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BUSINESS LAW EDUCATION

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BASIC CONCEPTS

RIGHT: It means legally protected interest.

LAW: It is a set of rules that regulate society and are strengthened by state sanction.

STATE: It is the legal entity formed by a politically organized nation or group of nations based on territorial integrity.



CHAPTER I

GENERAL INFORMATION ON INDIVIDUAL LABOR LAW



MAIN LAWS REGULATING BUSINESS RELATIONSHIPS

The **CONSTITUTION** regulates competing rights in working life in general, such as the worker's freedom to work, the right to physical integrity and the right to prohibition of forced labor, and the employer's freedom of enterprise.

LABOR LAW generally covers those who are considered workers.

THE LAW OF OBLIGATIONS covers those who are not defined as workers in other relevant labor laws.

LABOR COURTS LAW regulates the procedural principles.

MARITIME LABOR LAW applies to seafarers and their employers who work under a service contract on ships of one hundred gross tons and above, flying the Turkish Flag in the seas, lakes and rivers.



MAIN LAWS REGULATING BUSINESS RELATIONSHIPS

- LAW ON THE REGULATION OF RELATIONS BETWEEN THOSE WORKING AND EMPLOYING IN THE PRESS PROFESSION,
- UNIONS AND COLLECTIVE BARGAINING LAW
- OCCUPATIONAL HEALTH AND SAFETY LAW
- SOCIAL INSURANCE AND GENERAL HEALTH INSURANCE LAW



WORKER: A real person who works based on an employment contract is called a worker.

EMPLOYER: Real or legal persons or institutions and organizations without legal entity that employ workers are called employers.

EMPLOYMENT RELATIONSHIP: The relationship established between the employee and the employer is called employment relationship.

WORKPLACE: The unit where material and non-material elements and workers are organized together in order to produce goods or services by the employer is called workplace.

The workplace is a whole within the scope of the work organization created with the places, add-ons and tools connected to the workplace.



EMPLOYER'S ATTORNEY: People who act on behalf of the employer and take part in the management of the work, workplace and enterprise are called employer representatives. The employer is directly responsible for the actions and obligations of the employer's representative towards the workers in this capacity. All responsibilities and obligations stipulated for the employer in the Labor Law also apply to employer representatives. The title of employer representative does not eliminate the rights and obligations granted to workers. Only employer representatives and assistants do not have the right to request reinstatement.

PRINCIPAL EMPLOYER - SUB-EMPLOYER: The other employer who receives work from an employer in auxiliary works related to the production of goods or services carried out in the workplace or in a part of the main work, in jobs that require expertise for technological reasons due to the requirements of the business and the job, and employs the workers assigned for this job only in the job they have taken in this workplace. The relationship established between the employer and the employer is called the principal employer-subcontractor relationship.



Basic Principles of Labor Law / Obligations of the Parties

❖ **Employer Obligations:**

- Paying employees for their work,
- Treating employees equally (there are exceptions),
- Giving necessary instructions to the employee and managing the employee,
- To ensure occupational health and safety,
- To act in accordance with the relevant legislation (Labor Law, Occupational Health and Safety Law, SSI legislation, etc.).

❖ **Employee Obligations:**

- To carry out one's duties properly and diligently,
- Being loyal to the employer
- Complying with the employer's instructions,
- non-competition, keeping secrets
- To act in accordance with the relevant legislation (Labor Law, Occupational Health and Safety Law, SSI legislation, etc.).



MATERIAL CHANGE IN WORKING CONDITIONS

- A material change in the employee's working conditions that is to the detriment of the employee is only possible if this situation is notified to the employee in writing and the employee gives written approval to the change within 6 business days.
- If the employee does not accept, this change will not be applicable to the employee and if the change is not based on a valid reason, the employer cannot terminate the employee's employment contract solely based on this issue.
- If the change is applied to the employee without his/her consent, the employee may terminate the employment contract for just cause and/or claim the rights he/she has been deprived of.
- The parties may make fundamental changes in working conditions at any time by agreement.
- In some cases, the employer may make changes to working conditions without the employee's approval (e.g., changing the workplace if this right has been reserved in the employment contract).
- No retroactive changes can be made.



TYPES OF EMPLOYMENT CONTRACT

By Contract Duration:

- Indefinite-term employment contract – it is not subject to any period and is indefinite.
- Fixed-term employment contract – it is temporary and there must be an objective reason for its conclusion/renewal.

By Working Time:

- Full-time employment contract
- Part-time employment contract – the employee must work at least 1/3 less than a full-time employee working at the workplace.
- On-call work – is a type of part-time employment contract where the employee performs work when called.

