

Turkey Adopts Mandatory Mediation for Employment Disputes

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Turkey recently adopted a long-awaited mandatory mediation mechanism for certain employment disputes. From 1 January 2018, parties must have attempted mediation before they will be able to pursue an employment dispute via the Turkish court system. The mandatory mediation mechanism is unique to the Turkish legal system.

The Labour Courts Law ("**Law**") was published in Official Gazette number 30221 on 25 October 2017.

From the beginning of 2018, the following employment disputes will be subject to mandatory mediation:

- Employer or employee indemnity claims arising from labour contracts.
- Reemployment.

However, the mechanism will not apply to material and immaterial compensation claims or relevant declaratory and recourse actions which arise from occupational accidents and diseases.

Timelines

Under the Law, either party can apply to a mediator and making a mediation application will suspend any statute of limitations or lapse of time until the mediator's final minutes are prepared.

If the parties cannot agree on an acceptable mediator, the mediation bureau will appoint one from the mediator list.

The mediator must complete the mediation proceedings within three weeks, with the possibility of a one-week extension. The mediator's final minutes must be drafted within four weeks of the first application.

Mediator minutes

Mediators must immediately send their final minutes to the mediation bureau, stating the mediation's outcome as either:

- Failed to reach to the parties.
- No meeting occurred since the parties were not present.
- The parties did or did not make an agreement.

The mediator's final minutes are significant during any subsequent lawsuit because the court will apply legal expenses to the party which failed to attend the initial mediation meeting, irrespective of whether that party justifies its claim in the court. The court also cannot rule the legal counsel's fee in favour of this party.

If both parties failed to attend the initial meeting, legal expenses will be applied according to their own expenses.

If parties submit a petition to initiate an employment lawsuit without including mediator minutes, the petition will be automatically dismissed on procedural grounds. The parties receive two weeks from this time to apply to a mediator.

Mediator fees

If parties reach an agreement during mediation, the parties will equally share the mediator's fee.

The Ministry of Justice will pay the mediator's fee if:

- The mediator fails to reach the parties.
- No meeting occurred due to the absence of both parties.
- The parties state that mediation will not provide any agreement within two hours of meetings.

Please see this [link](#) for full text of the Law (only available in Turkish).

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