

# The Presidential Government System in Turkey: Discussions, Shortcomings, Suggestions

Nazım KARTAL

Assoc. Dr. Sinop University, Boyabat Faculty of

Economics and Administrative Sciences,

Member of the Faculty of the Department of

Political Science and Public Administration.

E-mail: nazimkartal@yahoo.com

Emrullah Ataseven

Research Assistant, Agri Ibrahim Cecen University,

Faculty of Letters, Foreign Languages Department.

E-mail: ataseeven@yahoo.com

Received: Feb. 5, 2018 Accepted: Feb. 26, 2018 Online published: Mar. 3, 2018

doi:10.5296/jpag.v8i1.12756

URL: <https://doi.org/10.5296/jpag.v8i1.12756>

## Abstract

The presidential government system introduced in Turkey with a referendum caused much stir in the political life of the country. The communal subversion experienced was almost at unprecedented scale. Much writing was produced on the ideological and factionalizing climate that the referendum result brought. This article focuses on the technical and administrative implications the new model presents. The model, surely, suffers some shortcomings and should be amended in some respects. This article determines some of these shortcomings and offers solutions considering the democratic and administrative traditions of Turkey.

**Keywords:** presidential government system, Turkish political life, Turkish administrative structure, government systems

## 1. Introduction

Given the administrative history of Turkey, it can be said that almost all systems of

government have been experienced. If we mention about them in general terms, the Ottoman Empire was ruled for about 600 years by an absolute monarchy. A constitutional monarchy was introduced with the 1876 Kanun-i Esasi<sup>1</sup> (Keskinsoy, 2017: 87), a parliamentary government system attempt was made between 1921 and 24<sup>2</sup> (Keskinsoy, 2017: 97), and a single-party, ‘anti-democratic process’, rule was experienced between 1924 and 1950. No matter how often it was interrupted with military coups and broken off from its original form through amendments, a multi-party parliamentary system was implemented between 1950 and 2014. The reason that this process cuts off in 2014 is the president (R. Tayyip Erdoğan), who became the head of the executive by means of constitutional changes, coming to power by de facto election. The president’s coming to power through election made the system that was already thought to be problematic to be evaluated as a parliamentary system. In this regard, it is possible to say that a partial-presidential government system has been implemented from 2014 until the time when the new system enters into force in Turkey.

The road to a new government system in Turkey was introduced with the referendum held on 16 April 2017. This system has been defined as the “Presidential Government System”, which seems to be a phrase unique to Turkey. There is no doubt in the point that this system is a presidential system, but it is true that it is not the same like a classical presidential system and that it bears differences specific to Turkey<sup>3</sup> (Karatepe et al., 2017: 44). It has been stated that these differences have been put forward by lawmakers to open up deadlocks experienced in other countries, particularly the United States<sup>4</sup> (Karatepe et al., 2017: 49) and to us, this is true to a limited degree. In one way or another, the system that has been accepted in Turkey has taken shape within the framework of demands for easy and quick action, by consolidating the political stability and executive power.

The governmental system change in Turkey almost dichotomized the society. The results of the referendum reveal this division too. The referendum was barely won, the results being such: Yes: 51.4% and No: 48.6%. This result was interpreted in a manner that the AK Party government was unable to convince the people regarding a system change,<sup>5</sup> and also this approval rate was regarded as insufficient for a large scale change.

---

<sup>1</sup>There are evaluations regarding the fact that the 1876 Kanun-i Esasi did not bring significant changes in the Ottoman monarchic and theocratic structure and the provisions introduced are nothing more than stating the obvious. Ömer keskinsoy, quoted from Recai Galip Okandan, p. 87

<sup>2</sup>In fact, the first step towards a parliamentary system was taken with changes made in 1923 through the Constitution Act of 1921. Ömer Keskinsoy, p. 97.

<sup>3</sup>Şükrü Karatepe et al., Sorularla Cumhurbaşkanlığı Hükümet Sistemi, Memursen Yayınları, Ankara, 2017, p. 44.

<sup>4</sup>Şükrü Karatepe et al., Sorularla Cumhurbaşkanlığı Hükümet Sistemi, p. 49. “While the system in the United States has not become wholly inoperative, it is doubted whether it works as perfectly as theorists of the separation of powers hope.” Şule Özsoy Boyunsuz, “Siyasi Parti Sistemlerine Göre Başkanlık Rejiminin Türklere”, Amme İdaresi Dergisi, volume 49, number 3, September 2016, pp. 1-40, p. 22.

