

## **An Evaluation on New Governmental System Discussions and System Proposals in Turkey**

**Türkiye’de Yeni Hükümet Sistemi Tartışmaları ve Sistem Önerileri Üzerine Bir Değerlendirme**

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### **Abstract**

*Historically, many countries have sought to establish a more stable governmental system. At world scale; it is seen that the most common systems of government in practice today are "presidential", "semi-presidential" and "parliamentary system". The obstacles in the governmental systems are instability in the administration which starts the search for new system. Along with the new governmental system proposals in Turkey, it was begun to be argued that the "Turkish Type", "Presidential Parliamentary System", "Half Presidency", "Presidency" and "Party Presidency" models in Turkey wanted a stable government. In Turkey, the influence of pressure groups such as the categorized business world and media have been included in the system discussions, though those discussions were not carried out in a comprehensive manner. Deficiencies in Turkey, especially in the culture of political reconciliation, political instability, ineffectiveness of members of the legislative body, can be seen as the factors that trigger the search for new systems. This study will focus on the new positional arguments in the context of the system discussions in Turkey on behalf of stable and long-term management, discussing the proposals of constitutional amendments in terms of probable deficiencies, political instability, and ineffectiveness of legislative members.*

**Key words:** Government System in Turkey, Strong Executive Organ, Presidency System

### **Öz**

*Tarihsel süreçte birçok ülke, daha istikrarlı bir yönetim sistemi kurabilme arayışına girmiştir. Dünya ölçeğinde; bugün uygulamada en yaygın olan hükümet sistemlerinin sistemlerin “başkanlık”, “yarı başkanlık” ve “parlamentar sistem” olduğu görülmektedir. Hükümet sistemlerindeki tikanlıklar, yönetimde istikrarsızlık, yeni sistem arayışlarını beraberinde getirmiştir. (Bu da beraberinde hem toplumsal iradeyi etkin kılmak hem de uzun soluklu ve istikrarlı hükümetler kurma zorunluluğunu birlikte düşündürmektedir. Sistem önerilerinde dikkat edilmesi gereken en önemli konu, yürütmenin oluşma biçimi olmaktadır. Türkiye’de “Türk Tipi”, “Başkanlık Parlamenter Sistem”, “Yarı Başkanlık”, “Başkanlık” ve anayasa değişikliği ile “Partili Cumhurbaşkanlığı” modellerinin tamamında istikrarlı bir hükümet oluşturulması arzusu olduğu söylenebilir. Türkiye’de sistem tartışmalarının sağlıklı bir zeminde yürütülmemesinde, kategorize olmuş iş dünyası ve medya gibi baskı gruplarının da etkisi vardır. Türkiye’de özellikle siyasi uzlaşma kültüründeki eksiklikler, siyasal*

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*istikrarsızlık, yasama organı üyelerinin etkisizliği gibi unsurlar, yeni sistem arayışlarını tetikleyen unsular olarak görülebilir. Bu çalışmada, Türkiye’de sistem tartışmaları bağlamında getirilecek yeni sistemin istikrarlı ve uzun soluklu bir yönetim açısından değerlendirilmesi ve olası eksiklikleri, siyasal istikrarsızlık kavramı, yasama organı üyelerinin etkisizliğini giderme hususunda, anayasa değişikliği teklifleri üzerinden neleri öngördüğü üzerine odaklanacaktır.*

**Anahtar Kelimeler:** *Türkiye’de Hükümet Sistemi, Güçlü Yürütme, Başkanlık Sistemi*

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## INTRODUCTION

A lot of countries can be encountered in the world who have sought to establish a better and stable administrative system. When we look at the examples of government systems in the world; it is seen that the most common systems in practice are "presidential", mixed or "semi-presidential" and "parliamentary system". In fact, no matter what my site is, it is necessary to have social will on the basis of all of them. It is imperative that the "principle of separation of the powers be applied to protect the efficacy of this activity. The separation of powers is both a requirement of the rule of law principle and means that the interests of the people are protected effectively. There is a debate between lawyers and political scientists about how this activity can be achieved. The meeting point in the common pavilion leads to the disagreement on how this activity can be achieved. In particular, the rigid distinction between legislative and executive powers has led to the formulation of different government systems formulas. The problem of the event also arises here. In plain words, the realization of a system that keeps these people in stable, sustainable and perfectly balanced state is considered necessary within a stable government system. Indeed, the bottlenecks in government systems lead to a kind of instability in government. It is imperative to make social influence effective while bringing together new search systems. The necessity of establishing long-term and stable governments for new system discussions and formulas is always considered, in this respect.

