

## The Interpretation Principle in Favour of the Employee in the Turkish Individual Labour Law<sup>b</sup>

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### ABSTRACT

The application of the law in terms of meaning is called interpretation. If there is doubt or conflict in determining the meaning of a legal rule or contract, or if there is a gap in the law, interpretation becomes inevitable. There are many methods of interpretation in general law. However, based on the principle of protecting the employee in labour law, the principle of "interpretation in favor of the employee", which is a special form of interpretation, has emerged. In the study, the place and application of this method in individual labour law are discussed. While examining the principle of "interpretation in favor of the employee" examples from relevant judicial decisions are given. It is understood that the principle of interpretation in favor of the employee has turned into a settled form of interpretation with judicial decisions in labor law. In the study, it was revealed that there are factors and boundaries that should be considered while applying this interpretation method. Conclusions: As a result of the study, it is understood that the principle of interpretation in favor of the employee, which emerged as a result of the obligation to protect the employee who is weak against the employer, is widely applied in the courts. But, making decisions that disrupt the delicate balance between the employee and the employer by completely ignoring the general principles of the law will prevent the realization of the purpose expected from this method of interpretation. In the article, the factors that should be taken into consideration while applying the principle of "interpretation in favor of the employee" are also examined.

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### 1. Introduction

Legal rules are rules put forward by official authorities to ensure social order. If a legal rule can be clearly understood when applied to the concrete case, there is no need for interpretation. But; Interpretation becomes inevitable in order to determine the meaning of the legal rule in cases such as spelling error, ambiguity, lack of regulation, inability to adapt to current conditions. Interpretation is a mental activity to determine the meaning and scope of the abstract legal rule in order to apply it to the concrete case (Aktaş, 2011)[1]. The meaning of the legal rule to be applied to the concrete case or

whether such a legal rule exists is determined in this way (Aybay&Aybay, 1995)[2]. The Constitutional Court used the following statements in a decision [3]. *“It is obligatory to make use of all the relevant provisions of the Constitution while checking the conformity with the Constitution. Because, like every law, the Constitution is a whole, and in cases where a single rule does not clarify enough, the whole text should be taken into consideration. In other words, when there is no clarity in her words, it is necessary to go to the essence and examine all the rules for this, and to follow a forward-looking and realistic way when making comments about the essence”*. Therefore; while commenting, the written text (law, regulation, contract, etc.) should be handled as a whole, and in cases where meaning cannot be determined through words, the essence (spirit of the text) should be looked at.

When interpreting a legal rule, the interpreter should take into account some basic elements. These elements can be listed as "legal text", "process of emergence of legal text", "systematic of legal text" and "purpose of legal text". Regardless of the method used while making an interpretation, it will be appropriate to consider these factors in order to reach a healthy result. In this context, the question arises of how and by whom the interpretation will be made. According to the person or institution making the interpretation, it is possible to list the types of interpretation as follows.

**The Legislative Interpretation** It is also expressed as authentic interpretation or official interpretation. It is the interpretation of a legal text by the official authority that issued that law. This means the interpretation of the law, on the basis of the principle of "a majori ad minus" (who can do more, can also do less) by the legislative authority. In this type of interpretation, the meaning of a rule is clarified by giving an independent value to the interpretation, without the condition of applying it to a concrete event (Bădescu, 2017) [4]. In order for this type of interpretation to be applied, the legislative authority must be given the power to interpretation. Legislative interpretation is not allowed in Turkish Law.

**The Judicial Interpretation:** It is the interpretation made by the courts (judges) applying the legal rules. According to Article 1 of the Turkish Civil Code no 4721, *“The law is applied in all matters that it refers to with its word and essence. If there is no applicable provision in the law, the judge will decide according to the customary law, otherwise he will decide according to whatever rule he would have made if he was a lawmaker”*. With the provision of this article, the judge has been given the power to interpretation. In this type of interpretation, the legal rule is applied by the judge. The decision made as a result of this application is binding only for the relevant case and the parties to the case. As a rule, the decision of the judge does not bind other courts or even herself/himself. In other words, in another case, the judge will be able to interpret the same event differently (Gözler, 1998) [5]. While making a decision, the judicial authority should also take into account the specifics of the concrete case (Edis, 1997) [6].