<sup>5</sup>We can say the same thing - even more so - for the No front which is led the Republican People’s Party because according to previous surveys, the electorate has never expressed much favor for a presidential system. Therefore, it is seen that the No Front couldn’t firmly hold together the ideas of an electorate that were already sharing a certain general conviction. Even if the results were “yes” by a narrow margin, it is necessary to note that the decisive attitude that either President Recep Tayyip Erdoğan and Prime Minister Binali Yıldırım or the prominent figures of the AK Party took against the military coup attempt were effective.

While during referendum propaganda process the Yes front touched on more technical subjects like “strong government,” “quick decision-making,” “growth,” and especially “stability,” the No front laid emphasis on themes like the republican values and democracy and tried to draw attention to more political issues like the fact that “dynamics of the base of the republic were undermined” with the constitutional changes and that the process “is dragging Turkey towards dictatorship.” It can be said that the concerns of the No front found a response among the electorate. No matter how much the Yes front tried to explain that these concerns did not correspond to real circumstances, a significant part of the society expressed concerns regarding democracy in this sense, and the electorate reflected this in the ballot boxes. In contrast to this, the Yes electorate also seems to have used its political preference in favor of democracy: Because even with a superficial observation, we can say that this party said Yes in contemplation of the fact that the changes would strengthen the Turkish democracy, or at least would not weaken democracy<sup>6</sup> (Karatepe et al., 2017: 23). Therefore, those who said No and those who said Yes (at least majority of them) reflected their will through demand for “more democracy.”

In this study, we will attempt to analyze the “Presidential Government System,” which was accepted with a referendum took place on April 16, 2017. The evaluation of debates and ambiguous points before and partially in the wake of referendum was made in a manner that includes subjectivities. The “shortcomings” that have been seen as problematic for the constitutional changes and possible risks were discussed. Some suggestions were put forward for dealing with problematic issues and shortcomings. But above all, a brief overview on government systems and the basic aspects of presidential government system were presented.

## 2. Systems of Government

As it was mentioned in the introduction section, all democratic systems of government will have been experienced in Turkey with the de facto implementation of the new system of government. What are these governmental systems that are considered as democratic? Four types of systems of government are considered as such in the literature, these are:<sup>7</sup>

Parliamentary system,

- a. Presidential system,
- b. Partial-presidential system, and
- c. Parliamentary government system.

Systems of government - including those that are non-democratic - are shaped according to the formation and positions that the legislature, executive, and judiciary (which are the three branches and functions of government) take against one another. As the judiciary occupies a special place in modern democratic countries as being always impartial and independent, it is

<sup>6</sup>Şükrü Karatepe et al., Sorularla Cumhurbaşkanlığı Hükümet Sistemi, p. 23.

<sup>7</sup>Other than these, there are also non-democratic systems of government (governmental regimes or state systems). Based on their location, they take up titles like dictatorship, monarchy, oligarchy, kingdom, sultanate, and tyranny.

generally excluded from this balance. If the remaining legislature and executive powers are combined into one single branch, they are referred as the “unity of powers,” and if they are represented as separate branches, this is called the “separation of powers.” If the principle of the unity of powers is being implemented in one country and the legislature and executive are combined into the executive branch, monarchism or its derivatives emerge. The decision-makers (legislative power) and the decision-enforcers (executive power) are composed of one person or a few people. If the legislature and the executive are combined in the legislative branch, that is the parliament, then a parliamentary system of government (the conventional system) is what we talk about. At this point, the legislation (parliament), which holds the power to make decisions, implements the decisions it makes with representatives (ministers) it chooses within itself.<sup>8</sup>

The second principle is that of the separation of powers. Here, the representation of legislative and executive authorities by different branches is what we talk about. The principle of the separation of powers can find a field of implementation by two ways: The hard separation of powers and the soft separation of powers.

The hard/rigid separation of powers matters in the presidential system. The interference of two bodies or domination of one over another has been prevented as much as possible, and they have been organized relatively independent from one another. By doing so, inter-bodies transitivity and interference of realm of authority have been minimized. Therefore, we cannot talk about a situation in which powers unilaterally or mutually halts each other’s duties at the core of the presidential system.<sup>9</sup> In the presidential system, the legislature and the executive bodies are selected from separate ballot boxes.<sup>10</sup> Here, one does not arise out of the other ~~it is~~ as it is in the parliamentary system.

