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STATE OF EMERGENCY DECLARED IN 10 CITIES AFFECTED BY THE EARTHQUAKES



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Esteemed Friends,

We respectfully commemorate those who lost their lives in the earthquake disaster that took place in Kahramanmaraş on 6 February 2023. The disaster greatly affected Turkey, particularly Kahramanmaraş, Hatay, Adana, Gaziantep, Adıyaman, Kilis, Malatya, Diyarbakır, Şanlıurfa and Osmaniye regions. We take this opportunity to express our condolences once again to those who lost their relatives and loved ones.

We would like to highlight the importance of following the developments in the field of law where new developments are implemented almost on a daily basis and to inform the public amidst the mass mobilization for providing essential supply and moral support. While we stand in solidarity with those affected in the region and those who lost their relatives and loved ones we would like to specifically dedicate this issue of TFP to this unprecedented disaster as we continue to heal our wounds together.

As a response to the earthquake disaster, official institutions introduced various regulations regarding matters falling under their respective jurisdiction. In this issue, we tried to summarize the key ones.

First of all, it was decided to declare a state of emergency for 3 months starting from 8 February 2023 in Adana, Adıyaman, Diyarbakır, Gaziantep, Hatay, Kahramanmaraş, Kilis, Malatya, Osmaniye and Şanlıurfa regions. As a result of this declaration of state of emergency many institutions started to take action. In order to prevent any loss of right in the field of law, the application of some deadlines was suspended. A number of regulations regarding enforcement and bankruptcy proceedings, precautionary attachment decisions, parties and follow-up procedures were implemented. Personal Data Protection Authority published an announcement for the relevant persons and data controllers affected by the earthquake, emphasizing that the extraordinary conditions regarding the periods will be taken into account. Constitutional Court and the Ministry of Labor and Social Security also announced that the time limits will be suspended in the earthquake zone. Union of Turkish Bar Associations updated and published the Legal Guide for Earthquake Victims. Ministry of Labor and Social Security announced that they have taken measures to prevent grievances that may occur in the applications of the citizens in the earthquake region to the health service providers and in the supply of medicines or medical supplies that are used continuously. The payment of income and monthly payments by the Social Security Institution were moved to an earlier date for February, and the payments (in February) for unemployment and half-time work allowance were made early. It was decided to provide short-time working allowance and cash wage support to the employees affected by the earthquake disaster. Council of Higher Education has decided to complete the spring semester of the 2022-2023 academic year in the form of distance education.

We believe that the new arrangements and measures will continue to be adopted in order to counter the adverse effects of the earthquake and the grievances experienced of those affected.

We are ready to provide our support during these trying times while we continue to navigate our way in the aftermath of the earthquake.

State of Emergency Declared in Earthquake Zone

3 months of state of emergency has been declared in Adana, Adıyaman, Diyarbakır, Gaziantep, Hatay, Kahramanmaraş, Kilis, Malatya, Osmaniye and Şanlıurfa; starting as of 08.02.2023. This is ruled by the [President's Decision](#) No. 6785 (*only available in Turkish*) which is published in the Official Gazette dated 08.02.2023 and as per on Article 3 of the Constitution and the State of Emergency Law. Subsequently, the Presidential Decision was approved by the Grand National Assembly of Turkey (TBMM)'s decision numbered 1354 (*only available in Turkish*), which is published in the Official Gazette dated 10.02.2023.

Presidential Decree No. 120 on Measures Taken in the Judiciary Under the State of Emergency

As a result of the declaration of 3 months of state of emergency in Adana, Adıyaman, Diyarbakır, Gaziantep, Hatay, Kahramanmaraş, Kilis, Malatya, Osmaniye and Şanlıurfa provinces (**Ohal Zone**) with the Presidential Decree numbered 6785, measures were taken in various areas. In this context, the [Presidential Decree](#) No. 120 on the Measures Taken in the Judiciary Under the State of Emergency (**Decree**) (*only available in Turkish*) was published in the Official Gazette dated 11.02.2023.

As per the Decree, in order to prevent any loss of rights in the Ohal Zone, the periods for the following doings are suspended **until 06.04.2023**:

- **All periods regarding the originating, exercise or termination of a right:** The periods of filing a lawsuit, initiating enforcement proceedings, application, complaint, objection, warning, notification, submission and statute of limitations, mediation and conciliation periods, deprivation periods and mandatory administrative application periods have been suspended.

In this context, periods in other laws containing procedural provisions, particularly in the Code of Civil Procedure, the Code of Administrative Procedure and the Code of Criminal Procedure, and the periods determined by the relevant parties or by the judge are also suspended.

