

# Supreme Court rules inappropriately worded emails are valid reason for termination

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## Background

### Facts

### First-instance decision

### Supreme Court decision

### Comment

The Supreme Court, as per its established precedent, recently found that the failure of employees to use appropriate language in their written workplace correspondence with superiors or colleagues constitutes a valid reason for termination.

## Background

The Supreme Court has adopted a balanced approach between the principle of termination as last resort and the employer's management rights in reinstatement actions filed by employees laid off by their employers due to workplace behaviour. The language used by employees in correspondence with colleagues and superiors is frequently discussed in Supreme Court decisions in this context.

In the 9th Civil Law Chamber's 13 January 2016 decision, the Supreme Court overruled a first-instance decision and decided that an employee's actions constituted a valid reason for the termination of their employment. The Supreme Court stated that the content of emails sent by the claimant to his colleague and assistant general manager had damaged the employment relationship between the parties and the harmony and productivity of the working environment, making it impossible for the employer to continue its employment relationship with the employee.

## Facts

The employer terminated an employment contract based on just cause due to an employee's:

- use of inappropriate language and wording in written correspondence with his superiors;
- derogatory comments and fictional statements regarding his colleagues; and
- failure to notify his deputy general manager of when he was going on leave.

The claimant filed a reinstatement action, stating that the termination had been unjust.

## First-instance decision

The first-instance court ruled that:

- the employee's behaviour did not constitute just cause for termination;
- the termination had been contrary to the law based on the principle of termination as a last resort; and
- it was unclear from the evidence provided that the employer had followed the procedural requirements of termination in full.

## Supreme Court decision

The Supreme Court decided that although the employee's actions had not been serious enough to constitute just cause for termination and deprive the employee of his termination benefits, the employer could not be expected to continue the employment relationship given the wording, tone and language used in the emails that the employee had sent to his assistant general manager and colleague. As a result, the court found that the employer had been entitled to terminate the employment relationship pursuant to Article 18 of the Labour Act.

The Supreme Court based its decision on the following reasons:

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- Article 18 of the Labour Act gives employers the right to terminate an employment relationship based on employees' actions or inefficiency.
- This right is not meant to punish employees' actions, but to protect employers from the possible reoccurrence of employee actions that violate their contractual obligations.
- In addition to employees' main contractual obligations, their secondary obligations under the law and rules of good faith must also be considered when deciding if a breach of said obligations has occurred.
- While the employee's actions or inefficiencies did not give the employer the right to terminate the employment relationship based on just cause, the actions in this case affected the employment relationship and the company's performance. As a result, the employer could not be expected to continue the employment relationship.

### **Comment**

The Supreme Court has once again drawn attention to the use of language in workplace communications. In the above decision, the court sought to protect workplace harmony and business continuity against personal conflict by allowing the employer to terminate the employment relationship based on a valid reason.

This approach has been reflected in a number of recent regional appellate court decisions. For example, on 30 March 2017 the Ankara Regional Appellate Court decided that an employer was entitled to terminate an employment relationship for a valid reason due to the accusatory language, wording and tone used by an employee in workplace correspondence, despite the fact that some of the objections that the employee had raised against her employer had been reasonable. The court emphasised that wording, tone and language are important when employees try to claim their employment rights. The appellate court's decision was unsurprisingly approved by the Supreme Court.

Although court decisions may differ depending on the facts of specific cases, it is clear that employees must use appropriate language, wording and tone in written workplace correspondence.

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