The parliamentary system is based on the soft separation of powers (legislative and executive). Therefore, the legislature and executive bodies are not isolated from each other in the parliamentary system but they are intertwined. In the classical parliamentary system, people first forms the legislature (parliament), and the head of state (E.g. President) is elected within the legislative body by the legislation itself. In this dual structure, the current president selects a deputy as prime minister and appoints them to establish a government within the parliament. The prime minister, who is appointed to form the government, selects ministers within the parliament too. The government (cabinet), formed in this way, is presented to the parliament for receiving vote of confidence following the approval of the president. Here, the president, the prime minister and ministers are all elected within the parliament once again by the parliament. The government is accountable to the parliament. The parliament reserves the

---

<sup>8</sup>The parliamentary government system can be qualified as the most democratic system of government among current systems because of this characteristic because the parliament that reflects the preferences of people at the same time retains executive power. Therefore, the willpower of the electorate directly manifests itself in execution.

<sup>9</sup>This is one of the characteristics that separates the system in Turkey from a classical presidential system. Under certain conditions, the president and the legislature can mutually discharge one another (upon calling for new elections).

<sup>10</sup>It should be noted that in the United States, a method different from that of the classic presidential system has been established, and voters have elected not the president but the members who will elect the president.

authority of supervision and disposal of the government.<sup>11</sup>

### 3. Presidential Government System

With the referendum held on April 16, 2017, a presidential system (Presidential System of Government) has come in force in Turkey. A transitional process has been envisaged for some legal regulations to be enacted, and an important part of the changes accepted in the referendum is envisaged to enter into force together with the elections to be held on 3/11/2019.<sup>12</sup>

The main essential characteristics of the presidential system of government can be listed as follows:<sup>13</sup>

- a. First of all, the name of the system (even if it's not so important) has been expressed as the presidential government system and hence the title of the president will remain as the "president".
- b. The President will use his executive power alone, and the legislation will again be held by the TGNA [Turkish Grand National Assembly].
- c. Legislative and executive (presidential) elections will be held on the same day and every 5 years.
- d. The President will be elected by absolute majority of votes.
- e. The President may issue decrees and regulations.
- f. The TGNA and the president will be able to decide on the renewal of the elections. In this case, the two elections will again be held together.
- g. The president can declare a state of emergency and the president can issue decrees during states of emergency.
- h. The President will appoint ministers outside and within the parliament.
- i. Apart from the budget law, the executive body will not have the right to propose laws.
- j. Political party groups will be able to nominate candidates for the presidency along with parties who received at least five percent either individually or

---

<sup>11</sup>These descriptions reflect the characteristics of the classical parliamentary system. No country applies a pure parliamentary system. They develop their systems based on their own political and administrative culture, expectations, and demands.

<sup>12</sup>Should the decision be made of holding the elections before this date, the regulations will go into effect together with the elections.

<sup>13</sup>It is necessary to distinguish the constitutional amendment package, which was approved with the April 16 referendum, from the Presidential System of Government because each component of the amendment package is not directly related to the system of government. Changes in the system that do not reflect the characteristics of this package have been approved. For example, reducing the voting age to 18, increasing the number of deputies to 600, eliminating military prosecution, or extending the term of office of the Assembly from 4 to 5 years are not directly related to the system of government.

all together of the total valid votes in the most recent elections or at least one hundred thousand voters.

- k. The president can appoint one or more vice-presidents after being elected. When the president is not in office, the Vice president will represent the presidency and will use the authorities granted to the president.
- l. The principle of non-accountability of the president will be abolished and his/her penal responsibility will be introduced.
- m. There will be no Council of Ministers, prime ministers, and prime ministry in the new system. This is why, decrees and regulations shall also be removed.

### **3. Basic Points of Discussion Relating to the Presidential Government System**

#### *3.1 What Changes? The Regime or the System?*

During the referendum propaganda process, one point that the No front laid the most emphasis upon and which led a questioning among the voters was the issues voiced in the form of “the regime is changing,” “the republic is lost,” “one-man rule is coming,” “Turkey is being divided.”<sup>14</sup> Two questions arise here: First, what do the concepts of “system” and “regime” mean? The second: what is changing in Turkey with these changes?

The concepts of regime and system can be evaluated within the concept of political system. The political system is also a kind of subset of the social system. Looking at the literature in terms of our subject, it is seen that not only the concepts like regime and system but also different concepts like "shape," "form," "type," "model" are used for this. Each writer prefers to use jargon in his/her own way in this regard. Therefore, there is no single bundle of concepts that have been established in the literature of Turkish political science and public administration and over which all scientists agree<sup>15</sup> (Fendoğlu, 2010: 9). Hence, when a system of government or a government regime is mentioned, it becomes necessary to look at the context of writing and words to understand the original intent. Concepts like regime, system, shape, and model become more meaningful when concepts like ‘political, state, government, and democratic government’ that are put in front of them, and this provides an opportunity for narrowing down what meant. In short, bundle of concepts such as political system-political regime, state system-state regime, government system-government regime, parliamentary system-parliamentary regime, and presidential system-presidential regime can be regarded as interchangeable<sup>16</sup> (Duverger, 1998). However, it is seen that some writers

<sup>14</sup>The Internet links to news samples that contain claims in this case have been removed from the footnotes because they were unnecessary and occupied too much space. These and similar questions expressed in the propaganda process, quoted expressions, or similar items can be found very easily by searching in the Internet.

