

Turkish Constitutional Court Ruled on Violation of Right to Access to Court

27 Mar 2019

The Turkish Constitutional Court recently ruled that the decision of the first instance court to not review the re-employment case by claiming the case is in the jurisdiction of the State of Emergency Commission ("**Commission**") violated applicant's right of access to court.

The applicant was working under a service contract in Gazi University before the employment contract was terminated upon the Rectorate's request pursuant to the Statutory Decree numbered 667 on Measures taken under the State of Emergency ("**Decree**").

The applicant filed a re-employment lawsuit against the employers claiming the termination was not based on just cause. The first instance court ruled that the employment contract was terminated in accordance with the Decree, and the case is in the jurisdiction of the Commission.

The applicant then applied to the Turkish Constitutional Court by alleging that his right of access to court had been violated due to the decision given by the first instance court.

The Turkish Constitutional Court ruled that the first instance court is the competent authority for resolving the disputes between the employers and employees arising from the labor laws. Accordingly, the decision to end the trial and refer the case to the Commission without reviewing the merits of the case is a misinterpretation of the law. The Constitutional Court further ruled that the subject matter decision is unlawful and violates the right of access to court secured under Article 36 of the Turkish Constitution.

Please see this [link](#) for the full text of the Constitutional Court's decision dated 9 January 2019 and numbered 2017/26326 which was published in Official Gazette numbered 30670 on 29 January 2019 (only available in Turkish).

Related Practices

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

Related Attorneys

- [PEK ÜNLÜ TİK](#)
- [DR. E. SEYFİ MOROĞLU, LL.M.](#)
- [NEJLA AYDIN ÖZER](#)
- [NİLÜFER HOTAN](#)