Temporary employment relationship:

- A temporary employment relationship can be established through a ministry-approved private employment agency or by assignment within the holding or at another workplace affiliated with the same group of companies.
- Here, the employee is obliged to fulfill his duty towards his main employer towards the employer with whom he is connected with a temporary employment relationship and to remain loyal to his main employer.
- Both employers will be jointly responsible for the employee's rights.



FEE

In general, wages are money given to an employee in exchange for a job. The fee can be paid in money, but cannot be paid in goods or the like. The wage can be given daily, weekly and at most monthly, or it can be determined as a piece rate.

Fees by type;

The bare gross wage is the fixed wage and includes taxes and premiums. Only stamp duty is excluded.

Bare net wage is the net wage remaining after deducting SSI, Unemployment Premiums and taxes from the fixed wage.

The adjusted gross wage is the wage with only stamp duty deducted, including taxes and premiums, which are calculated by including ongoing payments such as bonuses, meals, and transportation into the fixed wage.

The adjusted net wage is the remaining net wage after deducting SSI, Unemployment Premiums and taxes from the gross wage.



PRINCIPLE OF EQUAL TREATMENT

No discrimination can be made in business relationships based on language, race, colour, gender, disability, political opinion, philosophical belief, religion and sect and similar reasons.

Unless there are fundamental reasons, the employer cannot treat a part-time worker differently than a full-time worker, or a fixed-term worker compared to an indefinite-term worker.

The employer cannot, directly or indirectly, take any different action against an employee due to gender or pregnancy, in the conclusion of an employment contract, the establishment of its conditions, its implementation and termination, unless biological or reasons related to the nature of the work make it mandatory.

A lower wage cannot be agreed for a job of the same or equal value because of gender.

The application of special protective provisions due to the gender of the worker does not justify the application of a lower wage.



WORKING PERIODS

Working time application principles:

- ❖ Weekly working hours can be set to a maximum of 6 days and 45 hours (there are exceptions, e.g. underground mining work).
- ❖ Unless otherwise agreed by the parties, this period is applied equally to the working days of the week in the workplaces.
- ❖ Daily working hours can be a maximum of 11 hours, including overtime.

Rest periods:

- ❖ Break break: At an average time during the daily working period, employees are given a break, arranged according to the traditions of that place and the requirements of the job:
- ❖ 15 minutes for jobs lasting 4 hours or less,
- ❖ Half an hour for jobs lasting more than 4 hours and up to 7.5 hours (including 7.5 hours),
- ❖ For jobs lasting more than 7.5 hours, 1 hour is given.
- ❖ The Supreme Court of Appeals decided to grant a 1.5-hour break for work exceeding 11 hours, and a 2-hour break for work exceeding 14 hours.
- ❖ Daily rest: Must be 12 uninterrupted hours within 24 hours on working days.
- ❖ Weekly rest: Must be at least 24 uninterrupted hours within a 7-day period (week break), provided that the previous days have been worked properly.



WORKING PERIODS

Overtime

- ❖ Overtime: Work exceeding 45 hours per week.
- ❖ Working Overtime: If the weekly working time is determined to be less than 45 hours, it is the work done up to 45 hours per week that exceeds the determined weekly working time.
- ❖ In return for working overtime/overtime, the employee will be given (i) either increased wages, (ii) or free time. Giving free time or paying wages instead is not at the discretion of the employer, the right to choose lies with the employee.
- ❖ Fees related to the above work can be included in the salary, provided that it is stated in the monthly employment contract and the employee's wage is determined accordingly. In such a case, up to 270 hours of work per year as above will be included in the monthly salary.
- ❖ In case of balancing, overtime work will not be counted as overtime/working for extra hours.



CHAPTER II. TERMINATION OF EMPLOYMENT CONTRACTS



Termination During the Trial Period

When a trial clause is included in the employment contract by the parties, its duration can be a maximum of two months. However, the trial period can be extended up to four months by collective bargaining agreements.

During the trial period, the parties may terminate the employment contract without the need for a notice period and without compensation. wages and other rights of the workers for the days worked reserved.



