



Turkey's Constitutional Reform

A REVIEW OF CONSTITUTIONAL HISTORY,
CURRENT PARLIAMENTARY SYSTEM AND
PROPOSED PRESIDENTIAL SYSTEM

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Content

01	Content
03	Introduction
05	Overview of the Constitutional Amendment Package
06	Turkey's Constitutional History: A Timeline
08	Turkey's Path to the System Change: Coalition Governments in Turkey
09	The Previous Proposals of the Presidential System
10	Some of the Recent Crises of the Parliamentary System in Turkey
11	Run-up to a Presidential System: Post-2007 Period
12	Election of Erdogan Through Popular Vote
13	Presidential Elections in Turkey: The Process
14	Proposed Constitutional Amendment: Parliamentary Journey
15	Arguments of the Main Political Parties Regarding the Constitutional Amendment
16	The AK Party's Arguments for the Presidential System
17	The CHP's Arguments against the Proposition
17	The HDP's Position
18	The MHP's Position
19	The Constitutional Amendment: 18 Changes
24	The Separation of Powers in Turkey
25	What is changing?
26	Constitutional Amendment in Terms of the Transformation of Military-Civilian Relations
27	Military Interventions in Turkey: A Timeline
28	Voting in the Parliament
29	Turkey's Referendum Timeline
30	What Happens Next?

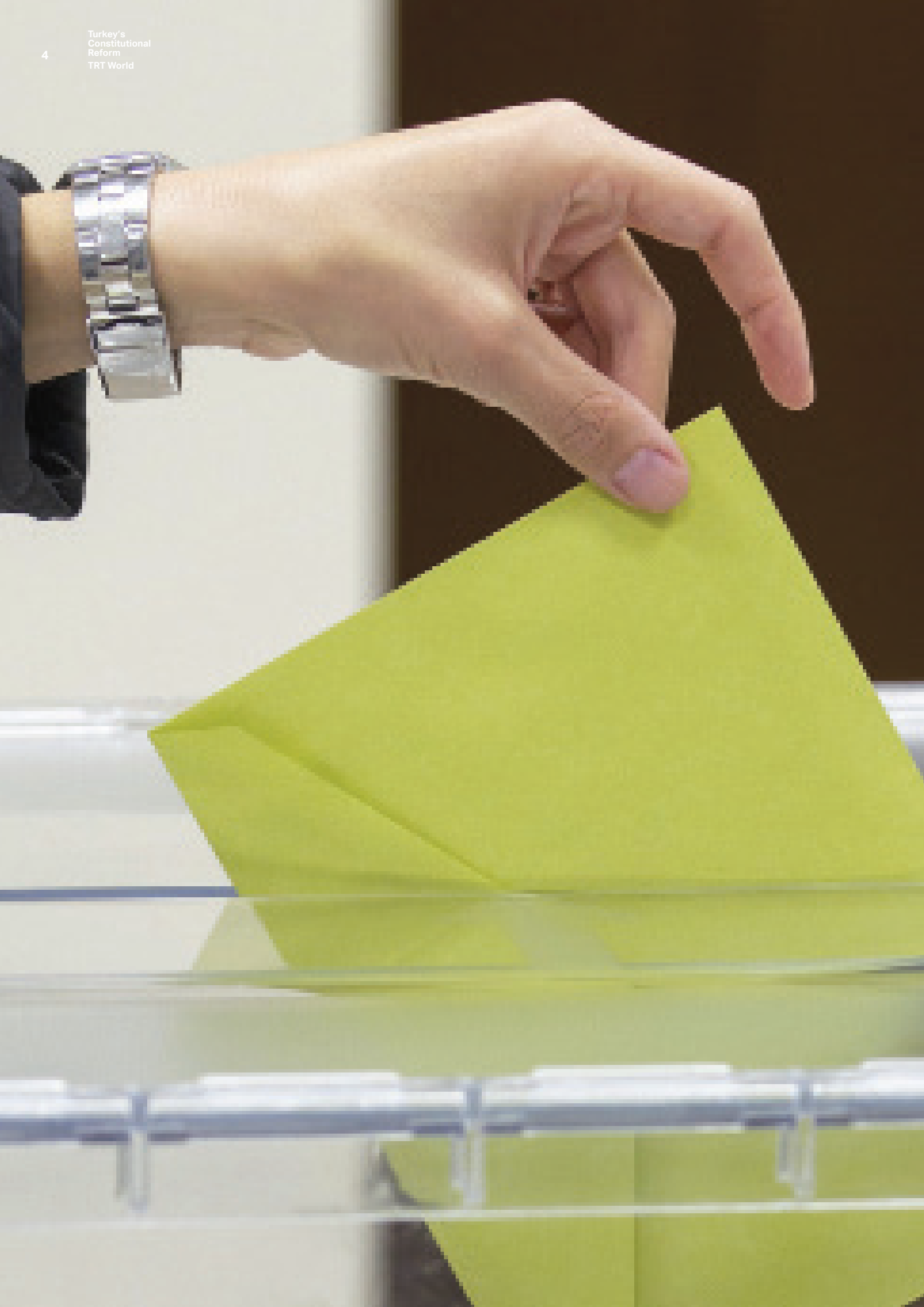
Introduction

Turkey is facing potentially one of the most crucial changes to its political system in modern history. The ruling party's constitutional amendment proposal, with the backing of the opposition MHP, is comprised of 18 key points. It aims to change the nation's current constitution and its very political system. The current constitution was created after the 1980 coup, and critics say it restricts the popular will via tutelage mechanisms.

The president's role in execution has fundamentally changed following the 2014 elections. It was the first time a President was elected through popular vote. The election was the result of a 2007 referendum transferring the Parliament's prerogative of electing the president to the people. On August 10, 2014, Recep Tayyip Erdogan became the first president elected by the public, with 51.79% votes, which would be the precursor to a tense relationship with Turkey's legislative body. Proponents of the new constitution claim that if enacted, it would recalibrate this relationship and remove the conflict by giving more responsibilities to the president, while allowing parliament to serve as a truly legislative body as well as a check on the President. Critics say the changes will pave the way for one-man rule.

This report presents an overview of the historical background of the presidential system debates, the parliamentary crisis experienced over the years, details of the proposed changes, and the main arguments of both opponents and proponents. The major constitutional amendments being proposed include abolition of the role of the prime minister; number of Member of Parliaments being raised to 600; holding of parliamentary and presidential elections simultaneously every five years; the power given to the president to appoint ministers, vice presidents, and high-ranking public executives; and the ability of the parliament to request an investigation into the president's affairs.