Gözler (2012) [7] argues that because of this situation, individuals become subject to the judge, not the legal rule. In order to prevent this, it emphasizes that the judge must comply with certain principles of interpretation when making a decision. If the interpreter follows these principles in determining the meaning of the text, the interpretation will become objective. Thus, it will be prevented from making different decisions in different cases on the same issue.

**The Doctrinal interpretation:** This type of interpretation is non-binding. Because it is an interpretation made by scientists through scientific works such as scientific articles, studies, textbooks, monographs on the subject. It is accepted as a type of source that the judge can refer to while interpreting the legal rules (Aslan et al 2007) [8].

Different interpretation methods come into play when it comes to how to make an interpretation. These interpretation methods can be listed as follows:

**The Grammatical Method:** It is one of the basic methods of interpretation. In this method; The legal norm is interpreted by morphological and syntactic analysis methods, based on the meaning of the terms and expressions used in the text, the connection between them and the structure of the sentence (Bădescu, 2017) [9]. In the interpretation of a legal rule, it is necessary to start with the text it contains. Because the legislator has embedded the thought she/he wants to express in words and sentences. For this reason, interpretation without considering the meanings of the concepts used in the law may lead to wrong conclusions. However, when interpreting the legal rule, it is not always sufficient

to act only on the words and the language used. According to the 19th article of the Turkish Code of Obligations no 6098; "*In determining and interpreting the type and content of a contract, the real and common will of the parties are taken as basis, regardless of the words they use by mistake or to hide their real purpose*".

**The Historical (Subjective) Method:** In this type of interpretation, the will of the legislator is investigated by taking into account the justification of the law, the minutes regarding the negotiations made while the law is adopted and the social, economic and political situation of that period (Bădescu, 2017) [10]. Although researching the will of the legislator gives important clues in interpretation, it will never be enough to rely entirely on this method. Because, once the legal law is accepted, it gains an independent quality (Güriz, 1999) [11]. The objective historical interpretation put forward to complete this missing aspect of historical interpretation. While taking into account the will of the legislator, it emphasizes that this will should be evaluated within the changing and developing conditions over time (Süzek, 2015) [12].

**The Teleological Method:** In this method, instead of the aim pursued by the legislator while creating the legal rule, the purpose of today's conditions is taken into consideration. Because the legal system has a living and developing structure. Therefore, it should be able to respond to the conditions and needs of the day (Süzek, 2015)[13]. The judge should be based on objective reasons (for example, the mistake made by the body that issues the legal rule, the change in the balance of interests, the meaning that honest and concerned persons can give) while making interpretation. (Karayalçın, 1997) [14].

**The Logical Method:** According to this method of interpretation, a relationship is established between the legal rule and other elements within a logical framework. Accordingly, the place of that rule in the law, how it relates to other rules and what it wants to regulate, and what the rule is based on, is tried to be determined by taking into account the margins of that article provision. At this stage, the preparatory work of the law is also used (Gözler, 1998) [15].

**The Systematic Method:** Instead of evaluating the legal rule alone, it is an interpretation method that aims to evaluate this legal rule within all rules of law. In this method, it is considered that all legal rules are part of a system. (Can&Güner, 2006) [16].

**The Conceptual Method:** According to the view defended by this method, the legal rule has been conscious revealed by the legislator. The duty of the judge is to enforce the law. In case of any uncertainty in the law, what needs to be done is to investigate the will of the legislature. For this, the positive law of the country, the legal logic in the legal regulation, the principles of logic underlying the law and the possible development direction of the law should be taken into account (Güriz, 1996) [17].

**The Interests Case Law:** The purpose of this method is to provide the decision-making body with the necessary material for decision-making, systematization, regulation and clarification of various conflicting interests and providing the judge with the best environment in which to make the best decision. The main purpose of the judge is to ensure the balance of interests between the parties (Can&Güner, 2006) [18].

While interpreting, the judge will follow certain methods. However, there are also rules of logic that he uses in doing so. These can be listed as the analogy, the application first (argumentum a fortiori) and the evidence with contrary (argumentum a contrario).