In Turkey, system discussions and criticisms should be evaluated in a similar context. The failure of coalition and unstable governments in the past has resulted from the omission of this issue. On the other hand, the social and economic developments gained by powerful and self-constituting strong governments are taking this necessity even further into the foreground (Hekimoglu, 2009: 53; Özbay, 2016: 26). Today the basis of the arguments put this issue forward for discussion about the possibility of new system in the literature and science circles, and even in the press world. The most important issue that needs attention in new system is about the way the executive is formed. Actually, the structure of the executive organ is almost like a litmus paper for democracy, today. In the parliamentary system, there is an executive, or government, coming out of the legislature. There is an organic bond among the men. It is often observed that the government can't be reduced or set up. For Turkey, the tension between the president and the prime minister, as well as the coalition and ministry share, have always caused the systemic bottlenecks and instability in the country (Özbay, 2016: 28).

The new system proposed for Turkey envisages as much responsibility as the separation of powers. Moreover, the ability to control the social will can give more control. One of the criticisms of the new situation has been the perception that the state structure will change. This perception before the referendum proposal should be discussed in this sense. Indeed, the new constitution is the basis of Turkey's 2017 agenda for discussing its worry that it will lead to a disastrous and federal situation and a one-man regime. In fact, system discussions have nothing to do with the state structure. Today, there are Kyrgyzstan, which includes the presidency in the mixed model under parliamentary regime model, and the state-built states like Azerbaijan, which includes the comparatively stronger presidential system under a semi presidential governmental model (Uğur, 2016).



Indeed, there are many American-style presidential system equipped with very sharp executive authorities in the world, directly under the title of presidential governmental model without prime ministers. These group include the countries such as Afghanistan, Angola, Benin, Bolivia, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Ghana, Guatemala, Honduras, Indonesia, Iran, Kenya, Liberia, Malawi, Maldives, Nicaragua, Palau, Panama, Paraguay, Philippines, Seychelles, Sierra Leone, Somaliland, Turkmenistan, Uruguay, Zambia, Zimbabwe. There are a total of 32 countries, indeed at majority. That is to say, 32 of the 42 countries that implement the American (full) presidential system in the world are unitary. Moreover, the presidential system proposed for Turkey will be unique to Turkey and may add a superior feature for further functioning of the unitary system. Integrity or division issues have not been always related to the system evaluation till today. In other words, it is unnecessary to argue that the changes in governmental system requests will change the state structure. The approach that the system change might lead to the authoritarian type of the regime and to a dictatorial governance is in essence a self-righteous and wrong perception (Özbudun, 2015: 4). When the issue is evaluated according to the relationship between government systems and democracy, a different situation is observed. For example, in the 20th century it was suggested that the presidential system protected democracy more than parliamentary system (Özbay, 2016: 34).

In Turkey, it can also be said that the "Turkish Type", "Presidency Parliamentary System", "Half Presidency", "Presidency" and "Position Holder Presidency in a Political Party" (with the last Constitutional amendment) models all want a stable government. However, since the discussion of the topic is not done on a healthy manner in a comprehensive ground, it is often not clear exactly what is right. The fact that the system discussions in Turkey are not carried out at a healthy level has also affected the pressure groups such as the categorized business world and the media. For example, economic strains are often linked to the presidential debate of power (Hurriyet, 7 April - 2015). One of the arguments put forward in the Presidential debates is that a situation such as authoritarianism and personalization of power may emerge.

It is very difficult to argue an approach such as the one-man administration of power, which is personalized, in the context of the presidential system. Because the privatization of power can be revealed in all systems, being not just possibly seen in the presidential system. It is a question of practice as Duverger also found it in the phrased expression "Kingdoms of Choice". (Gül, 2011: 604) As a matter of fact, many community-based constructions in the beginning can also acquire an oligarchic structure over time. Therefore, the search for possibilities is in the context of failures and congestions can be continued to be arising from more applications. Deficiencies in Turkey, especially in the culture of political reconciliation, political instability, ineffectiveness of members of the legislative body, can be seen for the many factors that trigger the search for new systems in the future. In this context, the situation to be brought up for discussions should actually be not only about the stabilization of the forces but also upon the understanding of the rule of law and the ease of operation. The proposals on preserving the rule of law is rationally, therefore, convenient for discussions to strengthen and revive the governmental systems. This study focuses on what the new position to bring about in the context of the systematic debate in Turkey, via a perspective in terms of using a more stable and long-term management's potential. Whereas in the American presidential system the link with political parties is obvious, while Economist magazine ranks 20th in the list of 166 countries in the 2016 democracy index, Turkey ranks 97th, indeed. In the case of a country with another presidential system regime, Uruguay, a full democracy label could be obtained with an index value of 8.17 and 19th place in 167 countries (Economist[web], 2017)

## **1. STABILITY ISSUE IN EXECUTIVE POWER**

The executive organ defines the body responsible for the executive's administration, one of the three major powers of the state. In parliamentary systems, this organ emerges from the legislature. In presidential systems,

it is determined in the will of the president elected by the people. It is the state body responsible for the enforcement of laws enacted by the Assembly and interpreted by the judicial organ. The executive organ shall act in accordance with the Constitution and laws when applying the laws. Regardless of which regime is in place, this rule of law is required. In Turkey, the executive body consists of the president and the ministers chaired by the prime minister. Hereby, the executive body is indirectly elected by the people in the parliamentary system. The people elect the deputies. As a result, the prime minister chooses members of the cabinet among the members of the parliament, and the president is elected.