Termination of Fixed-Term Employment Contracts

Fixed-term employment contracts should not be terminated before their expiry (i) without justified reasons set out in Articles 24 or 25 of the Labor Law or (ii) without the agreement of the parties; otherwise:

In case of termination by the employee before its due date:

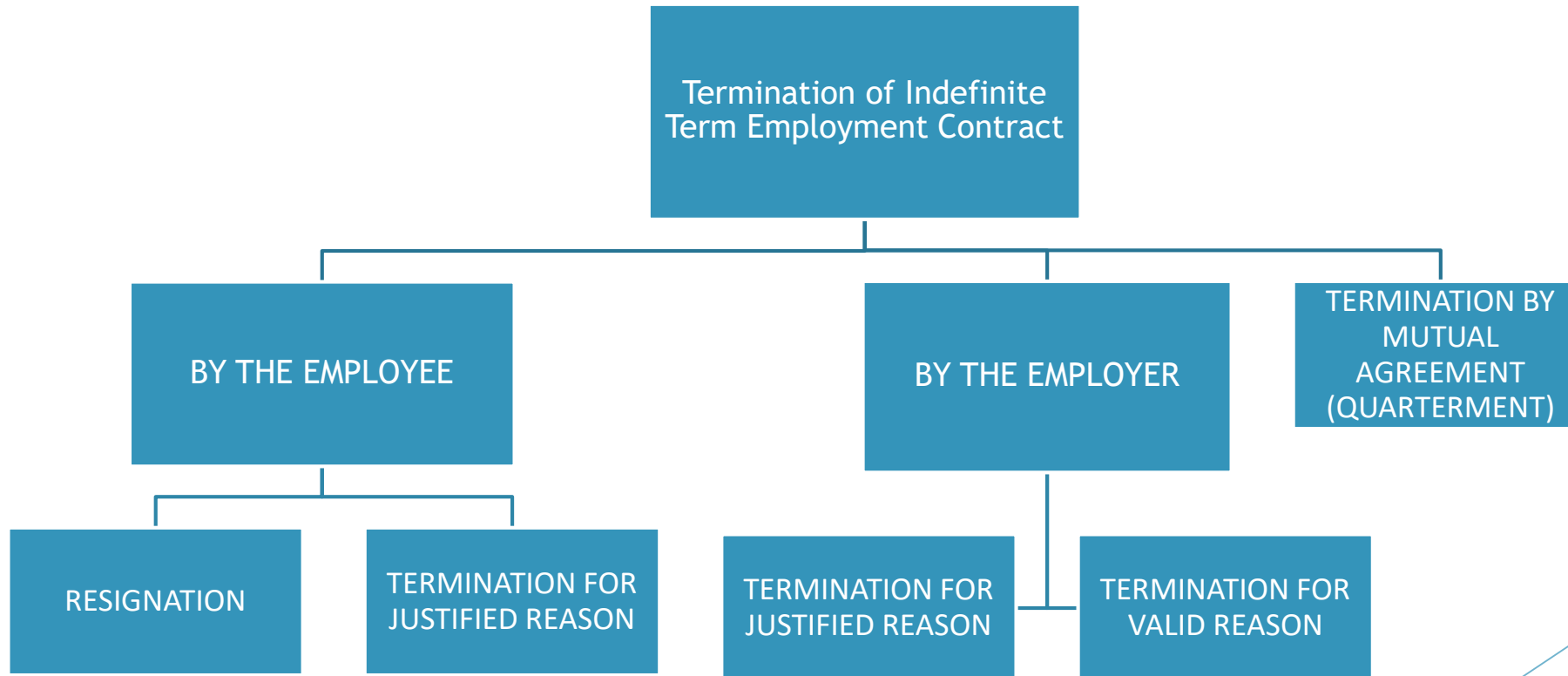
- The employer may request (i) compensation equal to $\frac{1}{4}$ of the employee's monthly wage and (ii) compensation for additional damages.

In case of premature termination by the employer:

The employee may claim from the employer the amounts to which he/she may be entitled as compensation until the end of the contract period.



Belirsiz Süreli İş Sözleşmelerinin Sona Erdirilmesi





Termination of Employment Contract by the Employee Reasons for Justifiable Termination

I. Health reasons

If the performance of the work that is the subject of the employment contract is dangerous to the health or life of the worker due to a reason arising from the nature of the work, or if another worker contracts a disease that is contagious or incompatible with the worker's job.

II. Situations that do not comply with the rules of morality and good faith and similar: The right of termination must be exercised within 6 business days after learning of the incident and/or after the incident occurs.

III. Compelling reasons: If compelling reasons arise at the workplace where the worker works that require work to be stopped for more than a week.



Job Security Conditions and Their Effect

If the following are available for an employee, the employee is covered by job security.

- Working in a workplace employing 30 or more workers (in accordance with the Supreme Court Decisions, this figure is calculated by taking into account the workplaces of the Company and all its organic affiliates in the world) and
- Having at least 6 months of seniority in the company (6 months of seniority will not be required if there is a union reason), and
- Not being considered as the employer's representative or assistant within the scope of the Labor Law, and
- Working with an employment contract of indefinite duration (a fixed-term employee cannot request reinstatement).