<sup>15</sup>As if sensing that a discussion like this would occur while defining Parliamentary system, Hasan Tahsin Fendoğlu used these words in a way that wouldn't give rise to debates: “Parliamentarianism, parliamentary regime or parliamentary government, ...” Başkanlık Sistemi Tartışmaları, p. 9.

<sup>16</sup>For conducting this general evaluation, the following sources were used: Maurice Duverger, *Siyasal Rejimler*, Trans: Teoman Tunçdoğan, İletişim Yayınları, (publication place and year has not been specified). Çağatay Okutan, “Siyasal Sistemler”, *Siyaset Bilimi*, ed. Halis Çetin. 3rd Edition, Orion Kitabevi, Ankara, 2012, p. 94, 95, 199, 2007; Arend Lijphart et al. *Çağdaş Demokrasiler*, Tran. Ergun Özbudun and Ersin Onulduran. Yetkin yayınları, p. 62; Ömer Keskinsoy, *Anayasa ve Türk Anayasa Hukuku*, Monopol Yayınları, Ankara, 2017, p. 38;



especially prefer the term “regime” to distinguish democratic and antidemocratic systems of government<sup>17</sup> Lijphart, 36; Akad, 239 & Kışlalı, 237).

When used *per se*, these concepts can not bear a “specific meaning”. Therefore, it is necessary to decipher the intentions of those who use these concepts to make an accurate evaluation. In the referendum propaganda process, the intention by the “changing regime” question that the No front put forward is a glide from especially democracy to forms of administrations that are non-democratic. The concept of "regime" has been preferred to explain that a unitary state will move towards a federal state, and in a more extreme sense towards “division.” Some, who prefer to use a more moderate language, mentioned a possible risk in this regard without claiming that the changes were a direct regime change<sup>18</sup> (Aydınlık, 2017). On the other hand, the Yes front focused on the fact that there is transition from a democratic system to another democratic system, objecting to the use of the concept of regime<sup>19</sup> (Milliyet, 2017).

When we use these concepts in this sense, it means that what was voted and accepted on April 16, 2017 was technically a systemic change. So, what changes is the "system", not the "regime". In theory, there is a transition from parliamentarianism, which is a democratic system of administration (it would be more accurate to say partial-parliamentarianism), to again a democratic presidential system.

### 3.2 Which System Is More Democratic?

Another issue which has aroused debates during the referendum process focuses on the question of how democratic the new system is<sup>20</sup> (Rousseau, 2017: 63). As mentioned above, the presidential system and the parliamentary system both are regarded as democratic government systems in the contemporary world<sup>21</sup> (Fendoğlu, 2010: 6). However, it is expressed that the presidential system theoretically has more democratic features. The reasons for this are:

- First of all, the executive in a presidential system is directly elected by the public. This is a very important aspect in terms of democracy. In the parliamentary system the fact that the

---

Mümtaz Soysal, 100 Soruda Anayasanın Anlamı, Gerçek Yayınevi, 5th Edition, 1979, p. 34-38, 231; Ahmet Nohutçu, Kamu Yönetimi, 12th Edition, Savaş yayınları, Ankara, 2016, p. 535-540, 568-569; Ahmet Nohutçu, Devlet Teşkilatı Hukuku, Volume 1, Savaş yayınları, Ankara, 2016, p. 11-17 Vakur Versan, Amme İdaresi, İstanbul İktisadi ve Ticari İlimler Akademisi yayınları, 1960, p. 26 et al., 69 et al., Mehmet Akad, Genel Kamu Hukuku, Genişletilmiş, 2. Baskı, filiz kitabevi, İstanbul, 1997, p. 227 et al. (This relevant section was written by Bihterin Vural Dinçkol.) Ahmet Taner Kışlalı, Siyasal Sistemler, İmge Kitabevi, Ankara, 1991, p. 237 et al.

<sup>17</sup>Arend Lijphart, p. 36 et al.; Mehmet Akad, p. 234; Ahmet Taner Kışlalı, p. 237 et al.

