

**Guidance for Expats
Working and Residing in
Turkey**



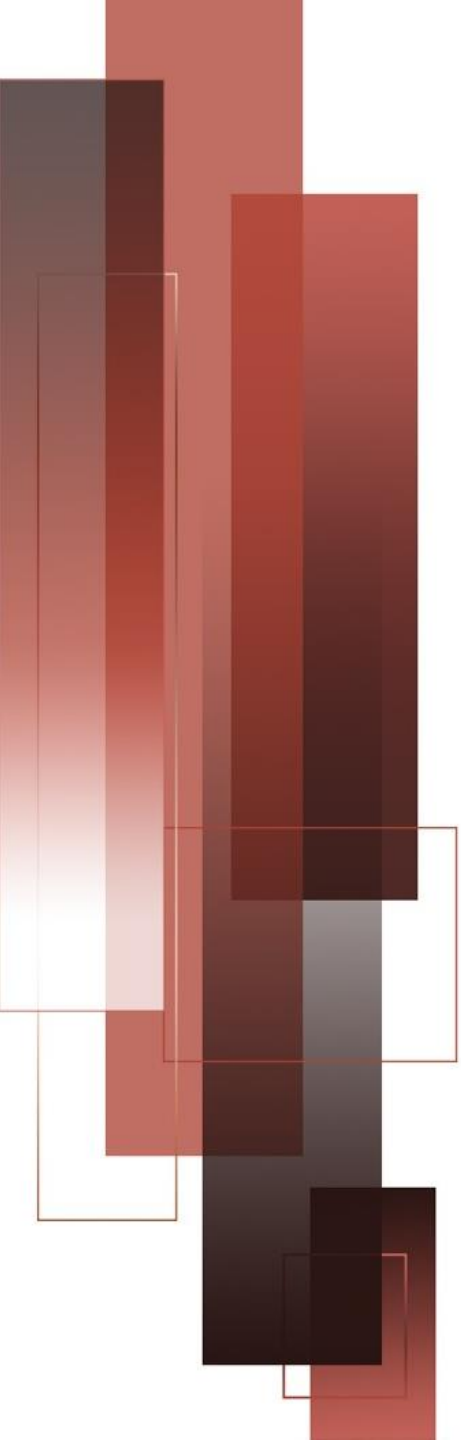
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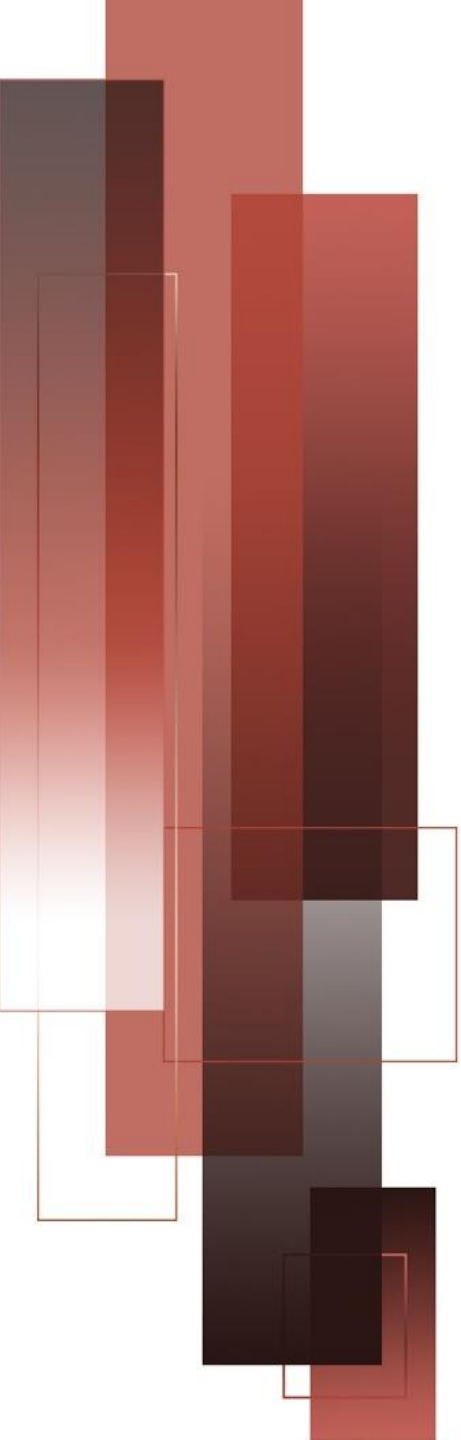
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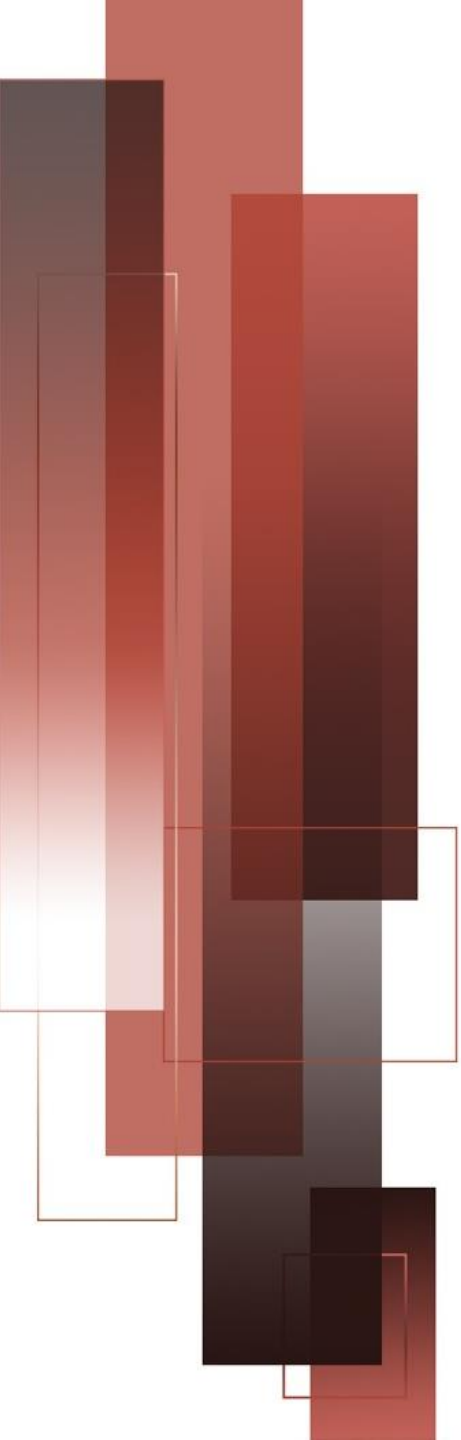
INTRODUCTION