It coincides with the description of the executive organ of the presidential system. At the head of the executive organ is a form of government based on the principle of separation of powers, which is accepted by both the state and the government, and is directly elected by the people, that is, the president is the head for politics, the ruler is the law applier for executive bodies, and the government is the power that can't be intervened by the parliament. The "separation of powers" principle known as "check and balance" in the presidential system determines the working principle of the legislative and executive bodies and their relations with each other (Aydın and Durgun, 2017). In plain words, the definition might have been mixed, but it can be explained as follows. Hence, the president at the head of the executive organ is directly elected by the people, so his legitimacy can't be questioned. Indeed, the intervention of the President's internal and external politics is much more when compared to the parliamentary system. Likewise, the legislature, which is the legislative body, is elected by the public and therefore can't be dissolved by the executive organ. In other words, the terms of office of the legislative and executive bodies are fixed. One person can't change the behavior by taking the other from duty (Kahraman, 2016).

According to some political scientists, the executive may be more effectively run by the idea of the president elected by the People, thus the president naturally feels himself more responsible to the people. The Assembly has no authority in this regard and the executive is the responsibility of the same person throughout the presidency. First of all, the president, who is prestigious and legitimate by being elected by the people, can easily implement his policies because he does not have a fear of being removed from office during his term of office. People choose the president directly, and when there are problems with politics or management, the public will see the president as the accountant and ask him to account. Another democratic feature of the system is that it clearly knows who votes when voting, as it happens. In this sense, the legitimacy problem of the executive is largely overcome.

There are many features that make the presidential system identical to the stronger executive. The fixed term of duty given to the executive organ in the presidential system serves for the formation of stable governments. Government crises do not happen. Indeed, there is no question of uncertainty and inability to see forward, which is peculiar to parliamentary systems. The government contributes to stabilizing social stability, thus strengthening democracy. According to the prime ministers, who are accountable to the parliament in the parliamentary system, the president can use more initiative in making the decision. It can make quick decisions and provide effective management by rights. Powerful execution can lead to a strong state. However, in the parliamentary systems the government is under the pressure of parliament, sharing the authorities with the president on the one hand, and the power of the executive is diminishing, and the administration is weak (Aydın and Durgun, 2016).

## **2. NEW GOVERNMENTAL SYSTEM PROPOSALS FOR TURKEY**

Presidency system may be established in Turkey, but this situation will lead to a drastic change in the governance of the state. What is meant by the unitary state is no longer going to be actually more centralized



in first place. The central authority is now dominated by the fact that the political authority operates from a single center. Indeed, the system may be shaped according to the needs of the country in future. In the Justice and Development Party, i.e. J & D Party, election declarations, information about the Turkish Type Presidency System was introduced previously as solution for centralized problems in public administration via bringing fast responses (Demirhan et al, 2016)

A constitutional amendment referendum for Turkey in 2017 was on the agenda. The decision to take place on April 16, 2017 was made. Voters in Turkey are going to vote on some 18 changes in total articles of the current Turkish Constitution. This regime change, essentially, will bring a great influence on the governmental system. Because it is going to make a strong regulation about the basic organs of the state under the skin.

Constitution's 9, 75, 76, 77 of the current articles are taken into the upcoming subject to amendments to the parliament's fundamental work dynamics. According to the first article of the Law Proposal for the Amendment of the Constitution of the Republic of Turkey, the Constitution may be changed under the heading "Judicial authority" (Kahraman, 2016). This proposal is for article 9 of the Constitution. Accordingly, the provision that jurisdiction may use independent courts on behalf of the Turkish nation is going change with the use of statement as "independent and impartial" courts. In the second place, the proposal for change in the 7th item was fixed. Basically, the second item of the proposal foresees the increase of the number of deputies from 550 to 600. For this, 480 deputies attended the secret ballot in the General Assembly. The third article of the proposal au fond stipulates that the age of election should be reduced from 18 to 25 and that those who have a relationship with the military can't resort to parliamentary candidacy, that is, they wish to change Article 76 in the constitution. The fourth amendment is a proposal concerning the legislative body. Here, change is targeted at 77th article. According to the fourth article of the proposal, the constitutional title of the Constitution titled "Election Period of the Grand National Assembly of Turkey" changes to "Election Period of the Grand National Assembly and the President".