The current debate in Turkey around the presidential system is not a new phenomenon. The debate around the transition from the parliamentary system to the presidential system dates back to the 1970s. This report will contextualize major issues for a discussion within the political arena and across Turkish society, and illuminate major implications of the constitutional amendment, both domestically and internationally.



Overview Of The Constitutional Amendment Package

Position of the prime minister will be abolished

The president will not be required to dissociate from his/her political party

The age requirement to become an MP will be lowered to 18

The number of MPs will be increased to 600

Parliamentary and presidential elections will be held simultaneously every five years

The legislative prerogative of the Parliament will be maintained

High-ranking public executives will be directly appointed by the president

The Parliament will be able to request an investigation on the president's affairs, by passing a majority vote

The investigation decree for the president requires 360 votes

The president can be sent to the high court with 400 votes

The president will appoint ministers and vice president(s)

Both the president and the Parliament will be able to request a re-election

State of emergency will be declared by the president and approved by the Parliament

The Board of Judges and Prosecutors will be comprised of the Minister of Justice, the Undersecretary, seven members appointed by the Parliament, and four members appointed by the president

The president must get parliamentary approval for the budget

Judiciary, in addition to independence, will also be defined as impartial

Military courts will be restricted to disciplinary issues among military officers

Turkey's
Constitutional
History

A Timeline

1808

Charter of Alliance; an agreement between the central government of the Ottoman State and local rulers restricting the authority of the Sultan.

**1876**

Ottoman constitution of 1876, the beginning of the constitutional era in Turkey

1909

Revisions to the existing constitution

**1921**

First constitution of the Republic of Turkey

1924

New constitution, considered to be less democratic than the previous:

- No separation of powers. Executive and judiciary were also under parliament's control
- De facto, no multiparty system.

1928

Religious remarks removed from the constitution

1931

Fiscal amendments

**1934**

Universal suffrage begins

1937

Republican People's Party's (CHP) principles imposed on the constitution through the amendment

1960

May 27 coup d'etat

1961

Constitution instated after the coup. It introduced the bicameral system.

- The executive branch is left to president and the council of ministers
- The judiciary branch is left to impartial courts. Supreme Board of Judges and Prosecutors established.
- Supreme Court is established.
- Unions, labor agreements and strikes are allowed.

1971

March 12 Memorandum

1972

Council of Ministers were given the authority to issue decrees

- Civil servants' right to establish unions was abolished
- Autonomy of universities weakened
- State security courts with expanded jurisdiction were established

1980

September 12 coup d'etat

**1982**

Another constitution instated after a coup. Unicameral system reinstated.

- Executive branch is empowered
- The focus shifted from the people to the state as opposed to previous constitutions.

1987

- Voting age lowered to 19
- Number of MPs increased to 450 from 400
- Bans on certain leaders abolished

1993

Restrictions on setting up TV and radio stations eased

A Timeline

1995

Freedom to set up unions for civil servants

- Workers and public servants given right to labor agreements
- Voting age further lowered to 18
- The ban on political parties to establish women and youth branches abolished
- Academics and university students are given right to be members of political parties
- The number of MPs increased to 550

1997

Coup d'etat (Postmodern coup)

1999

Military members of the State Security Court replaced by civilians

- Privatization of state properties allowed

2001

Crucial changes in line with European Court of Human Rights

- Freedom of communication included in the text
- Gender equality fortified
- Closing political parties made more difficult

2005

Changes in the structure of the Radio and Television High Council



2006

Age of candidacy for MP decreased to 25 from 30

2007

E-memorandum



2007

Changes through referendum

- Elections to be held every four years instead of five
- The president is to be elected through the popular vote.
- Presidential elections to be held every five years instead of seven. This did not apply to the incumbent Abdullah Gul.

2010

Changes through referendum

- Changes in the structure of judiciary and courts.



2014

Recep Tayyip Erdogan becomes the first president of Turkey directly elected through the popular vote.



2016

July 15 attempted coup d'etat



Turkey's Path to the System Change

Coalition Governments in Turkey

Turkish political life has witnessed 20 coalition governments since the first was set up in 1961.

The first coalition government was established in 1961 between the CHP (Republican People's Party) and the AP (Justice Party). The life of this government was too short, limited to only 7 months, due to the sharp divergences on the policy preferences.

The longest coalition was the 57th government which was established in 1999 and lasted until 2002 about 3.5 years. The DSP, ANAP, and MHP were the coalition parties. This period has been characterized by economic crisis and political instability.

Proponents of the presidential system argue that the coalition periods have been years of chaos, crisis, and instability in Turkey. Compared to political instability and low growth rates of coalition governments, one-party governments offer political stability and high economic growth.

57th government; Mesut Yilmaz, Devlet Bahçeli and Bülent Ecevit.

Since the formation of the Turkish Republic in 1923, Turkey has grown an average of 4.8 percent.

During Adnan Menderes' Democrat Party (DP) governments: 6.9 percent annual average growth rate.

During Süleyman Demirel's Justice Party (AP) governments: 6.7 percent annual average growth rate.

During AK Party governments between 2002-2007: 7 percent annual average growth rate.

With the 2008 global economic crisis, the Turkish economy entered into a short period of recession but recovered quickly in 2010 with a 9.2 percent annual growth rate.

The Previous Proposals of the Presidential System

The current debate on the presidential system is not a new phenomenon but has precedents in Turkish politics.

Several leaders promoted a transition from the parliamentary system to the presidential system. This can be traced back to 1970s.

The advocates of the system change argue that the main motive behind the idea of the presidential system is to prevent unstable coalitions and governmental crises, and to consolidate democracy by promoting political stability and governability.

Timeline



In the **1970s**

The National Order Party (MNP) and National Salvation Party (MSP) proposed the presidential system to fix the inefficiency of the state bureaucracy.



In **1979**

The MHP's leader, Alparslan Türkeş, expressed his support for the presidential system in his book, Fundamental Ideas (Temel Görüşler), on the grounds that it would pave the way for a strong and speedy execution of reforms.



In the late **1980s**

Turgut Özal promoted a presidential system claiming that the parliamentary system slows down the initiation of necessary reforms.



In the **1990s**

Süleyman Demirel supported a transition towards the presidential system claiming it provides "political stability," "governability," and "consolidation of democracy."



Necmettin Erbakan (1926 – 2011)

Prominent conservative political leader between 1970 to 2000s. His religious character was perceived as a threat to the secular structure of the state by the military and bureaucracy. His political organizations were banned by the Supreme Court four times. He was toppled from his prime minister position in the 28 February postmodern coup.