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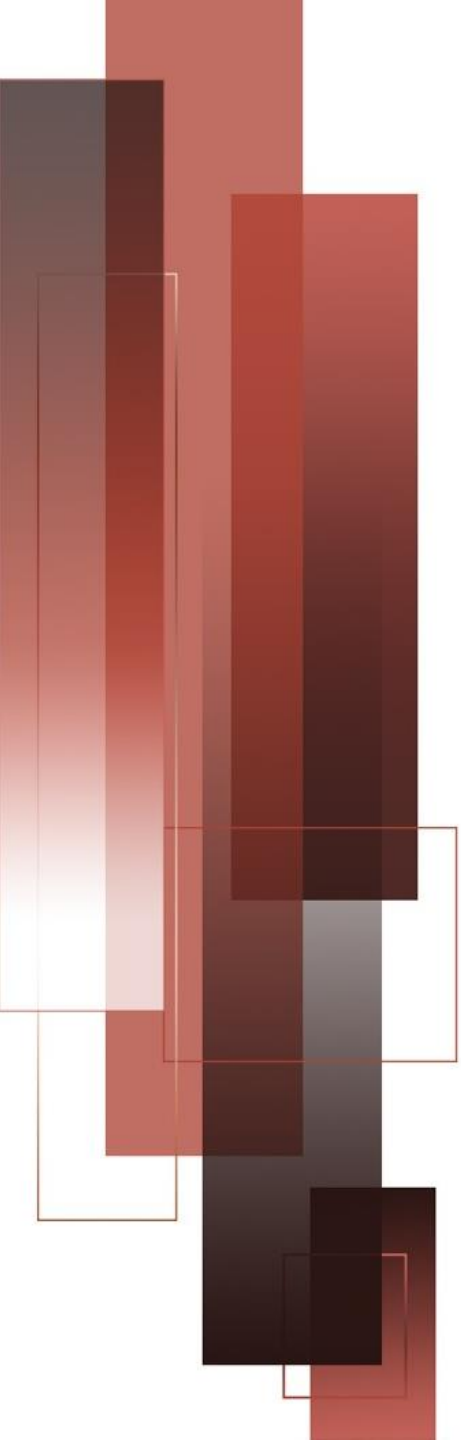
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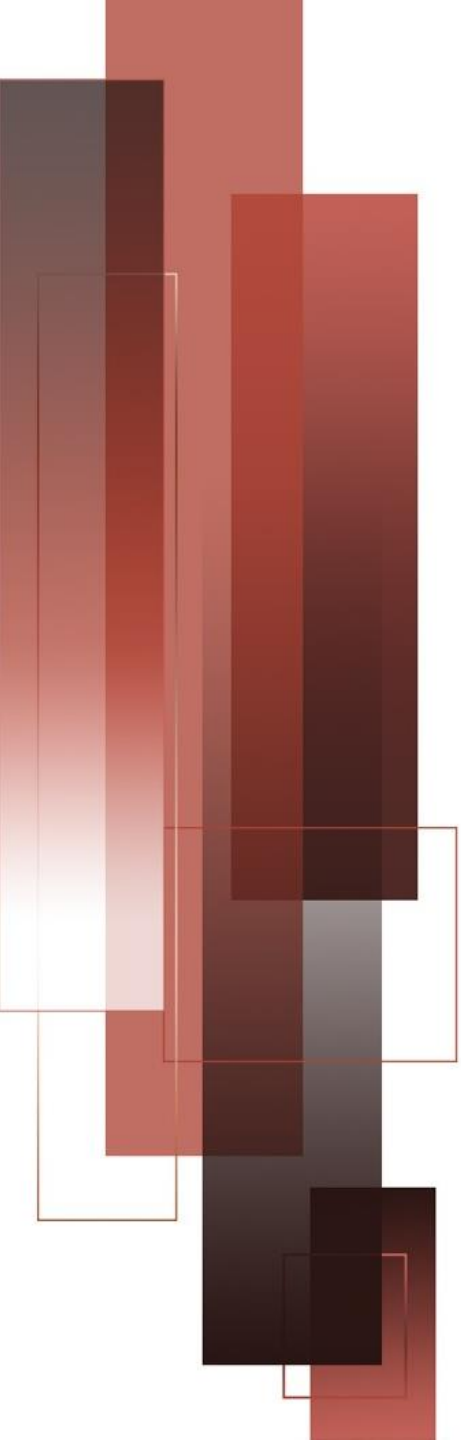
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- This publication is prepared to provide general information for expats residing and working in Turkey.
 - Due to the frequency of foreign investments made and the number of multinational companies based in Turkey, especially within the recent years the number of expats increased rapidly. On the basis of the current situation in Turkey, it is no surprise to expect that Turkey will continue to attract expats.

