

Turkish Constitutional Court: Employees' Right to Join a Union Includes Decision-Making Process

17 Jan 2018

Turkish Constitutional Court recently ruled that the process of deciding whether to join a workers' union also falls within the scope of the right to join a union, protected by the Turkish Constitution and European Convention on Human Rights. In the circumstances, terminated employees had not been union members, but had attended union meetings. Their employer terminated their agreements based on alleged underperformance. However, the Constitutional Court ultimately held the employees' constitutional right to join a union had been violated.

In the case at hand, the employer terminated the employment agreements based on underperformance. The terminated employees were actively involved in union organization and attended union meetings outside of work hours. The employees filed a lawsuit, claiming that underperformance was a pretext and the real reason for the termination was their union involvement.

The First Instance Court ruled in the employees' favour, stating the reason the employees were laid off was to prevent their involvement in union activities. The court ordered the employer to pay compensation.

The employer took the case to the High Court of Appeals, which overruled the First Instance Court's decision. It stated there is insufficient evidence about the employer deliberately laying off current and potential union members. However, the High Court of Appeals did not state substantial arguments against the First Instance Court's evaluation of the evidence and the facts.

The terminated employees applied to the Constitutional Court, which ultimately ruled that the High Court of Appeals had failed to justify its decision by not re-evaluating the facts upon which it decided to overrule the First Instance Court's decision. Accordingly, the Constitutional Court held that the employees' right to join a union, protected by Article 51 of Turkish Constitution, had been violated.

Please see this [link](#) for the full text of the Constitutional Court's decision, application number 2014/15627, dated 5 October 2017 and published in Official Gazette number 30241 on 15 November 2017 (only available in Turkish).

Related Practices

- [Employment and Labor](#)
- [Employment Disputes](#)

Related Attorneys

- [İPEK ÜNLÜ TİK](#)