Süleyman Demirel (1924 – 2015)

Leader of center right politics in Turkey from the 1960s to 1990s. He became prime minister 7 times between 1964 to 1993 and was elected as president after the death of Turgut Özal in 1993. While he was the target of 12 September 1980 coup, he was criticized for not defending democratically elected government of Necmettin Erbakan as president of the state against the military.



Turgut Özal (1927 – 1993)

A former bureaucrat, Özal entered politics after the political ban of Süleyman Demirel, Bülent Ecevit, Necmettin Erbakan and Alparslan Türkeş by the military junta of 12 September 1980 coup. He was the prime minister from 1983 to 1989 when his Motherland Party won the elections. In 1989 the parliament elected him as the President. He continued to be the President until his sudden death in 1993. He transformed Turkey into a liberal economy and made huge investments in infrastructure sector.



Prime Minister Bulent Ecevit and President Ahmet Necdet Sezer in 2002.

Some of the Recent Crises of the Parliamentary System in Turkey

In 1992, Turkey rapidly slid into political deadlock as tensions between Prime Minister Demirel and President Turgut Ozal peaked over the conflict on who would run the country. While Demirel wanted to preserve his prerogatives as prime minister, Ozal sought to act as an active and performing president. The troublesome relationship between the president and the prime minister resulted in a weak executive branch.

Both the president and the prime minister tried to undermine the executive powers of the other. Their divergence on various issues also had an impact on foreign affairs, which was most evident during the Azerbaijan-Armenia War of 1992. Ozal proposed a more active presence in the conflict while Demirel preferred a low profile foreign policy for Turkey.

In 1997, Turkey experienced another political crisis which produced long-term effects. Demirel was the president and the prime minister was Welfare Party's (RP) Necmettin Erbakan, who formed a coalition government with True Path Party's (DYP) Tansu Ciller. The military was unhappy with Erbakan as the prime minister, considering him a possible threat to the secular state structure. The military intervened through decisions taken in a National Security Council meeting and forced Erbakan to resign from his post. The crisis lasted for several months until prime minister Erbakan and his coalition partner Ciller agreed that the Prime Ministry would pass to Ciller. Following the resignation of Erbakan, Demirel did not commission Ciller to form the new government despite her party having the second highest number of seats in the parliament. This crisis was later named the February 28 "post-modern coup."

In 2001, another political crisis rocked Turkey together with subsequent economic turmoil. A disagreement between then-president Ahmet Necdet Sezer and the Prime Minister Bulent Ecevit in a National Security Council meeting resulted in Sezer throwing a constitution booklet at Ecevit. After the clash was reported in media, panic in the market caused a dramatic increase in the interest rate, the devaluation of the Turkish lira, and Turkish Central Bank losing \$5 billion of its reserves. The crash of the banking system triggered bigger economic turmoil with an increase in unemployment, high inflation, and income inequity.



Former President Abdullah Gul.

Run-up to a Presidential System

Post 2007 Period

The “367 crisis” was characterized by the attempts of certain power hubs at forcing the AK Party to nominate a candidate who was compatible with a certain interpretation of the principles of the Republic. There have been political and legal debates as to the features of the president.

As Ahmet Necdet Sezer’s term was ending, all eyes were on the AK Party which had the parliamentary majority. Two of the potential nominees of the AK Party were Recep Tayyip Erdogan and Abdullah Gul. The CHP took a stance against both these prominent AK Party figures, deeming them incompatible with the principle of secularism. According to this interpretation, the religious lifestyles of these figures and of their wives constituted a major problem in becoming the head of the state. There were protests in major cities against their candidacy and large scale media attacks.

Despite the uncompromising stance of the opposition, Abdullah Gul became the presidential candidate nominated by the AK Party.

At this point, Sabih Kanadoglu, former chief public prosecutor of the Court of Cassation, came up with a new interpretation, claiming that a minimum of two-thirds of the MPs were necessary for a candidate to be elected. This required 367 MPs to be present at the parliament during the election. Based on Kanadoglu’s 367 argument,

the first round of the elections was annulled by the Constitutional Court after it was brought by the CHP. Thus, Abdullah Gul could not be elected despite receiving 352 votes. The crisis worsened with the e-memorandum of the Turkish General staff. The memorandum was considered to be a military intervention in the political arena. The AK Party did not budge, and took the country to July 22 snap elections. It increased its popular vote to 46.6% and retained its majority in the parliament.

After the re-nomination of Abdullah Gul by the AK Party and his election with the presence of the MHP in the Parliament, a constitutional amendment package was proposed by the AK Party. The major change, which was approved by a vote of 68.95%, was the election of the President directly by the public. With the adoption of this change, Turkey has been in a system where two main bodies are elected directly by the public: the president and the prime minister. This new phenomenon raised the debate over the presidential system.



Election of Erdogan Through Popular Vote

Erdogan has become the first popularly elected president of Turkey.

Recep Tayyip Erdogan, who had been the most powerful figure in the AK Party, decided to run for the presidency in 2014 when Abdullah Gul's term was ending. It was going to be the first election where the public was going to vote for the president. He was promising an active presidency where he would go beyond the mostly ceremonial position.

Receiving the legitimacy directly from the public itself, he suggested, is a reason to be more active in the executive.

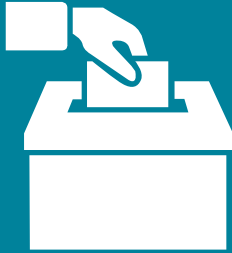
The CHP and the MHP nominated Ekmeleddin Ihsanoglu as their joint candidate whereas HDP nominated Selahattin Demirtas. In the end, Erdogan was elected in the first round, receiving 51.79% of the vote, and became president on August 28, 2014.

Erdogan had long ago stated his conviction that the presidential system would be more beneficial to Turkey. During his presidency, he has

maintained this position by repeatedly stating that Turkey needs a stable, strong and swift executive branch. The AK Party claimed Erdogan has been a de facto semi-president after being elected by popular vote. The argument was that the current system was a semi-presidential system since both the prime minister and the president are elected by popular vote. The system has not encountered a deadlock due to the good relations between the PM and the president. However, if the leaders were to follow distinct policies, which they could, the system would be jammed. Due to the popular legitimacy of both figures, a double-headed executive branch risks inaction through a political crisis.

The debate had ceased after the July 15 coup attempt in 2016 amidst internal and external security problems. The debate was reopened after MHP Chairman Devlet Bahçeli's remarks on the presidential system and the existential crises Turkey was in.