Termination of Employment Contract by the Employer

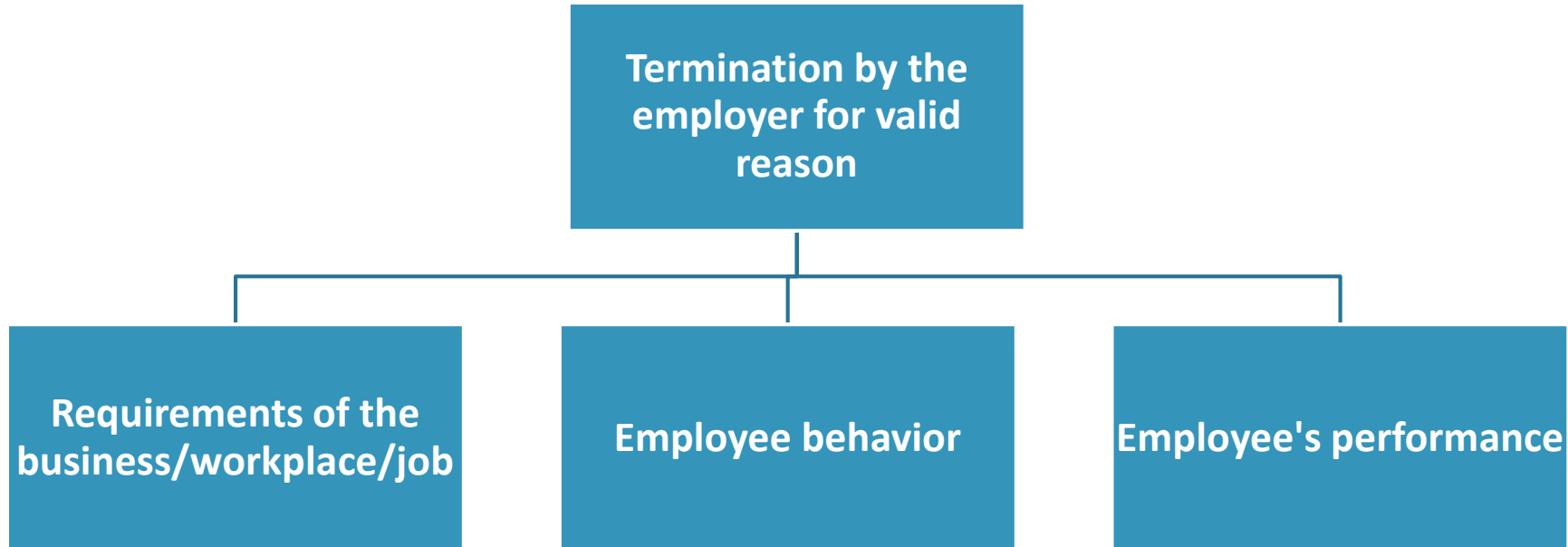
If the employee is covered by job security, there must be a valid or justifiable reason to terminate the employment contract, and the employee may also file a lawsuit for reinstatement following termination.

If the employee is not covered by job security, the employment contract can be terminated by the employer without any justified or valid reason and the employee cannot file a lawsuit for reinstatement.

In the light of the above information, before terminating the employee's employment contract, it should be determined whether the employee benefits from job security and action should be taken accordingly.



Termination of Employment Contract by the Employer





NOTIFICATION PERIOD FOR TERMINATIONS BY THE EMPLOYER FOR VALID REASON

In case the employment contract is terminated unilaterally by the employer in accordance with Article 17 of the Labor Law, without a justified reason set out in Article 25 of the Labor Law, whether within the scope of reinstatement or not;

- a) For the worker whose job has lasted less than six months, two weeks after the notification is made to the other party,
- b) For workers who have worked for six months to one and a half years, four weeks after the notification is made to the other party,
- c) For the worker whose job has lasted from one and a half to three years, six weeks after the notification is made to the other party,
- d) For workers who have worked for more than three years, eight weeks after notification,

The employment contract ends. In case of violation of this provision, notice compensation equal to the specified period fee arises.

If the employee works during the notice period, he is entitled to 2 hours of paid job search leave on workdays, and the employee can use this time on each working day or collectively before termination, depending on his preference.



Termination of Employment Contract by the Employer

Reasons Due to Performance

- On average, they work less productively than those doing similar work,
- Having lower performance than expected,
- Decreasing concentration on work,
- Not being prone to work,
- Inability to learn and improve oneself,
- Lack of adaptation, etc.



