

## ABSTRACT

### Freedom of Expression in the Workplace

By unequivocally acceptance of the qualification of fundamental rights and freedoms, the protection and development of human dignity today, the individual who is subject of the national law has become the subject of international law, and acquired the right to claim fundamental rights and freedoms directly, and within this context, the idea of claiming fundamental rights and freedoms only from the state has given its place to the protection of fundamental rights and freedoms also in the private law relations today. Because the human honor which constitutes the ground of fundamental rights and freedoms also has the highest value in the state of law and in the same time all fundamental rights and freedoms constitute a part of human dignity. For this reason, State undertakes a positive obligation in the matters of protecting weak people in the situations which show contrary to the life with dignity, taking necessary measures to ensure them to live compliant to the human dignity.

One of the fundamental rights and freedoms for which the State has undertaken a positive obligation is freedom of expression that is subject of the study and the freedom of expression has a special qualification among the fundamental rights and freedoms because of its philosophical and political value. Because of the contribution of freedom of expression to the research of fact and the development of individual freedoms, it has a significant function in democratic society and for this reason it is regarded as that freedom of expression "*constitutes one of the essential foundations of a democratic society*". For this reason, the freedom of expression creates a private area to which state cannot interfere and individuals can freely move within this private area. While this area to which State cannot interfere in is imposing a negative obligation with regard to the freedom of expression, creating an area in order to get the right of freedom of expression efficiently to be used is constituting a positive obligation.

These obligations which are imposed on States with regard to freedom of expression are applicable not only in private life of the individual but also in the professional life of the individual, and they require universal



law values and democratic society order to be ensured also in the workplace. Because, fundamental rights and freedoms do not end at the door of workplace. At this point, considering the supra-national and universal characteristic of fundamental rights and freedoms in workplace and professional relations, the human rights and human dignity being an indisputable value, and the Convention for the Protection of Human Rights and Fundamental Freedoms which become an integral part of our national law; require making an assessment always in favor of the fundamental rights and freedoms in the comments concerning the rules of labor law. For this reason, in the event of there is a discrepancy between fundamental rights and freedoms and specially freedom of expression and the rules of labor law, *the Principle of Favor Libertatis* has been taken as basis in the preparation and writing studies concerning the dissertation, and what is in favor with the freedoms among national law and international law has been chosen and applied.

In the internal law, a direct regulation does not exist relative to a worker's having a freedom of expression in the workplace, in Turkish Labor Law, the worker's freedom of expression is evaluated in general on the aspect of worker dignity and honor or protection of worker's reputation, and the worker has been granted with some indirect rights which cause from freedom of expression. However, when absolute and universal characteristic of human rights is pursued, the main aim is protection and development of human rights and the prevention of breaches no matter whatsoever source they come from, there is not a liability from both State and employer aspects. Moreover, protection of worker's also freedom of expression apart from other fundamental rights and freedoms in the workplace constitutes a right which involves public as necessary in a democratic society order as well as having a characteristic of the public interest. For this reason, State has to develop protective policies for the fundamental rights and freedoms in the workplace along with the employment policies and ensure to get employer taken measures which protect and develop freedom of expression in the workplace.

*Key words: Convention for the Protection of Human Rights and Fundamental Freedoms, The European Court of Human Rights, Freedom of Expression in the Workplace, Free Speech in the Workplace, Indivisible Rights, Labour Rights, Human Rights, Positive obligations, Rule of Law, Human Dignity, Hate Speech, Indivisible Rights, Labour Rights, Human Rights, Horizontal Effect and Vertical Effect of Human Rights.*