Presidential Elections in Turkey:

The process

The constitutional amendment package envisages changes in election procedures. The most important change is that elections of the parliament and the president will be held on the same day every five years. This is proposed as a shield from the instability seen during the coalition periods. If a political crisis erupts between the executive and the legislative branches, it will be addressed and resolved through elections. The critiques, on the other hand, claim that holding elections on the same day might lead to merging the executive and the legislative powers.

The presidential election will be held within forty-five days if the presidential post becomes vacant. The elections can be called either with a three-fifth of the Grand National Assembly's vote, or by a presidential resolution. Once a new election is called, both will be held together.

To run for the presidency, one must be a Turkish citizen over forty years of age, have completed

higher education, and be eligible to be a deputy. The president-elect's membership to the Parliament shall cease if he/she was an MP. Both the president and the parliament will serve for a term of five years.

There are several ways to nominate a presidential candidate. A presidential candidate can be nominated by political parties that received a minimum of 5% of the votes in the previous election. Political parties can also nominate a candidate together if they reach the minimum vote of 5%. A nomination by at least a hundred thousand voters is also possible.

In the elections, the person who takes the absolute majority of the votes will become the president. If the absolute majority is not reached in the first round, a second election will be held between the two candidates who took the most votes in the first round. The candidate who takes the majority of votes in the second round will be the president.

Proposed Constitutional Amendment: Parliamentary Journey

The constitutional amendment proposal submitted by the AK Party to the Presidency of the Grand National Assembly of Turkey (GNAT) on **December 10, 2016**, and signed by **316 deputies** was enacted on **January 21, 2017, after 42 days** as "Law on the Amendment of the Constitution of the Republic of Turkey."

11 October 2016

MHP Chairman Devlet Bahçeli made a statement on October 11, 2016 at the Parliamentary Group Meeting of his party: "If the AK Party wants to continue its commitment to the presidential system, it should bring the constitution draft to the GNAT." Subsequently, the constitutional amendment was placed at the forefront of the political agenda.

11 Oct.-10 Dec. 2016

Joint working period: The AK Party presented the draft text of the constitutional amendment to the MHP. (AK Party Gaziantep Deputy Abdulhamit Gul and MHP Afyonkarahisar Deputy Mehmet Parsak, collaborated on the text of the constitution, and the draft text was regularly presented to the leaders of both parties.)

10 December 2016

The proposal, bearing the signature of 316 AK Party deputies, was presented to the GNAT Presidency by the AK Party.

20 December 2016

The parliament's Constitutional Commission began negotiations on the proposal for a constitutional amendment.

30 December 2016

The Constitutional Commission of the Turkish Grand National Assembly completed negotiations for the constitutional amendment.

9-15 January 2017

Discussion for the proposal began at the General Assembly on January 9th. In the first round, the Assembly worked for about **90 hours**. **CHP MPs talked 908 minutes, AK Party MPs 711 minutes, MHP MPs 365 minutes, HDP MPs 492 minutes**. Negotiations and speeches were reflected in the minutes, as **3,059 pages**.

15 January 2017

The first round of voting on the proposed constitutional amendment was completed in the Turkish Parliament

18 January 2017

The second round of voting on the proposal began.

21 January 2017

The constitutional amendment proposal was accepted and enacted in the Turkish Grand National Assembly. A total of 488 deputies attended the secret ballot. There were 339 yes and 142 no votes; 5 votes were blank and, 2 votes were considered invalid.

Arguments of the main political parties regarding the constitutional amendment



The AK Party's Arguments for a Presidential System

• A strong executive branch is necessary for making decisions more quickly and for taking the necessary steps for the country's economic and democratic development.

• There is a confusion in the jurisdictions of the president and the prime minister in the parliamentary system, which adopting a presidential system will clear up.

• The presidential system does not necessarily mean a federal system.

• The presidential system does not pave the way for less democracy there are plenty of democratic presidential systems.

• The presidential system prevents the forming of coalitions which have damaged Turkey in terms of stability and economy in the past.

• The presidential system has been advocated by many of Turkey's previous leaders, such as Ozal and Demirel.

• The proposed presidential system is more in line with Turkish political culture compared to the parliamentary system.

• The stability following the presidential system will lay the grounds for a stronger economy.

• There is precedent for a presidential system in Turkey. Until Atatürk's death, a de facto presidential system was

in place. The president had also held the leadership of a political party. This principle was repealed after 1960 coup.

• The presidential system will create a strong barrier against coups.

• The system in Turkey is already non-parliamentary. The jurisdiction of the president is extraordinarily large. In the new system, more responsibility and accountability will be attached.

• The opponents of the presidential system oppose it because they do not think they can win the presidency. They believe only the AK Party appeals to a large sector of the public and can win the seat.

• The presidential system is necessary to solve the deep-rooted problems of the country more quickly.

• The principle of separation of powers will remain intact in the presidential system. Hence, the parliament will be a strong and independent power in the political system.

• Turkish political life has experienced many severe government crises. The presidential system will put an end to these by providing a sounder political framework for the formation of new governments.

• The presidential system promotes consensus among the political parties and in the country itself. In the parliamentary system, even the small

parties can expect to be a part of the executive branch. Thus, they tend to separate themselves from others and hold on to their differences.

This institutionalizes the conflict and fault lines in society. However, in the presidential system, political parties have to win the majority of the vote. Thus, they are more inclusive.

• The amendment package states the president can be elected for a maximum of two five-year terms. Therefore, the system makes way for the democratic transition of power.

• The parliamentary system has allowed for military and bureaucratic paternalism due to the lack of strong governments.

• The presidential system will strengthen the national security of Turkey.

• The government's vote of confidence will be given directly by the people.

• The parliamentary system produces coalitions that have had negative implications for both justice in representation and stability in administration, which have been inversely correlated. The country had to give up either the stability by allowing coalitions to rule the country, or the just representation by increasing the election threshold.