Termination of Employment Contract by the Employer

Reasons Arising from Behavior

- Harming the employer,
- Asking to borrow money from colleagues in a way that creates discomfort in the workplace,
- Getting sick frequently, getting medical reports,
- Inciting your friends against the employer,
- Performing the job incompletely, poorly or inadequately despite warnings,
- Engaging in relationships with other people in a way that negatively affects the workflow and work environment at work,
- Making long phone calls that stop the flow of work,
- Frequently coming to work late and wandering around the workplace disrupting work,
- Showing serious disagreements with superiors or co-workers,
- Getting into frequent and unnecessary arguments,
- Revealing company secrets etc. (Depending on the nature of the incident, termination for just cause may be possible)



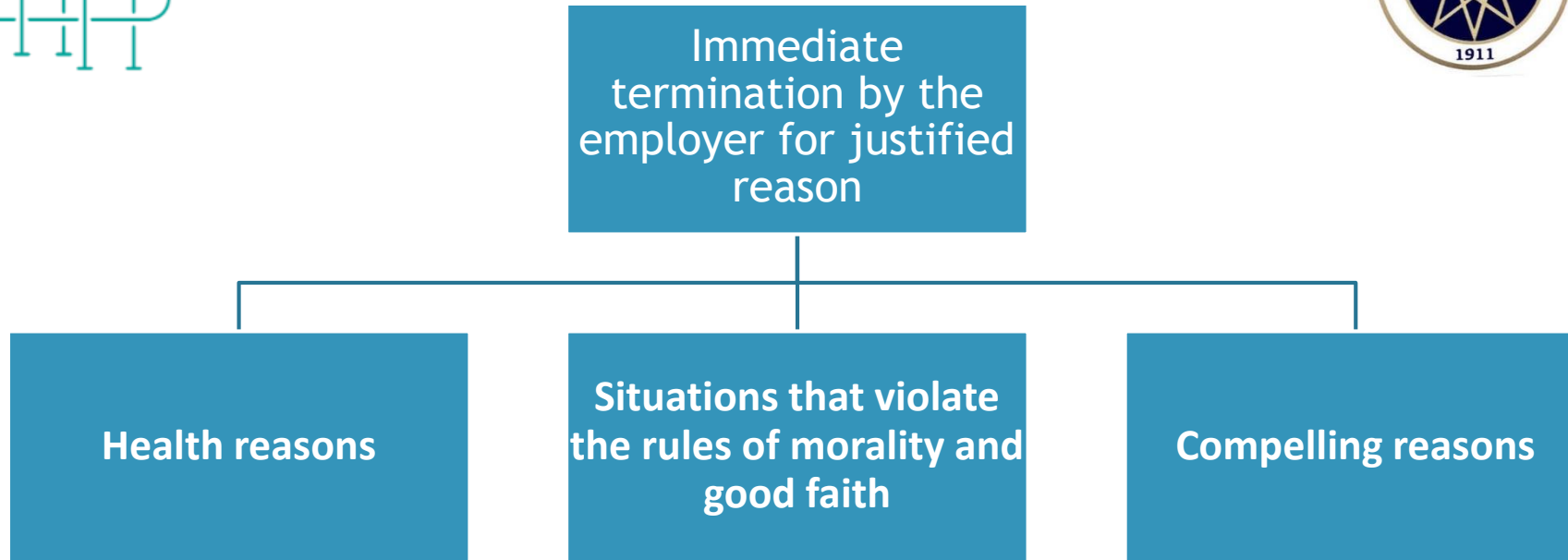
Reasons Arising from the Requirements of the Business, Workplace or Job

Reasons originating from outside the workplace

- *Decrease in sales opportunities,*
- *Decrease in demand and orders,*
- *Energy Shortage,*
- *The economic crisis in the country, general stagnation in the market,*
- *Foreign market loss,*
- *Raw material shortage, etc.*

Reasons arising from within the workplace

- *Implementation of new working methods,*
- *Shrinking the workplace,*
- *Application of new technology,*
- *Cancellation of some parts of the workplaces, assigning work that is not the main job to the subcontractor,*
- *Removal of some types of jobs, etc.*



Compelling reasons:

The emergence of a compelling reason that prevents the employee from working at the workplace for more than a week.

In case the worker is detained or arrested, the absenteeism exceeds the notification period in Laws.



CASES

Reinstatement Case

In case of violation of the termination conditions described above; In accordance with the Labor Courts Law amended on 25.10.2017, an employee covered by job security may claim the invalidity of the termination and apply for mediation within 1 month from the date of notification of termination.



OCCUPATIONAL HEALTH AND SAFETY

❖ **Employer obligations**

Take precautions

Educate

Inspect

❖ **Employee obligations**

❖ **Work Accident - Occupational Disease**