

COMMENTS ON THE DECISION OF TURKISH CONSTITUTIONAL COURT ON THE UTILITY MODEL AND TRADE MARK: THE ISSUE OF INCOMPATIBILITY WITH THE CONSTITUTION-2004

1995 is the year when reformist changes taken place in Turkish IP Law. In order to reach to the Customs Union schedule, the texts were enacted as the Decree Laws, although they were still drafts. Those texts were planned to be enacted in the form of laws whereas they were enacted in the form of Decree Laws. The said enactments procedure resulted in incompatibility with some aspects of the Constitution. In this context, two articles in the Decree Laws were annulled by the Turkish Constitutional Court's two separate decisions. One of the annulments is relating to Utility Models and the other is relating to Trademarks. The decisions of the Turkish Constitutional Court revealed that it is highly possible that some of the other provisions of the Decree Laws are under the risk of annulment by the Turkish Constitutional Court as they are contrary to the Constitution.

This study exposes the potential results of the decisions of the Turkish Constitutional Court in the area of Constitutional Law, Criminal Law, Procedural Law and Intellectual Law.