<sup>18</sup><https://www.aydinlik.com.tr/turkiye/2017-subat/turkiye-yol-ayriminda-cunku-rejim-degisiyor> 17.08.2017.

<sup>19</sup><http://www.milliyet.com.tr/rejim-degil-hukümet-sistemi--siyaset-2348297/> 17.08.2017

<sup>20</sup>All countries considered democratic are governed with "representative democracy". The fact that full democracy is a utopia should not be forgotten. J.J. Rousseau' statements express the issue : "... a true democracy has never existed and never will exist. It is against natural order that the great number should govern and that the few should be governed."

Jean Jacques Rousseau, Toplum Sözleşmesi, Türkiye İş Bankası Yayınları, 7th Edition, Tran: Vedat Günyol, 2011 İstanbul, p. 63.

<sup>21</sup>Hasan Tahsin Fendoğlu, Başkanlık Sistemi Tartışmaları, Stratejik Düşünce Enstitüsü yayınları, Ankara, 2010.p. 6.

prime minister, which is the most significant post in the executive, is not directly elected by the people may cast a shadow on the democratic system<sup>22</sup> (İba, 2003: 55).

- Again, as the executive in the presidential system is formed from only one person, the presidential system is found to be more democratic than the parliamentary system in terms of “**accountability.**” They are the only individual responsible in the event of a success or a failure, and it is known who will be responsible<sup>23</sup> (Gözler, 2016: 87). Yet, certainly, the rule of single person may always bring about abuses and system envisaged to bring more democracy may result in oppositely.
- From the perspective of «**know in advance**» the presidential system is considered to be more democratic. If the individual that the electorate votes for wins, it is clear who will govern the for the next 4-5 years. There is a degree of uncertainty in-this regard in the parliamentary system<sup>24</sup> (Tunçkaşık, 2017: 88).
- When the presidential system of government is used as a base, the maximum two-term limit for the Presidency seems to provide an important contribution to the democracy<sup>25</sup> (Karatepe, 2017: 68). When political figures after 1950 are examined within the political system of Turkey, it becomes clear this regulation may work. In the current political system, the main figure of government, the prime minister, may potentially remain in power for decades.

Although an evaluation like this can be made within the framework of the basic criteria of the systems of government mentioned, the only issue is not the basic government system in terms of democracy<sup>26</sup> (İba, 2003: 200). Along with the system, other statutory regulations must be democratic. Even a minor and an apparently trivial regulation can turn the system anti-democratic. For example, in the presidential system, the activities a president (member of a party or not) engages or hegemony he/she (the president in Turkey) establishes for determination of members of parliament can cast a shadow on the democratic nature of the system. Raising the election threshold, that the top administrators of parties being sole arbiters in the determination of candidates, making independent candidacy difficult, and the high cost of being a candidate can leave the democratic nature of the system on paper.

### *3.3 Is the Unification of the Legislation and Execution Possible in the New System?*

One of the most typical features of the presidential system is that the legislation and the execution are independent and separate from each other. The unification of the legislative-executive bodies creates a situation contrary to the basic dynamics of the

<sup>22</sup>Şeref İba, Türkiye’de Başkanlık ya da Yarı-Başkanlık Rejimi Uygulanmalı mıdır?, Mülkiye Dergisi, volume, 27, number 240, Summer 2003, pp. 189-206, p. 194, 195; Ömer Keskinsoy, p. 55

<sup>23</sup>Kemal Gözler, Anayasa Hukukuna Giriş, 2016, 87.

<sup>24</sup>Halit Tunçkaşık, “Başkanlık Sistemi: Teori, Pratik ve Tartışmalar”, İçinde: Karşılaştırmalı Hükümet Sistemleri: Başkanlık, Ed. Havvana Yapıcı Kaya, TBMM yayınları.

[https://www.tbmm.gov.tr/yayinlar/baskanlik\\_sistemi.pdf](https://www.tbmm.gov.tr/yayinlar/baskanlik_sistemi.pdf) 30/08/2017 p. XIX and 6; Kemal gözler, the same work, p. 88.

<sup>25</sup>Şükrü Karatepe et al., Sorularla Cumhurbaşkanlığı Hükümet Sistemi, p. 68.