The analogy is the application of the legal rule that regulates a similar event in an event that has no legal regulation. According to the application first, it is also true for parts that are correct for the whole (Gözler 1998) [19]. Evidence to the contrary is that when resolving a legal case, a provision that is contrary to the legal rule is taken into account.

The fact that general legal rules guide in determining the meaning of the legal rule in labor relations is a result of the legal dimension of labor law. However, acting from the general rules of law may not always produce results in line with the "protection of the employee" purpose of labor law. In this context, it is more appropriate to apply the principle of "interpretation in favor of the employee" in the light of the general principles of interpretation.

## 2. Literature Review

In the literature review on the subject, first of all, the opinions of various authors on the concept of interpretation in law were conveyed. Then, opinions on the "principle of interpretation in favor of the employee" were given.

According to Patterson (2005) [20], Law is a practice of argument. When legal arguments (laws, regulations, etc.) conflict, the answer to the question of what to do is "interpretation". The principles of minimum harm, consistency and generality are interpretive tools of legal interpretation. According to Barak (2005) [21], interpretation is to shape the content of the norm "trapped" in the text. The text subject to interpretation can be general (such as constitution, law, case law or custom) or individual (such as contract or testament). According to Fiss (1982) [22], interpretation is neither purely creative nor purely mechanical. The interpretation is the product resulting from the dynamic interaction between the reader and the text. Dworkin (1982) [23], does not see legal practice only as the interpretation of specific laws and documents by lawyers and judges, but as an interpretation exercise in general. He advocates the necessity of comparing legal interpretation with interpretation in other fields, especially in literature, in order to develop an understanding of law. Dworkin pointed out that the better the law is understood, the better the interpretation will be understood. According to Gözler (2012) [24], "interpretation" is the determination of its meaning by reading the text containing the legal rule. Aktaş (2011) [25] says that with the interpretation of the legal rules, it is aimed to find the correct / real meanings of the rules. Yılmaz (2011) [26] emphasizes that there is a need for interpretation if the laws are not clear enough or there are gaps in the laws. Kim (2009) [27], states that the legal text is both an end point in setting the rule and a starting point for interpretation. According to Baude and Sachs (2017) [28], the words that make up the legal text should be considered within their usual meanings, unless it is certain that the legislator aims to treat them in another sense. However, if the intention of the legislator is known; the interpretation should not be made according to the words of the law, but according to this intention even if it seems to have another meaning.

Considering the emergence process of Labor Law (industrial revolution period), it is seen that the idea of protecting the employee is of great importance. The employee is dependent on the employer both economically, technologically and legally. Therefore; It is important to protect the physical and mental integrity of the employee (personality, dignity, private life) against the employer, who is the strong side of the business relationship. Based on the Statute of the International Labor Organization and the Preface to the Philadelphia Declaration, Çenberci's (1986) [29] statements regarding employee protection are as follows: *"To establish a lasting peace that includes all humanity by avoiding injustice, poverty, deprivation and powerlessness around social justice and moral concerns, protecting the employee from the dangers of dependency"*. The Court Of Cassation [30]; in its 1958 decision to unification of case law, it clearly set out the principle of protecting the employee. The sentences used by The Court of Cassation in the decision are as follows: *"Historical reasons that impose labor laws to the legislator and the aim of ensuring social balance and peace of the society (social balance and social peace) that will protect the employee who is weak in economic situation against the stronger employer..."*. In the following decision, The Court Of Cassation [31] emphasized the principle of interpretation in favor of the employee. *"One of the principles of labor law is undoubtedly the principle of protecting the employee, and it is imperative to act in the light of this principle in interpreting both the regulatory rules imposed by the law and the declarations of will of the parties"*. According to İzveren and Akı (1998) [32], interpretation in labor law is the process of investigating and determining the most appropriate norm that should be applied to the individual cases of business relations in the working order. This determination is possible by explaining the purpose that shapes the rules that make up the working order, which should be sought in the working order of the society. According to Süzek (2017) [33], it is a generally accepted principle to resort to the principle of interpretation in favor of the worker in cases where there is no clarity in the legislation in labor law. Sümer (2017) [34] emphasizes that since the main purpose of labor law is the protection of the employee, the benefit of the employee should be considered in the interpretation. Tunçer (2015) [35] states that when there is uncertainty in the contracts, the judicial authority should resort to the principle of interpretation in favor of the employee, taking into account the powerlessness of the employee before the employer. According to Serozan (2013) [36], there is a principle in criminal

