

## Turkish Constitutional Court: Employee Complaint to Public Authorities Protected by Freedom of Expression

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The Turkish Constitutional Court recently held that terminating an employment agreement based on the employee lodging a complaint about the employer to the Prime Ministry Communication Centre ("**B?MER**") violated the employee's constitutional rights. The court held the employee's freedom of expression is protected under Article 26 of the Constitution.

In the case at hand, the employer terminated the agreement immediately. It claimed just cause for the termination (under Article 25 of Labour Code numbered 4857) due to the employee lodging a complaint before B?MER. The employee filed a re-employment lawsuit, seeking the termination be cancelled.

The first instance court ruled the employment agreement was not terminated on a justified ground, since the employee's action did contradict honesty and loyalty.

The Supreme Court reversed the first instance court's decision, holding the employee's statements in the complaint were insulting to the employer.

The employee appealed the matter to the Constitutional Court. On review, the Constitutional Court ruled in the employee's favour, reasoning:

- Lodging a complaint to B?MER is constitutionally protected as freedom of expression, under Article 26 of the
- Assessing violation of the employee's freedom of expression will be made in two steps:
- Determining whether there is an interference with the employee's constitutional rights.
- Determining whether such interference is based on valid grounds.
- Terminating the agreement based on the employee's application to a public authority is an interference with the employee's freedom of expression.
- The employee's application to B?MER was intended as a "call for aid" from public authorities. The application does not constitute a public statement which may affect the employer's reputation.

The Constitutional Court's decision (dated 14 April 2016, with application number 2013/6829) was published in Official Gazette number 29742 on 14 June 2016. Please see this [link](#) for the full text of the Constitutional Court's decision (only available in Turkish).

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