<sup>26</sup>Look for the evaluations that relate not only from the perspective of statutory regulations on the subject, but to cultural, political, societal, philosophical, etc. dimensions: Şeref İba, Türkiye’de Başkanlık ya da Yarı-Başkanlık Rejimi Uygulanmalı mıdır?, p. 200 et al.



presidential system. Here, an organic association is not being implied; what intended is the parallel acting of these two forces and making the mechanisms of power-balance-audit (checks and balances) in the logic of the system dysfunctional. Before the referendum, emphasis was placed by the No front, fairly, on this kind of risk. Because in the current situation, the Presidential Government System bears a serious risk like this in the heart of its structure. According to the constitutional amendment and the regulations that come into power immediately, the way for the president being member a certain party was paved. In other words, the president will be able to bear the title of president of a party at the same time. Therefore, the person who is solely responsible for the execution may be influential and authoritative in the determination of all members of parliament belonging to his or her party in the elections. In this case, although the president and ministers cannot propose legislation individually and collectively, the president will be able to send explicit or implicit “messages” to the TGNA due to this authority and even directly manipulate the legislative process as the head of the party. However, the independence of members of parliament in the presidential system is an indispensable rule for the operation of the system. Even if he/she is the head of party and can impose his will in issues like the candidacy of lawmakers, voting districts and ranking, the authorities of the president should be extremely limited to prevent this. Otherwise, it is not possible to form legislation independent from the executive body.

It is possible to overcome this problem with amendments to be made in the political parties law.

### *3.4 Has the Era of Coalitions Come to an End?*

For most of Turkish people, the most problematic aspect of the parliamentary system might be that it has not usually brought political stability. It can be asserted that this is the main reason of discussing a Presidential Government System in the history of Turkish administration. This was the argument that was most voiced and most supported by the Yes front: “The era of coalitions will come to an end in Turkey, political stability will come...” Has the era of coalitions really come to an end in Turkey? It is possible give a clear answer to this question because there might be coalitions in a presidential system in different forms and there should be such coalitions<sup>27</sup> (Boyunsuz, 2016: 27). However, it can be easily said that the system is closed to the type of coalitions that existed in the parliamentary system. This will come in the form of “alliance” rather than “coalition,” and it will be more appropriate to refer it with this.<sup>28</sup>

So, at what points will the coalitions in the parliamentary system and the coalitions in the Presidency differ? The most typical feature of the presidential system is that the execution

---

<sup>27</sup>Studies on political practices have found that “coalitions in presidential systems cannot be considered exceptions, and even that they have been rather commonly founded.” We come across these coalitions more so in countries that have assumed a multi-party system like Turkey. Şule Özsoy Boyunsuz, p. 27.

<sup>28</sup>The coalitions, will be valid in the presidential system, are tightly bound to the “party system”. The interpretations made here are based on the condition that the presidential system is a multi-party presidential system. So much so that the election of one party (an anti-democratic one-party system), the introduction of two parties (US) or multiple parties will directly affect the quality of the coalitions. When looking at the political atmosphere in Turkey, it can be said that more often bipolar (right and left) multi-party election systems are in action.

consists of one person. In the parliamentary system, the executive power is shared by the president, the prime minister, the Council of Ministers and ministers. It is therefore possible to distribute the executive in the parliamentary system. In the presidential system, a coalition in the political sense is not possible because the executive is formed of a single person. However, parties or groups will be able to make alliances within the framework of negotiations with the presidency, ministries, vice presidents, and public institutions. The most important point here is that while coalition negotiations in a parliamentary system are made after elections, "alliances" in a presidential system will be made before the election. Therefore, there is no such risk as that the government will not be established in the presidential system. Moreover, it seems very unlikely that small parties, even powerful parties, would be able to persuade 50%+1 of the electorate, coming to power. It seems more likely that elections will go by alliance with small parties or social groups in the periphery of powerful (main) parties.

As is known, almost all parties try to convince the public that they alone will be the ruling party in the elections as political discourse in the parliamentary system. In case the results of an election lead to the formation of an assembly fractured enough not to allow the formation of the government by one party, the parties in turn participate in governmental negotiations to form the government. The result of this initiative is not always positive. It is possible to see examples of different countries in which the government cannot be established for months<sup>29</sup> (trthaber, 2017).

In the presidential system, in a sense, "government" negotiations need to start and be finished before the elections. Because the presidential candidate is determined based on these alliances, and the electorate votes for one of the presidential candidates according to these alliances. In sum, in the presidential system, who will be in power after the election is determined. The negotiations made before the election will remain a little as detail. Therefore, a risk like the government failing as a result of one of two or three parties that form the government gets angry or changes mind is not in question in the presidential system as it happens in the parliamentary system. However, in addition to this, it will be necessary to trust the president for the distribution of ministries and vice presidential posts promised prior to elections. Even the registration of alliances and negotiations made in this manner before the election with a protocol might be possible. Disagreement between parties that form alliance in the presidential system will be more easily removed than it is in the parliamentary system. In such a case, as it will not be possible to talk about toppling of government with a new agreement a new figure from same party can be appointed to the post.<sup>30</sup>