Source : <http://www.akparti.org.tr>



The CHP's Arguments Against the Proposition

- A disproportionate increase in the president's authority. It opens the way for one-man rule.
- Transition to the presidential system is advocated through its success in the US, but it is different from the US version - the draft destroys separation of powers and increases the executive branch's powers extraordinarily.
- The draft is a step towards a systemic change rather than being a mere constitutional revision. If passed, the new changes lead the way to an authoritarian Turkey.
- There are no checks and balances in the proposed system. The president's jurisdiction is extended without restrictions.
- The election of the president through popular vote does not necessarily guarantee the full representation of the national will. Curbing of checks and balances will lead to an arbitrary rule in the new system.
- In the new system, the executive powers are all gathered in the person of the president whereas currently it rests in the government as well. The system proposes a one-man rule.
- The appointment and dismissal of the ministers and vice presidents are within the mandate of the president and parliamentary approval in their appointment is not necessary in the new system. Moreover, the legislative is further weakened by leaving it bereft of its right to dismiss or to oversee them. The institutions of vote of confidence and questioning of the council of ministers are abolished.
- Under this proposed draft, the path to the president's trial shall be commenced by the signatures of 301 deputies in the proposed 600-seat parliament. Parliament will be able to set up a commission of inquiry by secret ballot of 360 deputies. If the inquiry commission decides to send the President to the Supreme Court to face trial, the President will only be tried following a secret ballot of 400 deputies.

Source : <https://www.chp.org.tr>



The HDP's position

- The HDP boycotted the parliamentary voting.
- They argue that the constitutional amendment will result in one-man rule.
- The HDP announced that they are going to campaign for 'no' in the referendum and, they plan to campaign separately from CHP because CHP's intention is to maintain the status quo while they demand a "democratic, civilian and pluralist constitution".
- They also claim that making constitutional changes while a number of HDP MPs are detained, means ignoring a part of society.

Source : <https://www.hdp.org.tr>



MHP leader Bahçeli and AK Party leader Yıldırım shaking hands.



The MHP's position

- The MHP traditionally represents the nationalist segment of Turkish society.
- The Chairman of the MHP, Devlet Bahçeli, has become a staunch supporter of the presidential system.
- Their primary argument is that Turkey is going through an extraordinary existential situation, and the presidential system, with its strong executive branch, is what Turkey needs.
- The current system already exhibits a strong semblance to the presidential system. What the constitutional amendment will do is to properly name the de facto situation.
- The presidential system is a suitable system of government for the Turkish people. The MHP argues the presidential system is compatible with the historical roots of Turkish culture as well.
- The constitutional amendment aims to fix systemic issues.
- The presidential system will contribute to the national security of Turkey.
- The parliament will be stronger compared to the current system. The opposition deputies usually cannot pass laws in the parliamentary system. They can be more active in the presidential system.

Source: <https://www.mhp.org.tr>

The AK Party and MHP's Collaboration

The roots of the agreement between the AK Party and MHP on the constitutional amendment goes back to July 15. MHP supporters' reaction against the July 15 coup attempt made negotiations essential, especially for Devlet Bahçeli. The AK Party took the chance and offered Bahçeli a partial change in the constitution.

Following Bahçeli's statements, Prime Minister Binali Yıldırım and Devlet Bahçeli met at Cankaya Mansion in Ankara on October 17, 2016.

On November 15, the AK Party presented its package draft to the MHP. Later, the AK Party's Abdulhamit Gül and MHP's Mehmet Parsak began to work on the draft, on November 29 it became clear that the two sides agreed on some level, and the draft was submitted to the party leaders.

After holding another meeting at Cankaya Mansion on December 1, Yıldırım and Bahçeli declared that they reached an agreement. On December 10, the AK Party presented their draft proposal to the Parliament with 316 deputies' signatures; and Abdulhamit Gül and Parsak presented the amendment to the press.

EGEMENLİK KAYITSIZ SARTSIZ MİLLETİNDİR

The Constitutional Amendment: 18 changes

The Constitutional Amendment: 18 changes

1st Change: Article 9: Judicial Power

The Current Version

Judicial power shall be exercised by independent courts on behalf of the Turkish Nation.

The Proposed Version

Judicial power shall be exercised by independent and impartial courts on behalf of the Turkish nation.

2nd Change: Article 75: The Grand National Assembly

The Current Version

The Grand National Assembly of Turkey shall be composed of five hundred and fifty deputies elected by universal suffrage.

The Proposed Version

The Grand National Assembly of Turkey shall be composed of six hundred deputies elected by universal suffrage.

3rd Change: Article 76: Deputy Eligibility

The Current Version

Every Turk over the age of twenty-five is eligible to be a deputy. Persons who have not performed compulsory military service shall not be elected as a deputy.

The Proposed Version

Every Turk over the age of eighteen is eligible to be a deputy. Persons (at the time of election) having affiliations with military service shall not be elected as a deputy.

4th Change: Article 77: Election Period

The Current Version

Elections for the Grand National Assembly of Turkey shall be held every four years.

The Proposed Version

Elections for the Grand National Assembly of Turkey and elections for the presidency shall be held every five years and on the same day.

5th Change: Article 87: The Grand National Assembly's Duties and Powers

The Current Version

The duties and powers of the Grand National Assembly of Turkey are to enact, amend, and repeal laws; to scrutinize the Council of Ministers and the ministers; to authorize the Council of Ministers; to issue decrees having the force of law on certain matters; to debate and adopt the budget bills and final accounts bills; to decide to issue currency and declare war; to approve the ratification of international treaties.

The Proposed Version

The duties and powers of the Grand National Assembly of Turkey are to enact, amend, and repeal laws; to debate and adopt the proposed budget bills and final accounts bills; to decide to issue currency and declare war; to approve the ratification of international treaties.

6th Change: Article 98: Ways of The Grand National Assembly's Information Acquisition and Supervision

The Current Version

The Grand National Assembly of Turkey shall exercise its supervisory power by means of the question, parliamentary inquiry, general debate, censure and parliamentary investigations.

The Proposed Version

The Grand National Assembly of Turkey shall exercise its supervisory power by means of parliamentary inquiry, general debate, parliamentary investigations and written questions.

7th Change: Article 101: President's Candidacy and Election

The Current Version

The President of the Republic shall be elected by the public from among the members of the Grand National Assembly of Turkey who are over forty years of age and have completed higher education, or from among Turkish citizens who fulfil these requirements and are eligible to be deputies.

If the president-elect is a member of a party, his/her relationship with his party shall be severed and his/her membership of the Grand National Assembly of Turkey shall cease.

The Proposed Version

The President of the Republic shall be elected directly by the public from among Turkish citizens who are over forty years of age and have completed higher education and who are eligible to be deputies.

The President-elect's membership of the Grand National Assembly of Turkey shall cease.

8th Change: The Major Change: Article 104, The President's Duties and Powers

The President of the Republic is the head of the state. The executive power shall be exercised by the president.

He/she appoints vice presidents and ministers and dismisses them.

He/she appoints senior public executives, dismisses them, and regulates the procedures and principles of their appointment by presidential decree.