Steps 5, 6 and 7 of the proposal included interaction-focused themes. The amendments to Articles 87, 98 and 101 in the current constitutional amendment clarify the area of the executive organ. In doing so, this stage deals with the ministerial board, the political party and the president's relationship in itself. Following the proposal, the functions and powers of the Grand National Assembly may begin to set, change and remove laws, to discuss and accept the budget and final account law proposals, to issue money and to declare war. To determine the approval of international treaties, to decide the majority of the members of the Parliament by 3 out of 5, to declare general and special amnesty, to use the authorities prescribed in other constitutional articles and to fulfill their duties are added up the same set of missions (Yılmaz, 2017). The house of the Assembly is also described. The Assembly's ministers and the authority to audit the government and the authority to grant the Council of Ministers the right to issue decrees in law on certain issues may be removed with this offer if approved. In other words, Article 87 of the Constitution may be amended. Moreover, the Assembly had the authority to supervise the Deputies of the Council of Ministers and the presidents through parliamentary inquiries, general consultations, parliamentary inquiries and written questions. Accordingly, the Turkish Grand National Assembly (TGNA) might use its authority to acquire and monitor information through the Parliamentary Survey, General Discussions, Parliamentary Investigations and Written Questions. The no-confidence procedure might be removed from the authority to supervise the government. It is stated that the written question and answer time of the assistants of the President is 15 days. The 89th article also has an amendment. If the Turkish Grand National Assembly agrees with the absolute majority of the total number of members sent back, the law might be published by the President. If the Assembly makes a new amendment in its sent-back sentence, the President will return the amended law to the Assembly again. The ministers' statement may be issued for article 93. The Parliament would make a maximum of three months of vacation in

a legislative year; during the break or during the holidays, only the President is invited to establish the meeting (Özsoy, 2016)

Change in Article 98 of the Constitution is seen as a broad arrangement was planned to be made. The Parliament's amendment to the article on ways of acquiring and controlling information may enable legislators to conduct a Parliamentary Survey on a specific topic. The general inquiry was opened, and the written question was rescheduled at the General Assembly and the members of parliament, the assistants of the president and the ministers were asked to answer. Indeed, the change in item or article 101 is one of the provincial view of the critical offers. The candidates for the presidency are said to be determined by the parties who have received at least 5% of the votes in the last elections, alone or together with another party. Thirty thousand people in Azerbaijan and twenty thousand citizens in Kyrgyzstan can be recalled here. Hereby, it is stated that candidate for Turkey would be nominated by 100 thousand voters. It was decided that the elected president would not have to cut off his relationship with the party he was elected from now on.

Looking at the changes, the proposals for articles in Constitution as 104, 105, 106, 116 and 119 address directly the duties and powers of the president and describe the character of the new governmental system. The amendment of article 104 brings about a major revision even in the first instance. By arrangement, a change is being made to the Constitution's "duties and powers of the president". The president is called "president". The president, the head of the state, is also given executive authority. According to the amendment proposal, the President may represent the Republic of Turkey and the unity of the Turkish nation in the capacity of "president". Implementation of the Constitution, and the regular and harmonious functioning of state organs. The president might, if he deems necessary, make the opening speech in the Turkish Grand National Assembly on the first day of the legislative year. That is, the president gave the task of sending a message. The Turkish Grand National Assembly may now be able to be given messages about the internal and external politics of the Country by Presidency. Indeed, the prime minister was abolished by proclaiming the head of the state as well as the head of the government. According to the amendment proposal, the president might now have the authority to appoint his or her assistants and ministers to terminate their duties. He was given the authority to issue a "presidential decree" on matters related to the presentation and execution of the constitutional amendment laws, if necessary. In addition, the condition that the president should graduate from a four-year university has been changed and a condition has been imposed that he should have "graduated".

The proposal for amendment is also presented in article 105. Article 105 belongs to the supervision of the chairman. In order for the President to be questioned for a crime, the deputy in the parliament shall be counted in full. Three of fifth at majority was needed to vote on blaming. It was also decided in the proposal text that two thirds of the total number would be provided for the president to go to the Supreme Court. Parliament may meet the proposal at the latest within a month and decide to open an investigation by secret ballot of the total number of members. If it is decided to open an investigation, the process might start. Committees will be established among the candidates for which the political parties in the Assembly would triple the number of members they can give to the commission in proportion to their power. An investigation might be conducted by a 15-person commission to be established by name-taking for each political party separately. This Commission may present the report stating the outcome of the investigation to the Presidency of the Assembly within two months. If the investigation can't be completed within this period, a new and definite period of one month will be granted to the commission (Özsoy, 2016).

The 106th amendment opened the door to vice-presidency, an indispensable part of the presidential system. A radical change also leads to the selection of assistants. The President was given the authority to appoint one or more assistants to him. In the case of the release of the authority, the period for the new election was given

within 45 days. This Article allows the President to appoint one or more deputy presidents after being elected. If the presidential office is vacated for any reason, the president may be elected within 45 days, indeed. The new deputy president, as elected, might proxy the presidency and use the president's officials. If the general election is less than one year, the TGNA election might be renewed with the election of the president. The deputy president acts as president until the election of the new president. If the general election lasted for a year or less, it was said that the election of a deputy could be replaced by the election of a president. It is stated that if the general election lasts more than one year, the elected president may serve until the parliamentary elections. The presidency of this remaining president was not included in the proposal to be counted as one of the two periods in terms of the term of office of the president. It is possible to investigate an alleged parliament that the president is working for aides or ministers. It was requested that the full number of deputies would be possible with the vote of five thirds and it was decided that two-thirds of the total number would be required for the same persons to be sent to the Supreme Court.

