2020 in exchange for remuneration, through the use of technical infrastructure belonging to affiliates of the Ministry of Environment and Urbanization.

F. REGULATIONS REGARDING THE SOCIAL SERVICES LAW

In accordance with the Additional Article 18 added to the Social Services Law as per Article 5 of the Law No. 7244, certain conditions regulated in the law regarding care services shall not be required for 3 months as of 17 April 2020 due to the compelling reason caused by the Covid-19 pandemic.

In this respect, the income criteria and the grave disability standards regulated in Additional Article 7 of the Social Services Law and the income criteria for providing care services regulated in Additional Protocol 10 of the Social Services Law shall not be required for 3 months as of 17 April 2020. The President shall be authorized to extend this period up to one year.

G. REGULATIONS REGARDING PUBLIC FINANCE MANAGEMENT AND CONTROL LAW

Additional Article 7 titled “*force majeure*” of the Public Finance Management and Control Law added with Article 10 of the Law No. 7244 regulates that the methods regarding the generation, recording, transmission, storage and presentation of data, information and documents shall be determined by the Ministry of Treasury and Finance in the instances of natural disasters such as earthquake, fire, flood and epidemic or cases of force majeure such as the malfunction of the IT systems of the Ministry of Treasury and Finance for any reason. It has additionally been regulated that no late fee, default interest or sanctions shall be applied in cases of delay in the transactions carried out through IT systems of the Ministry of Treasury and Finance due to force majeure.

Kind Regards,
Koyuncuoğlu & Köksal Law Firm

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