He/she designates the national security policy and takes the necessary measures.

The president can issue decrees regarding executive power. The basic rights, personal rights and duties, and political rights and duties that are in the constitution cannot be regulated by presidential decree.

If there are conflicting provisions in presidential decrees and laws; laws prevail.

If the Grand National Assembly issues a law on the same topic, the presidential decree becomes obsolete.

The president can issue bylaws to ensure application of laws and with the condition of non-contradiction with laws.

9th Change: Article 105: The President's Criminal Liability

The Current Version

No appeal shall be made to any judicial authority, including the Constitutional Court, against the decisions and orders signed by the President of the Republic on his/her own initiative.

The President of the Republic may be impeached for high treason on the proposal of at least one-third of the total number of members of the Grand National Assembly of Turkey, and by the decision of at least three-fourths of the total number of members.

The Proposed Version

A motion for initiating an investigation of the president on allegations of a crime must be given with an absolute majority of the members of the Grand National Assembly.

In case an investigation is opened, the investigation is carried out by a 15-member committee made up of the political parties in the parliament in proportion to their power.

The Grand National Assembly can take the decision to send the president to the Supreme Court with two-thirds of its members' secret votes.

A president under an investigation cannot take the decision to take the country to elections.

A president's term is ended if he/she is sentenced to a crime which is among the conditions of presidential eligibility.

10th Change: Article 106: Vice Presidents and Ministers

The Current Version

In the event of a temporary absence of the President of the Republic on account of illness, travel abroad or similar circumstances, until the President of the Republic resumes his/her functions, and in the event that the Presidency falls vacant as a result of death or resignation or for any other reason, until the election of a new President of the Republic, the Speaker of the Grand National Assembly of Turkey shall serve as Acting President of the Republic and exercise the powers of the President of the Republic.

The Proposed Version

After his/her election, the president can appoint one or more vice presidents.

In case of the vacancy of the presidential post for any reason, the presidential election is held in forty five days.

In the event of a temporary absence of the President of the Republic on account of illness, travel abroad or similar circumstances the vice president shall serve as Acting President of the Republic and exercise powers of the President of the Republic.

Vice presidents and ministers are appointed by the president from among the ones who are eligible to be deputies.

Members of the Grand National Assembly cease to be members in case they are appointed as vice presidents or ministers.

Vice presidents and ministers are responsible to the president.

11th Change: Article 116: Renewal of the Elections of the Grand National Assembly and the Presidency

The Current Version

In cases where the Council of Ministers fails to receive a vote of confidence under Article 110 or falls by a vote of no-confidence under Article 99 or 111, if a new Council of Ministers cannot be formed within forty five days or fails to receive a vote of confidence, the President of the Republic, in consultation with the Speaker of the Grand National Assembly of Turkey, may decide to renew the elections.

The Proposed Version

The elections can be called either with a three-fifth of the Grand National Assembly or by the President's decision. The elections are held together.

Both the President's and the Grand National Assembly's members' terms are five years.

12th Change: Article 119: Emergency Situation Management

The Current Version

In the event of natural disaster, dangerous epidemic diseases or a serious economic crisis, the Council of Ministers meeting under the chairpersonship of the President of the Republic, may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.

The Proposed Version

In cases of war or a situation necessitating war, mobilization, insurrection against the country or the Republic, threats to the indivisibility of the country and the nation, widespread violence against the constitutional order or basic rights and freedoms, natural disaster, dangerous epidemic diseases or a serious economic crisis; the president can declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months. It is to be published in the Official Newspaper and presented to the Parliament for vote.

13th Change: Article 142: Establishment of Courts

The Current Version

The formation, duties and powers, functioning and trial procedures of the courts shall be regulated by law.

The Proposed Version

The formation, duties and powers, functioning and trial procedures of the courts shall be regulated by law.

Military Courts cannot be established except for in disciplinary courts. Yet, courts-martial can be established in cases of military personnel's crimes in situations of war.



The Constitutional Amendments Changes

14th Change: Article 146: The Constitutional Court

The military members are removed from the Constitutional Court, and the number of its members decreases to 15 from 17.

The names of the Military Court of Cassation and the Military High Administrative Court are removed from the article.

15th Change: Article 159: The High Council of Judges and Prosecutors

The Current Version

The High Council of Judges and Prosecutors shall be composed of twenty two regular and twelve substitute members; and shall comprise three chambers.

The members are elected for four years. Four regular members by the president, three regular three substitute members by the court of cassation, one regular one substitute member by Turkish Academy of Justice, seven regular four substitute members by judges and prosecutors.

The Proposed Version

The Council of Judges and Prosecutors shall be composed of thirteen regular members; and shall comprise two chambers.

The Council's four members are appointed from among judges and prosecutors by the president. Seven members are appointed by the Grand National Assembly. The minister of justice is the head of the council and the undersecretary is its natural member.

16th Change: Article 161: Budget and Final Account

The Current Version

The Council of Ministers presents the budget to the Grand National Assembly.

The Proposed Version

The President presents the budget to the Grand National Assembly.

17th Change: Changed Statements in the Constitution

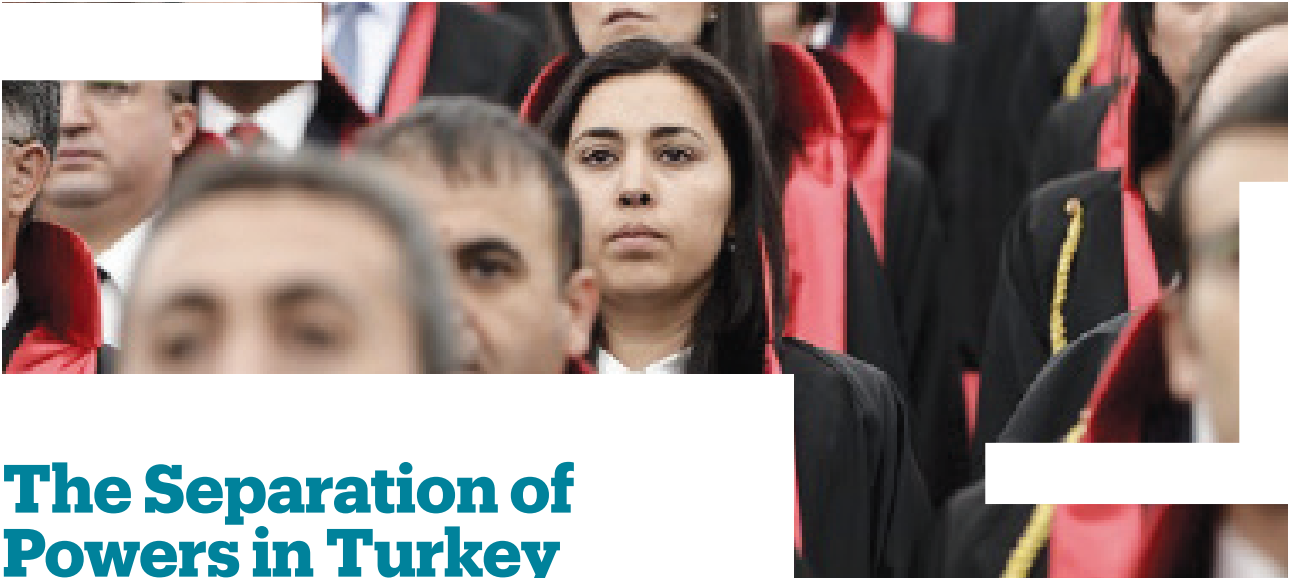
With this change, some statements and phrases are either removed or modified to make it more compatible with the new version.