The 116th article in the Constitution became one of the most commonly mentioned items in the Turkish media. The President himself and the full number of members of parliament have been given the right to renew elections in three fifth majority rule on voting a proposal for reelection. It is introduced as an authority to dissolve this authority with the perception operation in the media. On the contrary, under the necessary conditions, the election renewal decision might be a constitutional guarantee. In such a case, the duties and authorities of both sides might continue until the new president and the parliament begin their referral. If the parliament chooses to renew the elections in the second term of the presidential election, the president might once again be a candidate. Basically, parliamentary general election and the presidential election may be held together. If the President decides to renew the elections, the general election of the TGNA and the election of the president might be carried out together (Yılmaz, 2017).

The 119th article change is also a revision of a known authority. The authority to declare the “state of emergency” was given to the Presidency, yet the authority to approve, extend or abolish the period was also given to the joint power with parliamentary voting. Moreover, it was stated that the TGNA could extend to extraordinary four months apart from the war, but the authority to declare extraordinary status was not restricted. It was also stated that the resolutions of the President in the extraordinary period may be discussed and settled by parliament. Indeed, the president might resort to this in situations where war, war, etc., as well as natural disasters, dangerous epidemics or severe economic depression, are beginning. Mobilization, insurrection, a strong and active take-off against the homeland or the republic can be *ipso facto*, other reasons for that. The spread of acts of violence that threatens the indivisibility of the country and of the nation from the inside or the outside are also referred. The emergence of widespread acts of violence against the constitutional order or removal of fundamental rights and freedoms might be replied in cases where the public order is seriously deteriorated due to violence. In fact, the state may declare a state of emergency in full territory of land or in one of its territories (Atar, 2017).

According to the changes in proposal for 142th article, as long as there was no war situation, the establishment of a military court outside of disciplinary courts was terminated. As to 13th step by the proposal, military courts outside disciplinary courts may not be established. However, in the event of a war, military courts might be set up to look after the defendants for the offenses committed by the military personnel in relation to their duties. A new composition was considered with the change to be made to the 146th article. These two institutions named in the previous procedure of appointing a member to the Constitutional Court, a member of the Military Court of Cassation and a member of the Supreme Military Administrative Court was become whiteout. 15 constitutional judge members based court definition is being made.

The change in the 159th article is also on the agenda. The name of the High Council of Judges and Public Prosecutors was changed to "Council of Judges and Prosecutors". Ipso facto, the number of members was reduced from 22 to 13, where the number of circles was reduced from three to two. Four members of the Board are proposed to be appointed by the president, and seven members were appointed by the parliament in a new formula. The membership of the Justice Minister and the Under-Secretary of the Ministry of Justice has not changed. The three members of the board are first class, and the first judge may be selected from among judges and prosecutors who have not lost qualifications that need to be separated. 1 member is first class, and the administrative judiciary, which has not lost qualifications that need to be separated from the first class, might be selected by the president among judges and prosecutors. 3 members shall be elected by the TGNA among the members of the Supreme Court of Appeals, 1 member of the Council of State, members of the higher education institutions specified in the 3 member qualifications, and lawyers serving in the legal branches of the higher education institutions. At least one member of the faculty and at least one of the members selected among the lecturers and lawyers may have to be lawyers. The applicants for membership of the Parliament to be elected by the Parliament shall be made to the Presidency of the Assembly. Actually, the Presidency might send the applicants to the Joint Commission established by members of the Constitution and Justice Commissions. The Commission may determine 3 candidates for each membership with a 2/3 majority of the total number of members. If the nomination process can't be finalized in the first instance, the majority of the total number of members in the second half may be sought. In this case, if the candidate can't be determined, the process of nominating candidates among the 2 candidates receiving the most votes for each membership might be completed. The TGNA might elect one secret ballot for each member from the candidates nominated by the Commission. In the first instance, 2/3 of the total number of members may be searched if the election can't be concluded in this case. In the second half, 3/5 of the total number of members might be searched. In the second instance, if the member can't be selected, the member selection might be completed between the two candidates who received the most votes. Members might be selected for 4 years. Members who finish the season might be able to choose one more time. The election of the members of the Board shall be made within 30 days before the members' term of office expires. If the elected members vacate the board before their term expires, new members might be elected within the next 30 days (Yılmaz, 2017).