---

<sup>29</sup>See for an example:

<http://www.trthaber.com/haber/dunya/hollandada-150-gundur-hukmet-kurulamadi-328773.html> 19/08/2017.  
<http://www.ntv.com.tr/dunya/belcikada-540-gun-sonra-hukmet-kuruldu,NXJFPacYk0i1ew-OhZDJSg> 19/08/2017

<sup>30</sup>With the inclusion of the articles to the Constitution in the referendum held on April 16 2017, the Presidential and TGNA elections were planned to be held on 3/11/2019. Here we can focus on a scenario like this: In these elections, the AK Party might form an alliance between the AK Party and MHP with the support of probable candidate R. Tayyip Erdogan. If R. Tayyip Erdogan wins the elections, it should not be surprising that one of the vice presidents will be the MHP president Devlet Bah çeli and several ministries are given to MHP members.

### 3.5 Party President, Is It a Problem?

One of the important issues that created controversy in the referendum process was that the president would be the member of certain party.<sup>31</sup> It has often been mentioned that a party president cannot be “independent and impartial.” In a parliamentary system the president, no matter who it is, being non-party is more suitable to the characteristics of the system. However, the fact that a president is party member in a presidential system is not an issue can be regarded as problem, on the contrary the fact that president is non-party will exhibit an example of incoherence and irrationalism. Why so? First of all, the president being party member, in a sense and to a large extent, will be evaluated as “the official acceptance of what is known.” Even in a parliamentary system, the political ideologies of almost all individuals that have been president are known. It is also seen that these individuals act within the framework of these ideologies. In this respect, the demand for a non-party or without an identity in political terms is “fictional”. Even in a parliamentary system, a president without a party has largely remained in the form of an “abstract acceptance,” which will be more difficult to achieve in the new system. The political backgrounds and ideologies of Turgut Özal, Süleyman Demirel, A. Necdet Sezer, Abdullah Gül, and finally R. Tayyip Erdoğan are well-known.<sup>32</sup> To try to prevent this will be “burying one’s head in the sand like an ostrich.” In the parliamentary system, we mentioned that the president being non-party better fits to the basic features of the system, and the reason for this is that the president assumes a balance and control role within the execution within the parliamentary system. Their mission is generally symbolic in this manner. The second reason that demonstrates why it is not possible for the president to remain without a political identity lies in the fact that the presidential candidates themselves compete for all the executive powers in elections. In this case, it would not make much sense to run in the elections without getting the party support. A president who becomes candidate to be elected for the second time will experience the same process. That is why such a demand as running in the elections without being affiliated remains unreturned. Another reason is related to election expenses and the bulk of elections. “It is almost impossible for an individual without a party to organize and successfully conclude an election campaign, which requires tremendous organization and expenditure”<sup>33</sup> (Özbudun, 2017).

Nevertheless, enabling the would-be president to be a party member does not mean that the violation of principles like the superiority of the law, (legal) impartiality, ethical behavior, and merit will be well received, just like it doesn’t give the president the right to dominate legislating.

While discussing this issue, it is necessary not to compare the president in a presidential

---

<sup>31</sup>With the 2017 amendment, the provision of the Constitution preventing the president being party member was abolished, and a freedom was introduced in this regard. In other words, it is left to the president whether to be party member or not.

<sup>32</sup>In terms of the determination of political identity, the examination of those that have been pardoned can give important clues based on the pardoning power granted to the President by Article 104 of the Constitution. This subject can be studied academically.

<sup>33</sup>Ergun Özbudun, Cumhurbaşkanının Parti Üyeliği, <http://www.hukumetsistemleri.org/icerik.php?bilgi=11&bolum=10> (04/09/2017)

system with the president in a parliamentary system. On the contrary, it is necessary to compare the president of the new system with the prime minister and ministers in the parliamentary system. In the parliamentary system, the prime minister and ministers are a party member. The prime minister, who was responsible for the executive body until that time, at the same time occupied the position of the presidency of the party. There has been no serious debate on whether the prime minister and ministers would be unable to be impartial because of party membership. A similar picture should be expected in the new system.

### *3.6 Will the “Single-Man Rule” Turn into a Monarchy?*

The presidential system is technically "one man" rule. Because in the essence of the system lies its formation from single individual. However, in the media and during the April 16 2017 referendum process, sometimes what was intended by “one-man” rule was administration based on monarchies. The most distinctive feature of monarchic governance is the unification of the legislation (decision making), execution and even the judiciary in one ruler. The discourse related to the formation of a situation like this in Turkey may seem to just speculation for now and may not be regarded as scientific determination, yet the system seems to be vulnerable to abuses.