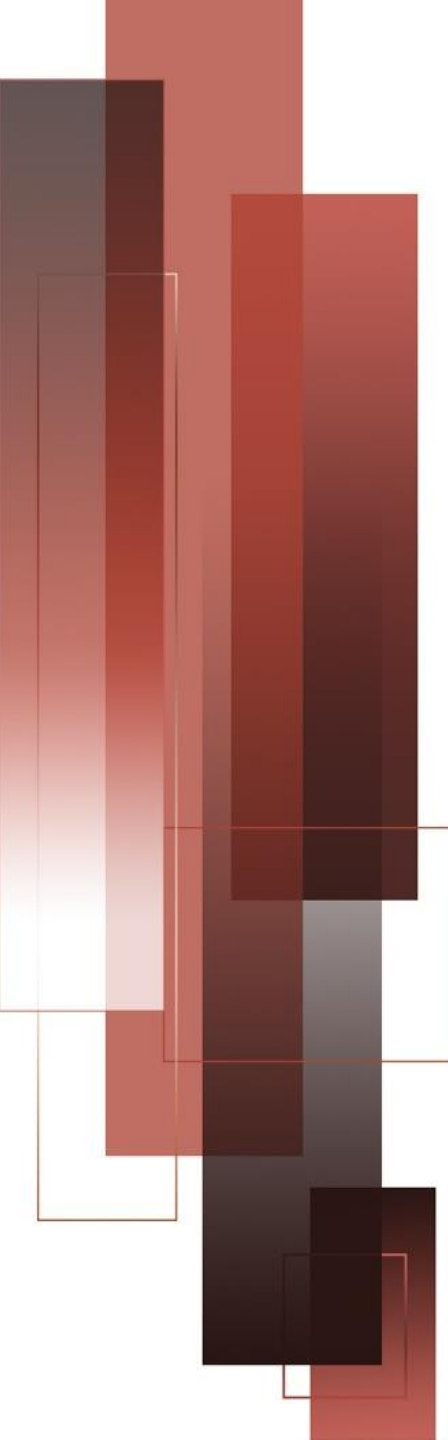
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- Many expats face a wide range of problems while working in Turkey due to the lack of their knowledge in local law and their rights arising from it.
 - As per our experiences with our expat clients, we noted that they do not hold a strong position against companies to negotiate their terms of employment and the content of their employment contracts, they have difficulties understanding the nature of their rights.