Article 161th of constitution upon change was also moved to the amendment proposal and was accepted in parliament. According to article 15 of the proposal, expenditures of public entities and public entities other than state enterprises shall be made on an annual budget basis. No provision can be made in the budget law except for the provisions on the budget. The President may present the budget law proposal to the Turkish Grand National Assembly at least 75 days before the financial year. Budget proposal may be discussed in the Budget Commission. Indeed, the text that the Commission might accept within 55 days might be discussed at the General Assembly and may be held until the beginning of the fiscal year. It has already been determined that the President must present the budget law proposal at least seventy-five days before the fiscal year (Atar, 2017). But it was also decided that MPs would no longer be able to propose expense or income reduction for the budget. It was said that the temporary budget law would be enacted if the Budget can't enter into force at the end of the budget. If the provisional budget law can't be enacted, the new budget might be increased by the revaluation rate of the budget of the previous year until the new budget is accepted.

Along with Article 16 of the proposal, some phrases in the different parts of the constitution to adapt to the proposed government system are changed or removed from the text. Especially the changes involving the transfer of government powers to the president were taken into consideration. So, this is a big change, including that. Some elements of the constitution were amended to accommodate the above listed items. According to this article, the next election of the TGNA and the election of the president may be held on 3 November 2019.





The election might be held until the day of the parliament and the president may continue to work. If the parliament receives an election decision, the 27th Legislative General Assembly election might be held together with the election of the president. The next presidential election and general elections might take place on 3 November 2019. However, if the parliament decides to make an early election, both elections might be held on the same day. Hereby, within thirty days following the approval of this law, it was decided to elect the members of the Council of Judges and Prosecutors and to abolish military courts that did not enter into force by law. Finally, according to Article 18, "the election of the President, if the party may be cut off the relationship with the decision to abolish", the date of the publication of the changes; Amendments to the abolition of the statements of the Council of Ministers in the present Constitution, martial law, draft law, decree of law, Military Court of Cassation and Supreme Military Administrative Court might come into force at the beginning of the presidential election as a result of the elections of the TGNA and the president. Here's even a warning added. The steps 2, 4 and 7 of the steps presented in the amendment text might actually take effect after the new elections. Except for the provisional matter, shall enter into force after the oath of the newly elected president. It was announced that the president's neutral status would be the end of the referendum approval (Atar, 2017).

Other articles such as numbered via 8, 15, 17, 19, 73, 78, 82, 88, 96, 108, 117, 118, 123, 124, 125, 127, 131, 134, 137, 148, 150, 151, 152, 153, 154, 155, 158, 166, 167 were also proposed for amendment to be rewritten for connected changes mentioned in the previously stated 18 different steps on the articles numbered as 9, 75, 76, 77, 87, 98, 101, 104, 105, 106, 116, 119, 142, 159, 161 and provisional article 21 and other various articles.

### **3. THE PRESCRIBED SOLUTIONS BEHIND THOSE PROPOSALS**

The amendment of Article 9 is quite positive. It is quite probable that the constitutional assurance of the judgment on the neutrality of the judge is taken. Such an addition to the text of the Constitution can be said to be free of any drawbacks and even useful. According to the International Property Rights Index's 2015 data, Turkey ranked 90th among 129 countries in judicial independence. The report by the Washington-based Property Rights Agency is actually striking. Turkey was 58th in overall rank with 5.3 points obtained from 10 points. Turkey last year's index received 5.6 points. Thus, Turkey experienced a 0.3 point decrease within one year (Ipr, 2017). It is quite necessary that such an emphasis is made in the constitutional sense of the word size (Atar, 2017).

It was explained that the increase in the number of deputies with the amendment of Article 75 was proposed. Indeed, it is an initiative that increases justice on the representation and strengthens the public's representation. Look at the European countries when we look at the highest number of voters' per capita population and the number of voters in Turkey. Actually, the population in Turkey is considerably higher compared to the EU countries' average. This item is very important when considering the need for commission works, as well. Despite this change, we are not approaching the average for commission workload in Europe. The number of parliamentarians may increase and the channels that can reach the citizen in this proposal (Ahaber.com[web], 2017).

The change in focus at the age of election was with Article 76. It is seen that an arrangement was made about the age of election in Turkey for many years and the age of election was reduced to eighteen. The most common border between European countries is 18 years old. There are 28 countries that use this age limit, which is especially prevalent among Western and Central European countries. In countries where the election age is 18 in the world, the arguments that people should have equal rights with everyone after the age of majority and that it is right for the young people to take part in the parliament are accepted. Indeed, in these countries the judges think that it is right for the deputies to experience the parliamentary experience (Atar, 2017).

The motives behind the proposed presidential system can be summarized as follows. Problems with the strengthening of the administration may be overcome in this constitutional proposal. Actually, the president might be the head of the state and the executive authority might belong to the president. The President may be able to issue the Presidential decree on issues related to executive power. Decisions can be made to meet the needs of the executive, practically. Basic rights and freedoms and political rights and freedoms shall be excluded from the scope of regulation. The President might be able to issue the Presidential decree on issues related to executive power. Indeed, the guardianship structures might be more normalized, both the Assembly and the Presidency, and the people behind it may reach more democracy power (Ahaber.com[web], 2017).