procedure law that the defendant benefits from suspicion. In the constitutional law, in case of doubt, the principle of interpretation favoring freedom is valid. Regarding labor law, the principle of interpretation in favor of the employee is valid in this branch of law. According to Çelik et al.(2017)[37], as emphasized in the 1982 Constitution (Article 49 title A), the protection of the employee is one of the basic principles of the Constitution in the context of protecting employees. In this context, it is important to observe the principle of interpretation in favor of the employee during the interpretation to be applied both in the regulation of the legislation and in the implementation of the legislation. Kar (2013)[38] states that while interpreting, it is necessary to act on the protective principle of labor law.

### 3. Interpretation Principle in Favor of Employee in Individual Labor Law

It is understood from the review made so far that when applying for interpretation in labor law, it is necessary to accept the validity of a method of interpretation specific to this branch of law. This method of interpretation is called "interpretation in favor of the employee". It is inevitable to resort to interpretation if the meaning of a law clause or contract clause cannot be understood or if there is a regulation gap. When a similar situation is encountered in labor law, the comment is made in favor of the employee. Because, as stated in Article 1 of the Civil Code, a written legal rule is applied not only with its word but also with its spirit. In the spirit of labor law, there is the aim of protecting the employee (Şakar 2000) [39].

Interpreting in favor of the employee does not mean that the general rules of law will be completely violated. When interpreting on labor law, it will be correct to follow the interpretation rules prevailing in general law. The first of these is the right of personality. Rights of personality are protected with the statement "Nobody can partially give up his rights and actions. Nobody can give up his liberty, cannot restrict it contrary to law and morality" in the 23rd article of the Turkish Civil Code. It is stated in Article 417 of the Turkish Code of Obligations that "*The employer is obliged to protect and respect the personality of the employee in the service relationship and to ensure an order in accordance with the principles of honesty in the workplace*". Rights of personality have an important place in labor law, especially in the interpretation of labor agreements and collective agreements. The second is the honesty rule. In a legal transaction, when there is a problem in determining the will of the parties, the principle of honesty (objective goodwill) is used. If there is uncertainty in the declaration of will of one of the parties and causes suspicion, interpretation is made based on the meaning that a reasonable person with medium intelligence can derive from this declaration of will (Bilgili ve Demirkapı, 2012)[40]. According to Article 2 of the Turkish Civil Code, "*everyone has to abide by the rules of honesty (objective goodwill) while exercising their rights and fulfilling their debts*". The objective goodwill rule is important in terms of framing the mutual rights and obligations in the business relationship. The Court of Cassation drew attention to the rule of honesty in the following decision[41]. "*In a situation like our country struggling with inflation and where the minimum wage is determined once or even twice a year, it is incompatible with the principle of honesty that the employee's wage is not increased on the ground that it is not below the minimum wage*".

The method of interpretation primarily used in labor law is teleological interpretation. It is important to evaluate the purpose of the interpreted legal rule. Because, it cannot be said that every regulation in the labor law aims only to protect the employee. However, if the results cannot be reached with teleological interpretation and other helpful interpretation methods, it is necessary to resort to the method of interpretation in favor of the employee, based on the general spirit of labor law (Süzek 2015) [42]. The Court of Cassation[43] emphasized this situation in its decision. "*Although the Labor Law essentially aims to protect the employee, all the rules in the labor legislation are not put in place to protect the worker. Therefore, when interpreting a legal provision, an interpretation should be made in accordance with the concrete purpose of the provision. If the result could not be reached with the teleological method of interpretation and the hesitation could not be resolved, then the principle of interpretation should be applied in favor of the worker*". The Court of Cassation[44] included the following statements in a decision regarding the damage caused by the employee to the machines in the workplace. While determining the thirty-day wage concept of the employee, there is no clarity in the legislation regarding whether the calculation will be made on the

