

Turkish Constitutional Court: Rendering a Decision Before Dissolving the Divergence of Opinions Between Court of Appeal's Different Chambers Breaches the Right to Fair Trial

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Turkish Constitutional Court recently decided that rendering a decision before dissolving the divergence of opinions between the Court of Appeal's different chambers breaches the right to fair trial.

The applicant works in a foundation based on an employment agreement. The applicant has asserted that;

- Her workplace is a public institution which is a subsidiary of the relevant ministry's general directorate, and
- According to the case law of the Council of State, she is considered as a public officer

and filed a lawsuit in order to be entitled to additional payments pursuant to Law Number 6772.

The first instance court has accepted the applicant's claims. Upon the employer's appeal of the decision, the Regional Court of Justice rejected the claim for additional payments on the grounds that the employees of social assistance and solidarity foundations are not deemed to be public workers.

Upon the service of the abovementioned final decision, the applicant has filed an individual application to the Constitutional Court on 6 July 2017 alleging that

- The cases brought by the employees who work in similar circumstances had been concluded differently due to the divergence of opinion between the Court of Appeal's chambers.
- As a result, her right to a fair trial was violated.
- After consideration, the Turkish Constitutional Court has stated that;
- The unification of judgments method which ensures to unite extensive and ongoing different legal precedents regarding similar matters was not applied.
- As a result, the applicant could not foresee the outcome of the case.
- This matter undermined the fairness of the judgment, irrespective of the given decision.

In accordance with the reasons specified above, the Constitutional Court has ruled that the applicant's right to a fair trial stipulated under Article 36 of the Constitution has been violated.

Please see this [link](#) for the full text of the Turkish Constitutional Court's decision dated 25 December 2018 and numbered 2017/29896 (only available in Turkish).

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- DR. E. SEYFİ MOROĞLU, LL.M.
- İPEK ÜNLÜ TİK
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Moroglu Arseven | www.morogluarseven.com