18th Change: Election Dates

Elections are to be held on 3/11/2019. Until that time, the existing president and deputies hold office. If the Parliament is to take an election decision, two elections are held together.

The Council of Judges and Prosecutors members are elected within 30 days and they assume office within forty days from this law comes into force.

From this law comes into force onwards, the Military Court of Appeals, the Military High Administrative Court and the Court Martials are repealed.



The Separation of Powers in Turkey

The modern understanding of “separation of powers” goes back to Montesquieu, who described the term as a form of governance in which the political power is divided among legislative, executive and judiciary branches. The essence of separation of power is that each branch has its own independent power and clearly defined areas of responsibility that prevent any branch from intervening into another’s area, and thereby providing checks and balances.

The opponents of the parliamentary system criticize it for the reasons below. In the current parliamentary system, the separation of powers is quite fragile. The Parliament is not properly functioning because the lawmaking process is dominated by the government. The government proposes a bill and the parliament votes on it. Moreover, the executive branch has two voices. The prime minister’s statements may contradict the statements of the president, which might then result in conflict. Also, in the current parliamentary system, the same people can be part of both legislative and executive branches, diminishing the efficiency of the separation of powers. For instance, a minister can also be a parliament member, which means the legislative and executive powers are merged in one person.

The proponents of the constitutional amendment package claim that the presidential system promises a strong division of powers to ensure people’s democratic expectations. They claim that the parliament also retains its autonomy because legislators will have the authority to propose bills while the executive power will not be allowed to submit proposals. If the president rejects a draft law and returns it, the parliament can readopt it without amendment with an absolute majority. The president will draft the annual state budget; however, this should be approved by the parliament in order to be enacted. If parliament rejects the new year’s budget, the previous year’s budget will be used temporarily with an increase of the revaluation rate.

In cases where members of parliament were appointed as ministers or vice presidents, their membership will cease to exist. This change will prevent cases where a person occupies positions both in the legislative and executive branches, consolidating separation of powers between the legislative and executive.

The parliament continues to hold the audit and monitoring mechanisms on the executive branch through parliamentary investigations, general debates, and written questions. If written questions addressed, the vice presidents and ministers must reply within 15 days.

The president can only issue presidential decrees on issues pertaining to the executive area, leaving the regulation of basic rights and duties to the legislative branch. Additionally, a presidential decree cannot be issued on topics that are regulated by the law. If the parliament and the president issue decrees on the same topic, the presidential decree becomes obsolete. Also, the parliament can bring presidential decrees before the Constitutional Court for constitutionality review.

In case of war, natural disaster or circumstances that necessitate war conditions, the president can declare a state of emergency not exceeding 6 months, however, this decision should be approved by the Parliament; if not, it will not be implemented.



What is Changing?

The Legislature

- The number of parliamentary seats will be raised from 550 to 600
- The age of candidacy for the parliament will be lowered from 25 to 18
- Presidential and parliamentary elections will be held every five years
- Parliament will continue to have the power to legislate, amend, and annul laws
- Parliament will continue to be able to call for debate, conduct parliamentary inquiries, and submit questioning motions

The Judiciary

- 4 members of the Supreme Board of Judges and Prosecutors' members will be appointed by the president and 7 elected by Parliament

- The Justice Ministry Undersecretary will have a permanent seat on the board
- Military commissions and military courts will be abolished
- The number of seats of the Constitutional Court will be reduced from 17 to 15

The Executive

- The president will be the head of the state and will wield executive power
- The president will not lose ties to his/her party
- Lawmakers from political party groups, parties that received at least five percent of the total in the last general elections, and people who receive support of at least 100,000 voters will be eligible to run for the presidency
- The president will appoint vice presidents and ministers

- Investigations into the president on suspicion of commission of a crime will be initiated with an absolute majority of the Parliament
- President is limited to two terms
- The president is to declare a state of emergency and submit it to Parliament for approval
- The president is to formulate a budget and present it to parliament for approval
- Top public officials will be appointed by the president
- Both the president and parliament will be able to call for fresh elections
- The president will be able to publish decrees on issues related to the executive power

Source: Anadolu Agency



PHOTO BY REUTERS

The July 15 junta was stopped by the people.

Constitutional Amendment in Terms of the Transformation of Military-Civilian Relations

Constitutional Amendment Regulating Civil Military Relations

The July 15 coup attempt revealed that the military establishment's relations with the political structure remain problematic. Thus, military civilian relations are to be reorganized within the scope of the constitutional amendment. The constitutional amendment aims to solidify control by elected politicians over appointed officials. With the rearrangement of these relations, a more democratic political system will be achieved.

Removing martial law

Martial law is abolished for it was abused by the military authorities in the past to intervene in the civilians' jurisdiction.

Removal of military jurisdiction

The jurisdiction of military courts which was defined very broadly will be transferred to civil courts.

Removal of the General Command of the Gendarmerie from the National Security Council.

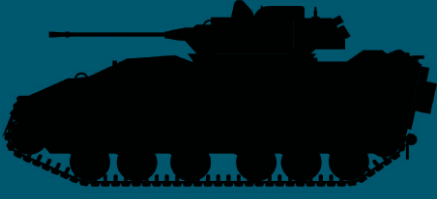
The membership of the General Command of the Gendarmerie in the National Security Council will cease.

State Supervisory Board's ability to audit Turkish Armed Forces

Currently, the State Supervisory Board can audit all public institutions except the army. With the amendment, the armed forces will be audited as well.