gross wage or net wage. In this case, in accordance with the principle of interpretation in favor of the employee, it would be appropriate to take the gross wage as the basis. In individual labor law, it is the employment contracts concluded between the employee and the employer that are subject to interpretation outside the legislation. Apart from this, internal regulations of the workplace (prepared before the employment contract is made and submitted to the approval of the worker) in accordance with the conditions are also an annex to the employment contracts (Süzek, 1995)[45]. According to the abrogated Turkish Code of Obligations No. 818, the condition of submitting the internal regulations to the approval of the employee in writing before the employment contract is made has been abolished with the Turkish Code of Obligations No. 6098. However, when a dispute arises, the employer will need to prove that the worker is aware of the internal regulations. Because the validity of the internal regulation depends on the condition that the worker is informed. Therefore, it would be appropriate for the employer to obtain a signature that the internal regulation has been read and accepted by the worker before the contract is made. Otherwise, general transaction conditions will be deemed not written in accordance with Article 21 of the Turkish Code of Obligations (Ertürk, 2013) [46].

Another concept that can be considered as an annex to the employment contract is workplace practices. There are some necessary conditions for workplace practices to be transformed into an employment contract provision. First of all, this application should have a general nature. On the contrary, special arrangements made for a single worker cannot be considered as a workplace practice as they cannot be considered as a general business condition. Workplace practices are general regulations that will be applied to all employees in the workplace (Süzek, 2011) [47]. Another condition is the continuity of the actual situation applied in the workplace. If a benefit provided by the employer continues over time and the employees accept it implicitly, this practice will become a business condition (Ertürk, 2013)[48]. Workplace internal regulations and workplace practices can only contain regulations in favor of the employee. In the interpretation of internal regulations, different from concrete events, general abstract practices are used. Therefore, the interpretation should be general, uniform and objective. In cases where the provisions of the workplace internal regulation have more than one meaning, the interpretation should be made against the employer in accordance with the trust theory (meaning given by reasonable, well-intentioned and honest persons under the same conditions). Because the workplace internal regulations are unilaterally arranged by the employer. In this case, the party making the arrangement (employer) should take responsibility for the problem (Süzek, 1995)[49].

Despite the interpretation of abstract will in the legal rules, the concrete wills of the parties are interpreted in the employment contracts. Therefore, the aim is to eliminate the doubts and conflicts that arise in the implementation of the contract. Article 19 of the Turkish Code of Obligations has brought the following regulation. "*In determining and interpreting the type and content of a contract, the real and common will of the parties are taken as basis, regardless of the words they use by mistake or to hide their real purpose*". An important question arises here. Is it the real will of the parties to be considered? Or is it the statements they conveyed to the other party (Ayan, 1998; Eren, 1998) [50-51]. In this case, if there is a dispute between the parties regarding the meaning of the declaration of intent; the meaning of the contractual provision should be demonstrated by researching the true will of the parties on the basis of the theory of trust.

In many cases related to individual labor law, the judiciary has emphasized the principle of interpretation in favor of the employee. Below are examples of The Court of Cassation decisions on the subject.

The Court of Cassation in a decision regarding the annulment contracts regulated in the Turkish Code of Obligations and which includes the termination of employment contracts by mutual agreement; since the annulment agreement is closely related to labor law, the interpretation of this agreement stated that the principle of interpretation in favor of the employee will be applied, just as in the interpretation of employment contracts [52]. According to the decision of The Court of Cassation, although the employee was under the age of 15, he/she was employed unlawfully. However, ignoring

this study by showing the contradiction between the age and the plaintiff's witness statements is against the principle of interpretation in favor of the employee [53].

The Court of Cassation [54] drew attention to the following points in its decision regarding whether there is a debt between the employee and the employer due to the existing bonds and whether the bills are filled in accordance with the agreement between them. Labor law differs from contract law due to the principle of protecting the employee. Therefore, witnesses can be heard in favor of the employee against the documents regulated in labor law. In a decision of the The Court of Cassation of 2015, a dispute regarding the content of the contract was discussed [55]. In the case in question, although there is a provision in the current employment contract that the employer may change the job of the worker temporarily or permanently, there is no provision that the place of duty or workplace can be changed. Therefore, unless there is a clear provision in the employment contract, an interpretation that the worker's place of duty can also be changed will not be compatible with the principle of interpretation in favor of the worker. For this reason, the Court of Cassation concluded the case in favor of the employee.