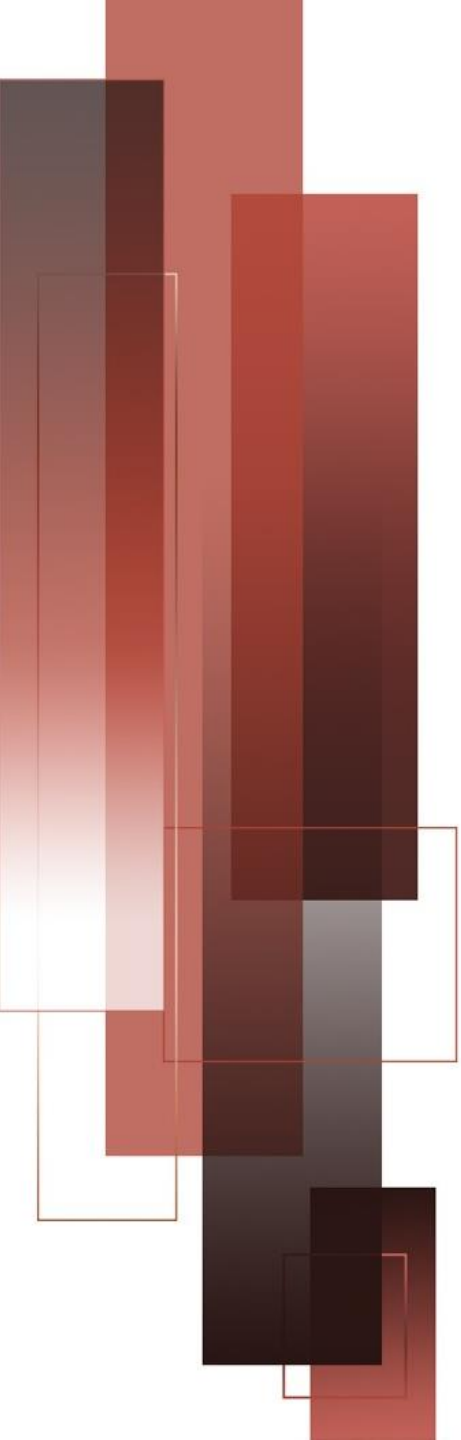
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- As DAB Law Firm we have observed that expats and even their employers get lost between the procedures to be followed during the residence and work permit applications. In this regard, this note is prepared to provide guidance to foreigners working in Turkey or wishing to work and reside in Turkey.
 - Accordingly, Act on International Private Law and Procedural Law (Law No. 5718) regulates the law applicable to private law transactions and relations that contain a foreign element, the international jurisdiction of the Turkish courts and also the recognition and enforcement of foreign judgments.

