

Turkish Constitutional Court Determined Constitutional Review Principles for Presidential Decrees

1 Jun 2020

In Presidential Government System, which was adopted on 9 July 2018 in Turkey, the President is entitled to issue Presidential Decrees on the matters related to executive power without the need for an enabling law. Presidential Decree, being a fundamental norm as per regulated directly under the Constitution, is a general and framework regulative transaction.

That being said; general competence provided to the President for issuance of Presidential Decrees on the matters related to executive power is not unlimited. Matters which might be regulated with Presidential Decrees are limited in the Constitution, unlike the laws. Limitations set forth in terms of competence on matters are as follows:

- Matters which do not fall within the scope of executive power cannot be regulated with Presidential Decrees.
- Fundamental rights, personal rights and duties, civil rights, and duties stipulated under the Constitution cannot be regulated with Presidential Decrees.
- Presidential Decrees cannot be issued on matters that are clearly regulated under laws or that are stipulated by the Constitution to be regulated by law.

Within this context; Turkish Constitutional Court ruled that Presidential Decrees must be issued in compliance with the abovementioned competence rules and that Presidential Decrees, which are issued contrary to competence rules set forth in the Constitution, will be automatically deemed contrary to the Constitution even though their context comply with constitutional rules.

Please see below links for the full texts of the Turkish Constitution Court's decisions published in the Official Gazette dated 13 May 2020 and numbered 31126. (Only available in Turkish)

- [Turkish Constitution Court's decision numbered E: 2018/125, K: 2020/4 and dated 22 January 2020](#)
- [Turkish Constitution Court's decision numbered E: 2019/31, K: 2020/5 and dated 23 January 2020](#)
- [Turkish Constitution Court's decision numbered E: 2019/78, K: 2020/6 and dated 23 January 2020](#)

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