The Court of Cassation [56], made the following statements in an incident regarding the severance pay right of the employee according to the Law No. 5580 on Private Education Institutions. According to the Law No. 5580; Employment contracts for managers, teachers, expert trainers and master trainers working in institutions are signed for at least one calendar year. In the ILO Convention No. 158 (Termination of Employment Convention), it is emphasized that "sufficient guarantees should be obtained against making a fixed term employment contract in order to avoid the protective provisions of the contract". Based on both this regulation in the ILO agreement and the principle of interpretation in favor of the employee, the Court of Cassation; It has ruled that the employer, who will not renew a legally definite term contract, is liable to pay severance pay if the conditions are met.

The Court of Cassation [57] found it controversial that the employee's employment contract should be terminated shortly before the employee fulfills the 6-month seniority requirement, which is one of the job security conditions. *"While determining whether the 6-month seniority requirement has been fulfilled in recent years, our department evaluates by taking into account the nature of the concrete event, based on the principles of narrow interpretation of restrictive provisions, honesty and interpretation in favor of the employee"*. As can be seen in the expressions used, the principle of interpretation in favor of the employee is emphasized.

#### **4. Limits of the Interpretation Principle in Favor of the Employee**

The principle of interpretation in favor of the employee cannot be applied unlimitedly in all cases. In addition to the aim of protecting the weak employee, the presence of delicate balances that need to be maintained should also be considered. As a matter of fact, The Court of Cassation [58] listed the factors that should be considered while making comments as follows. It should be in accordance with the conscience of the society, especially the parties, do not contradict with precedent decisions, and not to be arbitrary in judgment. In this context, it is possible to list the limits of "the principle of interpretation in favor of the employee" as follows.

**The Limit Determined by Legislation:** As mentioned before, if there is a problem or contradiction in determining the meaning of the rule to be applied to the concrete case, the method of interpretation in favor of the employee will be used. However, if the provision is unambiguously clear and unambiguous, the provision should not be given a new meaning for interpretation in favor of the employee. The Court of Cassation [59] explained this situation as follows. "If contradictory rules are included in a contract of employment, the rule for the benefit of the employee should be taken into account as per the principle of protecting the employee in labor law". The Constitutional Court [60], in its decision which is the basis for this issue, clarified the situation under which the interpretation would be applied. *"If a text is not understood when it is read and it causes pauses that will cause different meanings or if the mistake is obvious, then a comment can be made"*.

**Preserving the Balance of Interest Between the Parties:** Considering that the general purpose of the labor law is the protection of the weak worker, it is inevitable to observe the benefit of the worker in this branch of law. However, maintaining the balance between the worker and employer and reconciling the conflicts of interest between the parties is the most important step in reaching common and social goals (production, income, income distribution, economic development). The unilateral handling of the system and the increase in practices against the employer will lead to the deterioration of the balance of interest. It is important to improve working conditions (occupational health and safety, wages, job security, working hours) for workers. For the employer, it is important to reach production and profit targets (national and international competition, optimum production conditions, overcoming economic bottlenecks) (Süzek, 2015)[61]. In this case, it is even more important to observe the mutual interest balance. The Court of Accounts [62] used the following statement regarding the employer in a decision on labor legislation. "Another situation that should be taken into consideration while making comments in favor of the employee is to avoid comment that will lead to the destruction of the employer".

The Court of Cassation [63] made the following statements regarding the protection of the balance of interest between the parties. The behavior of the employee that does not comply with the accuracy and loyalty by using the materials obtained from the workplace without permission is one of the situations that gives the employer the right to terminate according to the 25 / II clause of the Labor Law no 4857. The emergence of the opposite view will go beyond the "principle of interpretation in favor of the employee" in labor law practice, it will be against the principle of justice and the balance of interests, and will damage the feelings of justice. The aim is to establish a delicate balance between the social (employee) and the economic (employer, business). While maintaining this balance, it is not easy to draw the boundaries of employee benefit. Therefore, it is necessary to evaluate the event in its own terms and make a decision without prejudice, taking into account the purpose of the legal rule, without disturbing the delicate balance between the employee and the employer. (Çenberci, 1986) [64]. Legislation; In terms of ensuring this delicate balance, while protecting the worker with legal rules, it protects the employer in terms of rapidly adapting to economic and technological changes with the atypical employment forms (flexibility) regulated in the Labor Act (Süzek, 2015) [65].