Articles' amendments on 77, 87, 89 and 93 numbered ones have been proposed for the country ideal with strong executive requirements. The proposed amendment to Article 77 of the Constitution is perhaps one of the most important proposals to strengthen implementation of policies and executive branches. The people can be able to determine the composition of execution and creation at the same time. Turkish citizens can be able to use his right to create a balanced composition. If this change is accepted, it is hard to imagine that on the same day and naturally, in elections to be held in a place where a similar political climate prevails, the President and the majority of the Legislative Body might be selected from those representing the same or similar political line. It is desired to separate the forces and to strengthen the execution as it is in the model found in the leader in the same way with the change in the 87th article (Atar, 2017). It means that Turkey can't have any political control over the Executive Body of the Legislative Body through constitutional means. This would mean approaching the presidential system, known as the model of "the separation of tough forces" between the Legislative and Executive bodies. The arbitrary decree period shall also be lifted for the Council of Ministers. The legislative body might be responsible for life, the tutelage might be lifted, and the strong executive may be entirely responsible for the execution. The 89th article might have a strong veto power, and the president might not have to keep the law in force when TGNA does not want to insist on a law via the tool as qualified majority voting. If the proposal is accepted in a more concrete manner with the amendment for 93th article, the Turkish Grand National Assembly might not meet on its own volition when an urgent need arises during a break or holiday. It is understood that only the call of the President is needed for this, which removes the two heads from the assembly during the holiday period. In the recent form, The Council of Ministers is the actor in this sense. It might be a more direct reflection of the will of the people to make such a decision by the elected president of the people.

#### **4. SOME CONCERNS ABOUT THE STRONGER EXECUTIVE BRANCH VIA AMENDMENTS TO BE BROUGHT**

Some do not find it practical to regulate the number of nationwide deputies increased by Article 75. As long as the facts such as the "10% election threshold" and the "election circles narrowed down as sun" that are among the criticized features of the electoral system in Turkey have remained the same, claiming to be a more balanced and justified representation by increasing the number of parliamentarians It does not seem possible mathematically.

The 77th amendment will be rational. Yet, in some people's view, it might be risky for the President and the majority of legislative bodies to be elected from among persons belonging to different political views. In this case, like that seen in other countries, it can be seen that although the Prime Minister and the Assembly were elected on the same day and directly by the people, the Prime Minister and the 1st Coming Party in Parliament can be selected from among those representing different political views. In cases where such outcomes are likely to occur, it is always probable that a variety of political crises may arise between the president elected directly by the people and the majority of the legislature of different political views (Ahaber.com[web], 2017).

The amendment of Article 87 removes the parliamentary guardianship, but it also destroys supervision. Looking at the constitutional amendment proposal, first of all, it is understood that the President is presumed to be able to appoint the Ministers alone and without the approval of the Turkish Grand National Assembly. Moreover, if the Budget Law proposal prepared by the President can't be put into force by the Turkish Grand National Assembly, it is accepted that the budget of the previous year might be increased by the revaluation rate. The 89th amendment is common in presidential systems. From the point of view of the constitutional law, it is possible to say that, with the proposal of the amendment, the authority of the President on the adoption of the laws of the assembly has been raised to the authority of "difficult veto" from the authority of "retarding veto". For those who are afraid of powerful presidential systems, this power increase is seen as frightening.

The President of the United States can also make a decisional decree in legislation, indeed. The authority that sometimes leads to controversy in the field of execution is the so-called "executive order." These orders or decrees, which are law-abiding, are in fact intended to facilitate the functioning of the executive organs within the federal government. Presidential orders do not require the approval of the Congress, but these orders or decisions are subject to the supervision of the high judicial authorities. Although they are not intended to be used, presidential orders can have broad political implications (Atar, 2017)

There are also those who oppose the change in Article 93. According to them; the balance between the legislative and the executive branches constitutes an example of further deterioration in favor of the executive. According to this opinion, all the doors to the President of the Executive, which has an influence on the Legislature, are left open. Similarly, those who oppose the constitutional amendment of Article 101 complain that the president has a connection with political parties.

The 104th article is criticized with the authority to issue decrees. It is clear that this regulation is an arrangement which excessively strengthens the role of the President in the system and which excessively limits the role of the Turkish Grand National Assembly. However, this issue should not be viewed in terms of the problematic power distribution created only among the basic state organs. It is necessary to approach the effect of the regulation directly on the citizens and the possible harms or benefits that it can give to the rule of law. According to The World Justice Project's 2016 rule of law indexes, which is an independent, prestigious and nongovernmental research agency to investigate the rule of law information around the world, United States having the 13th rank among 113 countries in terms of government powers, being a clear reflection of strong executive branch. And overall rank among different index composition about rule of law USA has the 18th rank, again among 113 countries. Turkey's government powers index's ranking is seen at the rank as 108th and the rule of law ranking is shown as 99th order among 113 countries in the same list (Wjp, 2017).