- **Periods regarding enforcement law:** Periods regulated in the Execution and Bankruptcy Law and in other laws and determined by judges or enforcement and bankruptcy offices, enforcement and bankruptcy proceedings, related parties and proceedings, receipt of new enforcement and bankruptcy requests, and execution and execution of precautionary attachment decisions are suspended. Execution proceedings regarding alimony receivables are excluded.

On the other hand, the periods regarding crime and punishment, misdemeanor and administrative sanctions, disciplinary and preventive imprisonment, periods regarding protective measures, periods regarding the proceedings that complete the precautionary measure regulated in the Code of Civil Procedure, the periods regulated in the relevant laws regarding TBMM and Presidential elections are excluded.

The scope of the Decree is limited to real and legal persons residing in the Ohal Zone as of 06.02.2023 and people who were been in these provinces on the same date. At the same time, certain periods have been suspended for the following special cases:

- If the lawyers and the people who work in these lawyers' offices registered in the bar associations of the provinces outside of the Ohal Zone, have relatives by blood or beech in the Ohal Zone or travel to Ohal Zone in order to save the disaster victims, to compensate for the damage or loss, or to meet their needs; the deadlines for these lawyers are also suspended throughout the country until 06.03.2023 in relation to lawsuits and works conducted by these lawyers.
- In the event that people whose residential is not in the Ohal Zone, have relatives by blood or beech in the Ohal Zone, or travel to the Ohal Zone in order to save the disaster victims, to compensate for the damage and loss or to meet their needs, the deadlines for these people are also suspended throughout the country until 06.03.2023.

It has been stated that the above-mentioned natural and legal persons and lawyers could carry out proceedings regarding execution and bankruptcy proceedings, parties and proceedings, and execution and execution of precautionary attachment decisions against persons residing outside the Ohal Zone. In this context, it has been clearly stated that natural and legal persons and lawyers who initiate the proceedings cannot benefit from the provision regarding the suspension of the deadlines until 06.04.2023.

If the person caught cannot be brought before the judge or court within twenty-four hours at the latest and SEGBIS cannot be used, upon the arrest warrant issued by the criminal judgeships of peace or the courts in the Ohal Zone, it has been stated in the Decree, that the interrogation or statement of the person will be made by the magistrate or court of the place where the person was caught.

In the Ohal Zone, it was stated that the detention period in cases of theft and looting shall not exceed four days from the moment of arrest, excluding the mandatory period for the suspect to be sent to the nearest judge or court to the place of arrest. In addition, it was expressed that the prosecutor may decide in writing to extend the detention period for 3 days due to the difficulty in collecting the evidence or the high number of suspects. Objection to detention, requests for release and examination of detention could be decided through the file. It is made permissible in the Decree for the release requests to be ruled on the basis of the file, together with the examination of the person's detention.

State of Emergency Measures regarding Execution Actions

In order to eliminate any confusion that may arise during the implementation of the Decree and to ensure its uniform application, the interpretation below has been adopted regarding execution affairs with the Ministerial Approval dated 14.2.2023 and numbered 86420598-66 for the implementation of the Decree.

In the Ohal Zone; from 06.02.2023 (including this date) until 06.04.2023 (including this date), in order to prevent any loss of right in the judicial proceedings, periods and procedures have halted, subject to certain exceptions. In this respect, in summary, it is stated that;

- Execution and bankruptcy proceedings, precautionary attachment decisions, other applications, objections and requests regarding the parties and enforcement and bankruptcy procedures will not be received.
- One of the parties to the case may request that the proceedings in favor of the other party be carried out.
- Since all execution and bankruptcy proceedings, except for alimony receivables, have been suspended, there will be no need to obtain a separate decision to stay the proceedings in this regard.

- The periods related to execution and bankruptcy proceedings and enforcement and bankruptcy law shall not run until the end of the suspension period.

In cities outside the Ohal Zone, it has been determined that;

- During the processing or examination of the file by the execution office, the evaluation regarding the application of Article 2 of the Decree will be conducted through the execution file and via UYAP and a decision be made ex officio, and for the persons who are in the Ohal Zone on the same date, a decision will be made upon request, by examining the execution file and evaluating all kinds of information and documents attached to the request.
- During the processing or examination of the files in which the attorneys registered to the bar association of the Ohal Zone as of 06.02.2023, the evaluation regarding the application of Article 2 of the Decree will be made ex officio from the execution file and via UYAP, and for the attorneys registered with other bar associations and located in the Ohal Zone on the same date, upon request, the execution file will be examined and a decision will to be made by evaluating all kinds of information and documents attached to the request.
- When implementing Article 2 of the Decree, a decision will be made by examining the execution file and evaluating all kinds of information and documents attached to the request in the event that the lawyers registered with the bar association of the cities outside the Ohal Zone and the persons working with them make a request due to the presence of blood relatives or in-laws in the Ohal Zone or because they have travelled to these cities to attend rescue operations, to compensate the damage and loss incurred or to help with their needs.
- When implementing Article 2 of the Decree, a decision will be made by examining the execution file and evaluating all kinds of information and documents attached to the request in the event the persons whose place of residence is in cities outside the Ohal Zone make a request due to the presence of blood or in-law relatives in Ohal Zone or because they have travelled to these cities to attend rescue operations, to compensate the damage and loss incurred or to help with their needs.