Supreme Military Council decisions will be subject to judicial review

Currently, the Supreme Military Council decisions are not open to judicial review. With the amendment, this changes as well.



Military interventions in Turkey



JANUARY 23, 1913 BAB-I ALI RAID

Preparations for the insurrection were initiated under the leadership of the Union and Progress Party, Enver Pasha's forces entered into Bab-i Ali, the presidential building of the government. Defense Minister Nâzım Pasha was shot and killed. Prime minister Kamil Pasha was forced to sign a resignation letter.



MAY 27, 1960 COUP

'The National Unity Committee', the military junta with 38-members from the Turkish Armed Forces, overthrew the Democratic Party government on 27 May 1960. General Cemal Gursel was the leader of the junta. Adnan Menderes (Prime Minister), Fatin Rüştü Zorlu (Minister of Foreign Affairs) and Hasan Polatkan (Minister of Finance) were executed.



FEBRUARY 22, 1962 COUP ATTEMPT

Colonel Talat Aydemir, Commander of the War Academy attempted to overthrow the government founded after May 27, 1960 coup. His attempt was unsuccessful.



MARCH 12, 1971 MEMORANDUM

Memduh Tağmaç, Chief of General Staff Faruk Gürler, Naval Forces Commander Celal Eyiceoglu, and Air Force Commander Muhsin Batur sent a memorandum to President Cevdet Sunay, requiring the government to resign. Prime Minister Süleyman Demirel offered his resignation. CHP Kocaeli deputy Nihat Erim, became the Prime Minister for the new supra-party government.



SEPTEMBER 12, 1980 MILITARY INTERVENTION

The Turkish Armed Forces in its chain of command seized the state administration. The coup declaration was read by the Chief of General Staff Kenan Evren. With the intervention, the Süleyman Demirel government was dissolved, the Turkish Grand National Assembly was repealed and all the parties were closed down. Party leaders were first held in military custody, and then tried. In 1982, a new constitution was designed to change the political system.



FEBRUARY 28, 1997 POST-MODERN COUP

The process began at an extraordinary National Security Council meeting. The decisions made at the meeting prompted a campaign against "obscurantism" by the military and bureaucratic establishment. The process entailed an intervention in the lifestyles of religious people and their dismissal from public positions, and a ban on entry of head-scarfed women to universities.



APRIL 27, 2007 E-MEMORANDUM

On April 27, 2007 at 23:20, a press release by the General Staff of the Turkish Armed Forces stated that the basic values of the Republic of Turkey, especially secularism, were eroding. It was about the presidential election after president Ahmet Necdet Sezer and the military's concerns about the secular regime.



JULY 15, 2016 COUP ATTEMPT

The Gulenist junta in the army staged a coup against the government at 22:00 on July 15, when the bridges in Istanbul were blocked by soldiers. In the capital Ankara, the Turkish Grand National Assembly was bombed by F16 planes and helicopters. In many cities, especially Istanbul and Ankara, tanks were all around. President Recep Tayyip Erdogan invited the public to go out into the streets and people began to flock to the squares following his call. There were intense conflicts between the military forces and the police. 248 people were killed and more than 1,500 people were wounded by the coup plotters.

Voting in the Parliament

ARTICLE	ACCEPT		REJECTION		BLANK		INVALID		NEUTRAL		TOTAL	
	1.round	2.round	1.round	2.round	1.round	2.round	1.round	2.round	1.round	2.round	1.round	2.round

1	347	345	132	140	2	1	1	-	2	-	484	486
2	343	342	133	139	2	4	1	-	1	-	480	485
3	341	342	139	137	3	3	2	3	-	-	485	485
4	343	342	139	138	2	4	2	1	-	1	486	486
5	343	342	7	140	3	4	1	-	-	-	354	486
6	343	342	137	138	2	3	1	2	-	-	483	485
7	340	340	136	136	4	4	2	3	-	1	482	484
8	340	339	135	138	5	2	1	3	-	1	481	483
9	343	341	137	137	3	4	2	1	-	-	485	483
10	343	340	135	136	3	3	2	2	-	-	483	481
11	341	342	134	135	5	3	2	-	1	1	483	481
12	344	342	133	138	2	2	3	2	-	-	482	484
13	343	343	133	136	3	3	2	2	1	-	482	484
14	341	342	133	139	4	3	4	3	1	-	483	486
15	341	342	134	141	5	2	2	1	1	-	483	486
16	341	342	134	141	3	2	3	1	1	-	482	486
17	342	341	135	139	3	2	2	3	2	-	484	485
18	344	343	131	142	2	2	3	1	1	-	481	488

Turkey's Referendum Timeline

The Turkish people have voted favor in five out of six referendums. Only the 1988 referendum, which was about holding local elections early, failed to receive enough support.

YEAR	ISSUE	RESULT
1961	July 9; the referendum was held after a group in the military organized a coup d'état.	<div>61,7% - YES</div> <div>38,3% - NO</div>
1982	Sept 12; the second referendum was also held after a military coup.	<div>91,4% - YES</div> <div>8,6% - NO</div>
1987	Sept 6; it was about whether the banned political leaders should be allowed to return to politics.	<div>50,2% - YES</div> <div>49,8% - NO</div>
1988	Sept 25; this referendum was about holding local elections a year early.	<div>35% - YES</div> <div>65% - NO</div>
2007	Oct 21; the fifth referendum was about the election of the president by popular vote.	<div>68,9% - YES</div> <div>31,1% - NO</div>
2010	Sept 12; the last referendum was aimed at bringing parts of the constitution in line with the EU.	<div>57,9% - YES</div> <div>42,1% - NO</div>

Source: Anadolu Agency



What Happens Next?

A joint ballot will be used for the people's vote. On the ballot, there will be "yes" on the white, and "no" on the brown.

The process leading to the referendum began with the presentation to the president of the "Law on the Amendment of the Constitution of the Republic of Turkey," adopted in the General Assembly of the Turkish Grand National Assembly.

The law was presented to the president by the Turkish Grand National Assembly. The president had 15 days to examine the law.

The amendment could either be returned to GNAT for reconsideration by the president or it would be published in the Official Gazette of the Republic of Turkey and be submitted to a referendum.

President Erdogan approved the draft and sent it to the PM's office to be published in the Official Gazette.

The referendum is to be held on April 16, 2017.

The Supreme Election Board (YSK) will take all measures and make preparations for the constitutional amendments to be submitted to the public. This process will be conducted by the election boards under the management and supervision of the Supreme Election Board.

Turkish citizens in foreign countries will also be able to vote.

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