One of the criticisms of the new situation is that the president will be overly enthusiastic, and the balance of power will be lifted. However, as seen in the examples in the world, the absence of strong organic bonds is more important in terms of the balance-braking mechanism. In the new instance, both the president and the Grand National Assembly of Turkey can see the electoral renewal, the lack of an organic tie, and a double-sided balance-braking mechanism (Küçük,2017).

In February 2017, a panel on "Regime Change in Turkey: Turkish Type Presidency System" was held at Georgetown University in Washington. During the meeting, the period extending from Presidential Recep Tayyip Erdogan's presidency to the mayor presidency and the presidential system debate, which is today's referendum, was expected to emerge after the referendum and debated presidential model was laid. Even in this panel, discussions have been made as to whether the one-man regime will come, except for the system's return. In other words, even in the academic world, political evaluations are carried out on one person (Amerikaninsesi.com, 2017)

From time to time, the Presidential System, the Semi-presidential system, and the Parliamentary system are compared in terms of the countries, Gross National Product, Income Per Capita or Human Satisfaction Indexes. It seems that there is no obvious difference in terms of these three factions between the parliamentary system and the presidential system, and even the constitutional monarch seems to be much more effective. The presidential system, which has been an alternative government system since the 1980s, has also been expressed and intended by many leaders. The Erdogan era has been a period when the presidential system has entered a constitutional amendment. Indeed, the main point of the desire for this system is the need to establish a stable government. However, there is also the concern that a multi-party system may lead to adversities in the presidential system. (Efe, 2015, p. 89) It is emphasized that Turkey presides over a source of power and has a unitary state structure, suggesting that the presidential system is more successful than the federal system and that it is necessary to explain how it should be implemented in a country with a unitary structure like Turkey. Concern has arisen that the two most important people are elected and that the source of the legitimacy is the people, the parliament and the president with different political programs will have problems in implementation. (Efe, 2015, pp. 89-90).

## **CONCLUSION**

In the presidential system, the legislative and executive bodies are strictly separated from each other. Herein, the executive branch might be elected by the people, and the legislature is also elected by the people. These two powers that come to the opposition for a certain period can't end or intervene each other's duties. Along with the right presidential system, democracy level of the country might have a chance to increase. Together with the need for judicial review and equilibrium in parliamentary guardianship. This system may bring the opportunity to enrich political and economic and bureaucratic productivity. It may be said that there are good aspects of presidential will in a visionary structure. The president's responsibility will not be against the Parliament. It will be responsible to the public. There will also be a way to control the balance. One of the most important ways to audit will be the budget. The president might prepare the budget and present the New Year's budget. The Assembly will approve it, and if it is necessary, it will subtract or add it. Ministers will come with appointments. It will be from outside the parliament, there will be no deputies and we will increase this performance. In case the referendum ends in favor of amendment, the number of deputies will be 600. Any election threshold will probably not be in the constitution or the election threshold will be pulled to a more reasonable level. Since the President was elected for a certain period of time and during this time he could not be dismissed by the vote of no confidence the system would lead to a stable governance. Government crises will not be seen as often as Turkey is accustomed to and the system will not block (Bayram, 2016)

The president can easily act in his policies because he cannot easily be dismissed. Decision making process is fast. Using democracy is not confusing. Because execution is in the hands of a single person. In this way, permanent decision-making in political arena and rapid decision-making in government will be taken as a new step. Economy is today valuable concept with much more in terms of stability for a country. On the other hand, the desired speed of development in all terms will be attained, by good governance and productive solutions in government. If geopolitical risks surrounding our territory are considered, even if we are too late to go to the presidential system, it is open to debate. It is argued that those who oppose the new system are those who do not hope to be government by democratic methods. The problematic aspect of the Parliamentary System is that it causes coalitions. Indeed, in the 1960s, 1970s, and 1990s, miserable coalition practices emerged in Turkey. Around 21 governments, including the majority coalition between 1961 and 1980, were established within the environments having nearly no political or economic stability or development (Küçük,2016). Indeed, those who advocate the presidential system are convinced that Turkey has suffered many times because of its coalition

governments. Economists underline that 10 of the G20 countries, which comprise the world's top 20 economies, are chaired by the presidency, and this ratio make us think the possibility of presidency system with no democratic and economic loses.

Although many basic lines have been defined, the regulation of legislative and executive relations with different instruments and norms under the influence of various factors changing from country to country has caused the emergence of debates about how explanatory the categorization of presidential and parliamentary systems is. This has made it difficult to scientifically determine the good and bad aspects of the two systems. The question of the extent to which an individual country, for example, the democratic representation of the good, is influenced by presidential or parliamentary system, cannot be answered with simple substance changes because there are completely different countries in the presidential system category. For Turkey, it would also be more positive to make evaluations to make the system better than worry.

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