The full text of the Ministerial Approval dated 14.02.2023 and numbered 86420598-66 sent to the places of distribution by the Ministry of Justice Directorate of Execution Affairs is available [here](#) (only available in Turkish).

Personal Data Protection Authority's Announcement towards Relevant Persons and Data Controllers Affected by the Earthquake

Personal Data Protection Authority (KVKK) published an announcement on 9 February 2023 for the relevant people and data controllers affected by the earthquake.

Due to the earthquake disaster that occurred on 06 February 2023, in the relevant announcement made by KVKK in relation to the Ohal Zone, the extraordinary conditions caused by the earthquake will be taken into account in the evaluation of the periods specified in the Personal Data Protection Law and other relevant regulations for the below people:

- Relevant people or data controllers affected by the earthquake whether located in the Ohal Zone or elsewhere,
- Relevant people or data controllers who are represented by lawyers who work under the bar associations of the Ohal Zone, or who are affiliated with the bar associations of other provinces but affected by the earthquake.

You can reach the full text of the announcement [here](#) (only available in Turkish).

Constitutional Court's Announcement on Suspension of the Periods of Individual Application

On 16 February 2023, the Constitutional Court (**AYM**) published an announcement regarding the suspension of the deadlines for individual applications.

In the announcement; it has been stated that the individual application period has been suspended from 6 February 2023 (inclusive) until 6 April 2023 (inclusive) in the Ohal Zone. From the date of exhaustion of individual application remedies; as a rule, if a remedy is not foreseen, it must be completed within thirty days from the date of learning of the violation. On the other hand, with the announcement of the AYM, the individual application period will start to run from the day following the end of the suspension period.

Suspension of the individual application period will be implemented throughout the country regarding the cases and works followed by the lawyers registered in the bar associations of Ohal Zone on or before 6 February 2023, and the lawyers registered in other bar associations and present in these provinces on the same date.

People residing in provinces outside the Ohal Zone, lawyers registered in the bar associations of these provinces and people working in their offices (i) having relatives by blood or beech in the relevant provinces, (ii) rescuing the victims of disaster in the relevant provinces, compensating for the damage and damage caused the individual application periods for those who go to these provinces to meet their have been suspended until (including) 6 March 2023.

You can reach the announcement of the AYM [here](#) (only available in Turkish).

Legal Guide for Earthquake Victims by the Union of Turkish Bar Associations

The first edition of the Legal Guide for Earthquake Victims (**Guide**) prepared by the Union of Turkish Bar Associations (**UTBA**) was published in August 1999 following the 1999 earthquake centered in Gölcük. The Guide, which was updated in 2001, has been re-evaluated and updated within the scope of changes in legislation and practices in order to meet the needs of earthquake victims after the earthquakes of 6 February 2023.

The Guide entails a broad legal perspective on many areas of law.

Guide aims to inform the readers about the rights of earthquake victims, the measures that can be taken to prevent loss of rights, the support provided to them, the legal routes they can choose and the basic procedural information on the legal processes that they can apply after the earthquake. In addition, notes on the employee-employer relationship are also included in the Guide.

One of the fundamental subjects covered in the guide is the rights and obligations of earthquake victims in procedural and substantive law, such as the application authority and objection periods for judicial processes that can be initiated after the earthquake, and the periods, competent and authorized institutions, methods of proof, subjects of claims, capacity to sue, legal assistance related to claims for compensation based on private law or against the administration. In addition, for the post-earthquake period, the guide provides information in relation to health and tax law regulations for earthquake victims and others affected.

Lastly, for children, being the group most affected by the earthquake in many senses, many issues such as the representation of children, protection of their personal data, regulations on foster family and adoption, institutions that can be applied for the safety, protection and support of children, and protective and supportive measures are regulated in a more comprehensive and detailed manner in the Guide.

You can access the updated and final version of the Guide [here](#) (only available in Turkish).