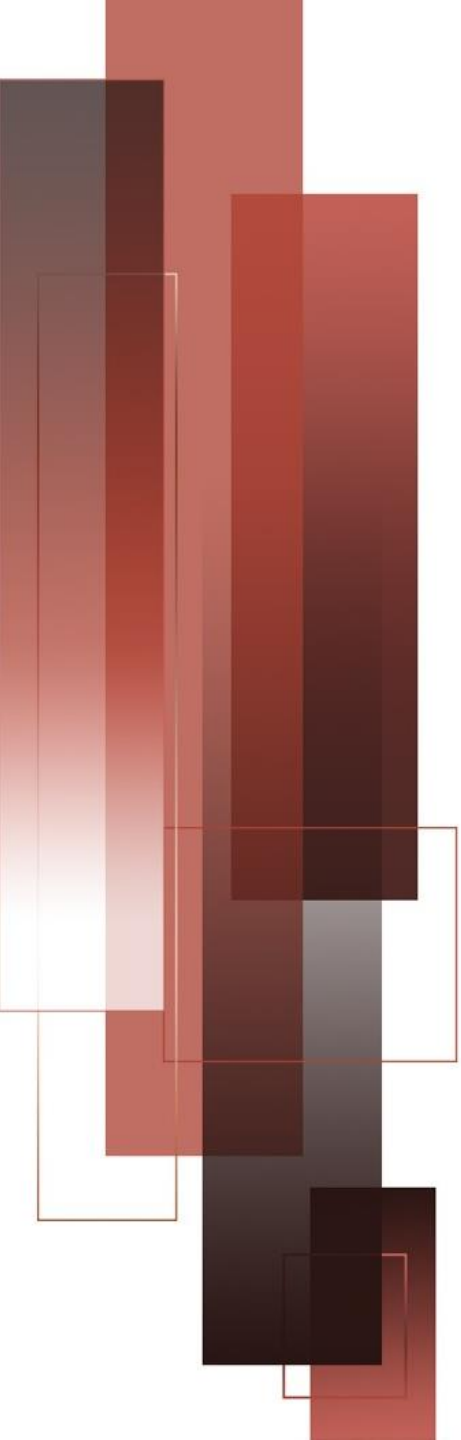
- As per Article 27 of the Act on International Private Law and Procedural Law, employment contracts are governed by the law chosen by the parties, as long as the provisions which foresee the minimal protection due to statutory provisions of his habitual workplace law are reserved.
- If the parties have not chosen any law, the law of the habitual workplace of the employee shall govern the employment contract.
- Moreover, if the employee performs his duties in another country on a temporary basis such workplace shall not be considered as the habitual workplace.

