

## The 9th Civil Chamber of the Court of Cassation Ruled that It is Not Mandatory to Apply to Mediation for the Second Time in a Case Where the Subject of the Dispute is the Same

*18 Mar 2024*

In the decision of the 9<sup>th</sup> Civil Chamber of the Court of Cassation (the "**Court of Cassation**") dated 20 November 2023 and numbered 2023/17941 M. 2023/17336 D., following the dismissal of a labor lawsuit on procedural grounds, it was evaluated whether another mediation process should be initiated prior to filing a second lawsuit for the similar claims.

In the case under review, the employee ("**Plaintiff**") terminated his employment contract with a just cause and filed employment entitlement claimed lawsuit against the employer ("**Respondent**"). The Court of First Instance (the "**Court**") dismissed the lawsuit on the grounds that the mediation application is one of the conditions for filing a lawsuit in relation to labor disputes and that this prerequisite was not fulfilled in the case under review.

The Ministry of Justice requested the Court of Cassation to review the Court's final judgment. In the Court of Cassation's decision for reversal in favor of the law, it is stated that the Plaintiff had previously applied for mediation against the Respondent for the same receivables and it was understood that the mediation process had started on 26 August 2021, ended on 10 September 2021, and concluded with non-agreement.

Accordingly, the Court of Cassation stated that mandating re-application for mediation regarding the receivables that were previously negotiated within the scope of another mediation process would lead to an unreasonable restriction of the right of access to the court and such a situation would be contrary to the purpose of mediation and would harm the right of access to the court.

The Court of Cassation also stated that if the mediation process is initiated for the main receivable, there is no need to initiate another mediation process to claim the accrued interest related to this receivable as the mediation initiated for the main receivable covers such claims for interest.

As a result, the Court of Cassation, concluding that the Court's decision on dismissal of the lawsuit due to the absence of application to the mandatory mediation process was inaccurate, and decided to revoke the Court's decision in favor of the law.

You can access the full text of the decision numbered 2023/17941 M. 2023/17336 D. of the 9<sup>th</sup> Civil Chamber of the Court of Cassation published in the Official Gazette dated February 10, 2024, and numbered 32456 from this [link](#).

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