Announcement on Regulation of Work Life within the Scope of Measures Taken in Ohal Zone

The Ministry of Labour and Social Security has paused the operation of some deprivation periods in Ohal Zone. In this context, as per the provisions of the “Regulation on Determination of Collective Labour Agreement Authorization and Strike Vote” and the “Regulation on Appealing to Negotiator and Arbitration in Collective Labour Agreements”, which were prepared in accordance with Law on Trade Unions and Collective Labour Agreements, it has been stipulated that the foreclosure shall not be invoked in the procedures that are carried out by the Provincial Directorates of Labour and Employment Agency in the Ohal Zone, during the state of emergency.

You can reach the full text of the announcement [here](#) (only available in Turkish).

Announcement on Medicine Supply and Prescription Practices in Ohal Zone

In its announcement dated 8 February 2023, the Ministry of Labor and Social Security announced that it has taken various measures to prevent distress which may be experienced by citizens residing in Ohal Zone during their application to health service providers and in the supply of medicines or medical supplies they regularly use.

In this context individuals under general health insurance are entitled to:

- Obtain medicines and continuously used medical supplies with a health report will be provided without a prescription for once only.
- Not be charged co-payments for medications and continuously used medical supplies obtained from contracted pharmacies and/or centrals with the Social Security Institution (SSI).
- Postpone unpaid co-payments incurred before 6 February 2023.

- Ensure that the expiration dates of medications obtained from contracted pharmacies and centrals with the SSI are regulated to be 6 February 2023, to enable citizens to obtain medication and medical supplies.
- Remove the mandatory IP application in the contracted health service providers with the SSI in the disaster zone.
- Extend the invoice, prescription delivery period, objection period, and objection evaluation period related to January-February 2023 for all health service providers in the disaster zone until 31 March 2023.

You can reach the full text of the announcement [here](#) (only available in Turkish).

SSK and Bağ-Kur Monthly Payment Deadlines Advanced

The Ministry of Labour and Social Security has brought forward the income and pension payments made by the SSI for the February period. Accordingly:

- The income and pensions of those receiving monthly payments under the SSK (4/a) will be paid between February 17-26, 2023, which will be paid on 14-15-16 February 2023.
- For Bağ-Kur (4/b) insured persons, their income and pension payments due to be paid between February 25-28 will be made between 16-17 February 2023.

You can reach the full text of the announcement [here](#) (only available in Turkish).

Ministry Advances Unemployment and Half-Time Work Allowance Payments and Takes Further Precautions

The works related to unemployment insurance payments in Ohal Zone has been completed, and the payments for February were made on February 15th. It has been decided that the payments for March will be made on March 21st, and the payments for April will be made on April 19th.

You can reach the full text of the announcement [here](#) (only available in Turkish).

In addition the Ministry of Labour and Social Security has implemented some additional measures. In this context,

- All information, documents, and declarations that were due to be submitted to SSI between February 6 and April 30 have been postponed until May 26, 2023.
- The premium debts of citizens living in the 10 provinces in Ohal Zone have been postponed.
- The payment deadlines for current premium debts of Bağ-Kur insured persons that have already expired have been postponed until August 31.
- Dismissals have been prohibited during the state of emergency period except in exceptional circumstances.

Short Time Working Allowance and Cash Wage Support to be Provided to Earthquake Affected Employees

- During the state of emergency period, the Ministry of Labour and Social Security will provide short time working allowance and cash wage support.
- During the earthquake, employees who had employment contracts at the time of the earthquake but whose contracts have ended due to the closure of the workplace, and who are ineligible for unemployment benefits, will be provided with cash wage support.

You can reach the full text of the announcement [here](#) (only available in Turkish).

Distance Education Decision from CHE

The Council of Higher Education (**CHE**) has decided to complete the spring semester of the 2022-2023 academic year in the form of distance education by assessing many factors such as the general effects of the earthquake in the country, students' accommodation, social conditions and sustainable education processes, at the general assembly meeting held on 17 February 2023. At the general assembly meeting, the following issues were also decided regarding the details of the process and exceptional circumstances:

1. The education of students in programs such as medicine, dentistry, nursing, engineering that should continue according to the "Higher Education Applied Education Framework Regulation", shall take place in person,
2. To be matched with the universities mentioned in the ECH's decision for cooperation in relation to academic and administrative assignments and informatics support so that universities in the Ohal Zone can continue education,
3. For certain students affected by the earthquake to continue their education as special students at universities in the provinces where their first-degree relatives reside, where certain conditions are met,
4. Suspending the university registrations of the students who make such a request in the spring semester,
5. Postponing the fall semester installment payments of foundation university students until the end of the fall semester, who lost their first degree relatives and, whose first-degree relatives' residence was destroyed or damaged in the Ohal Zone and, facilitating them in other matters,
6. The exams of students who could not participate in the fall semester exams due to the earthquake to take place at a later date.

You can find the CHE decision on distance education [here](#) (only available in Turkish).

Answers. Not theories.

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