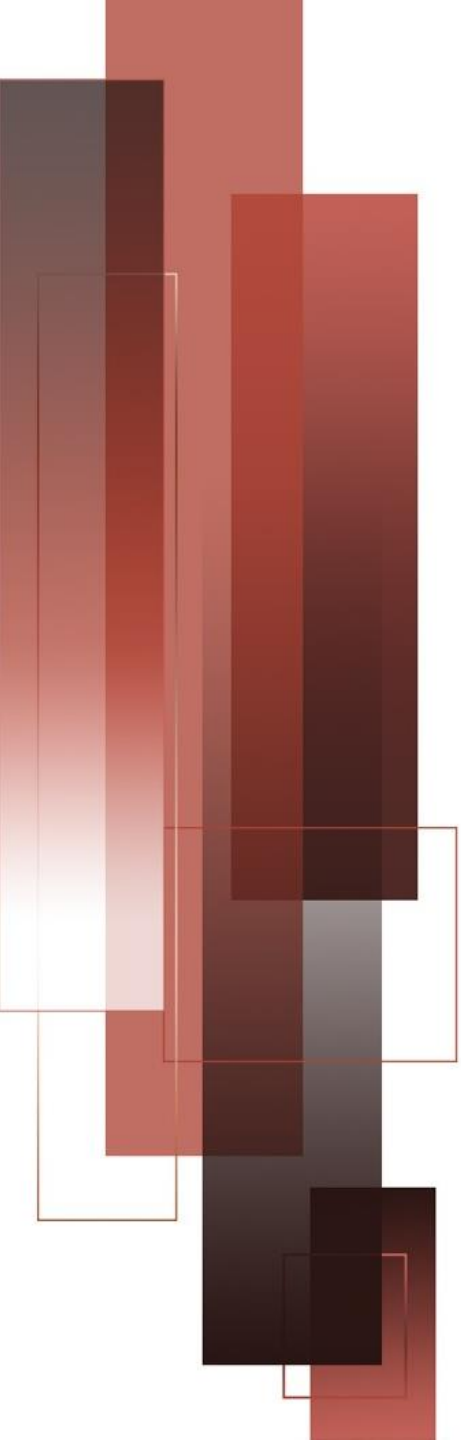
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- Additionally, in the case that the employee does not have habitual workplace and performs his duties in several countries, then his employment contract is subject to the law of the country that the main business of the employer is located.
 - In consideration of all of the above explained circumstances, if there is a law more tightly related to the contract, instead of the provisions above, that particular law shall govern the employment contract in question.

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- With respect to the foreigners residing and working in Turkey, as stated above, those terms shall be taken into consideration in order to ensure the minimum level of employee protection is acknowledged between the employer and the employee.
 - For instance, even if the employee and the employer agree on the employment contract to be governed by another jurisdiction, since the workplace of the employee in question will be in Turkey, minimum level of protection of the Turkish Labour Code and the other relevant legislation must be applicable.

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- Turkish Labour Code numbered 4857 and its relevant regulations regulate the employment relationship which is applicable to all establishments irrespective of their field of business, their employers, employer's representatives and employees.
 - Accordingly, if the conditions are met, Turkish Labour Code also applies to foreign employees working for a Turkish entity in Turkey.

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- Article 44 of the Act on International Private Law and Procedural Law also determines the competent courts. Accordingly, in the cases of disputes arising from the individual employment contracts or employment relationships, the court of the place where the employee habitually performs his works in Turkey is the competent court.
 - If an employee files a lawsuit against his/her employer, then the Turkish courts located at the domicile of the employer or the domicile or habitual residence of the employee are also the competent courts.

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- Moreover, the principles and procedures regarding the work permits of the foreigners are regulated under the Law Regarding Work Permits of the Foreigners numbered 4817 and also with the Regulation on the Implementation of the Law regarding the Work Permits of the Foreigners.
 - Accordingly, unless otherwise provided in the bilateral or multilateral agreements to which Turkey is a party, foreigners are obliged to obtain work permit from the Ministry of Labour and Social Security before they commence to work dependently or independently in Turkey.

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- According to the Regulation Regarding the Implementation of the Law Regarding Work Permits for Foreigners, work permit applications can be made either abroad or in Turkey.
 - Please refer to our note on Immigration Law in Turkey.

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