**The Benefit of Society:** The main purpose of the legal rules is to maintain the social order. In labor law, this purpose appears as the protection of the worker who is weak against the employer. While the absolute imperative rules in labor law bring regulations for the benefit of society or the country, it is clear that the relative imperative rules aim to protect the employee. Therefore, going beyond the legal limits in the interpretation of the absolute mandatory rules will result in the damage to social interests. For example, the purpose of prohibitions and restrictions on the employment of foreigners is to protect the society interest (Özdemir,2005)[66]. While interpreting the legal rule in labor law, the delicate balance between the benefit of the society and the country and the protection of the employee must be observed. It should not be forgotten that the ultimate goal is to achieve labor peace.

## 5. Conclusions

It is not always possible to apply the legal rules to the concrete case. Especially in the following cases, it becomes inevitable to resort to interpretation.

- The meaning of the legal rule is ambiguous
- Incomprehension of the words and sentence structure used
- Conflict of legal rule with other legal rules
- Lack of a legal rule regulating the concrete case or leaving the discretion to the judge by law

The ultimate aim of the rules regulating labor law is to ensure labor peace. This is the only way to ensure individual and social peace and development. When we look at the spirit of labor law, it is necessary to protect the worker in order to achieve social balance between the parties. As a natural consequence of this, a method of "interpretation in favor of the worker" specific to labor law emerged,



apart from the interpretation methods in general law. It is seen that this method of interpretation is reflected in many judicial decisions.

There are some factors that need to be taken into account when using the method of interpretation in favor of the employee. These can be listed as follows.

- First of all, this method should be used in cases where the meaning of the legal rule cannot be determined and when there is doubt or there is no regulation on the subject. If the meaning of the legal rule is clear and certain, it is not suitable for general legal principles to interpret even if it is for the benefit of the employee.

- In cases where interpretation is applied, although methods valid in general law are used, the principle of interpretation in favor of the employee should be taken into account due to the peculiar nature of this branch of law.

- Especially, in the interpretation of the employment contract and its annexes, it would be more appropriate to reach a conclusion by evaluating the entire contract rather than making a decision based solely on the contractual provision.

- While applying for interpretation in labor law, firstly the labor legislation, collective labor agreement, if any, and finally the labor agreement should be looked into. If no solution is found despite this, general rules of law should be used.

- While interpreting in favor of the employee, the principles of “protection of the rights of personality” and “objective goodwill” which are valid in general law must be taken into consideration.

- While making interpretation in labor law, the principle of interpretation in favor of the worker should be applied within the framework of the Constitution, the imperative rules in the legislation and the complementary law rules.

- It should not be thought that the principle of interpretation in favor of the worker can be applied unlimitedly. The benefit of the society and the country, the boundaries drawn by the legislation and the protection of the social balance between the parties constitute the limits of this method of interpretation.

- Finally, while using this method of interpretation, it is necessary to make decisions without prejudice, objectively and by considering the social balance between the parties.

It should not be forgotten that the stronger party in the established business relationship is the employer. It is inevitable that the employee, who is dependent on the employer in economic, technical and legal terms, needs protection during the implementation of the legal rules. This is possible with the method of interpretation in favor of the worker. However, the principle of worker protection does not mean that the worker will be justified in all cases. Achieving social and economic balance, increasing economic welfare and making it permanent depends on “preserving and maintaining the delicate balance in the employee-employer relationship”. Taking decisions that will leave the employer in an economically difficult situation in order to protect the worker will eventually lead to the damage to the employee. Therefore, although the basic method of interpretation used in labor law is "interpretation in favor of the worker", it will be beneficial for both parties, society and the country to make interpretations considering the above-mentioned factors.

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