In terms of the preservation of democracy in the presidential system, the complete confining of legislative power to the TGNA (the president and ministers cannot propose legislation) and the president being elected no more than twice for a maximum of ten years can be seen as important guarantees. More important than these, a large majority of society seems to have internalized democracy as it had been revealed with reactions against the July 15 military coup attempt, which can partly indicate that democratic values seem to be important for people<sup>34</sup> (Karatepe, 2017: 69). In terms of turning into to a monarchy or a similar system, the risk that a presidential system bears may be more than a parliamentary system, partial-presidential system, or the system in which we are currently in Turkey but it is very unlikely that the system will transform into a monarchy.

### *3.7 Should the President Be Able to Enact Decrees?*

In the new system, the President was given the authority to issue "Presidential Decree (PD)" and "Regulations":

President;

*“appoints high level public administrators, discharges them, and regulates the procedures and principles regarding their appointment by Presidential decrees. (a. 104/10)”*

*"The President may issue Presidential decrees for matters concerning executive power. (104/17)"*

But in normalcy, *basic rights, human rights and duties, and political rights and duties cannot be regulated by Presidential decree.* (State of Emergency PDs are discussed in the next section.)

---

<sup>34</sup>Şükrü Karatepe et al., Sorularla Cumhurbaşkanlığı Hükümet Sistemi, p. 69.

In the most recent amendment, some protective measures were also taken to prevent PDs taking over legislative authority. Based on this (a. 104/17)

*Presidential decrees cannot be issued on subjects regulations of which have been exclusively envisaged in the constitution.*

*Presidential decrees cannot be issued on subjects that have been clearly regulated in the law.*

*Should different regulations be found between Presidential decrees and the law, the legal regulations are to be imposed.*

*Should the Turkish Grand National Assembly pass legislation on the same subject, the Presidential decree becomes null and void.*

Also, *"the President can issue regulations to provide the implementation of laws and with the condition of not violating these laws."*

Now if we look at the question asked in the title; Should the President have the authority to issue decrees and regulations in the new system? As it is known, until to this day in the current system, either the Prime Ministry and ministers or the Council of Ministers have had the authority to regulate related to the execution and administration. The Prime Ministry and ministries issue regulations in their own fields, while the Council of Ministers can issue regulations and especially codes on more general issues. It may not be wrong that the president will exercise authority for powers that were used by the Council of Ministers and prime minister in the new system because their *locus standi* is transferred. It may be useful to look at the issue by means of that question: "What kind of a picture would be encountered if the president does not have the authority to make specific regulations in the new system?" In this case, it is certain that there will be a huge gap in the process of establishment and institutionalization of the new system. Therefore, giving the president the authority to regulate relating to the execution seems to be natural and necessary in the Presidential Government System. However, the debate is mostly related to PDs and their locations in the hierarchy of norms. It should be noted that there is a concern relating to the place that PD will occupy and that the president will be an alternative body to the "legislation." In fact, the expression that *"Should there be different regulations in Presidential decrees and in laws, the statutory regulations will be implemented."* indicates that PDs have lower status than the law in the hierarchy of norms. While the "Principle of *lex specialis*"<sup>35</sup> (Gözler, 2011: 294) becomes functional, the supervision of the PDs by the Constitutional Court issues PDs over the other regulatory processes of the administration. *"The Constitutional Court ... supervises the legal compliance of Presidential Decrees ... to the Constitution in terms of form and content."*

The first problematic issue faced at this point is the fact that an administrative regulation- the PDs- are checked by the Constitutional Court, in other words, they cannot be checked by administrative judicial organs. However, what is expected is the supervision of the PDs by the

---

<sup>35</sup>Should the "principle of *lex specialis*" collide with regulations in the provisions that take place in different orders of the hierarchy of norms, the law that takes precedent is to rely on the law that supersedes the lower one. See: Kemal Gözler, *Hukuka Giriş*, Extended 8th Edition, Ekin Yayınları, Bursa, 2011, p. 294.



Council of State. Such a "preference" in the new regulation seems to have stemmed from a desire to protect the PDs in a sense. The supervision of the PDs by the Constitutional Court means that a limited number of elements will have the right to take the PDs to the judiciary. This is expressed in the Constitution as follows: "*With the allegation of unconstitutionality in terms of the form and substance of laws, **Presidential decrees**, the Bylaws of the Turkish Grand National Assembly, or specific items and regulations of these, the right to directly file an annulment action in the Constitutional Court belongs to the President, the two political parties in the Turkish Grand National Assembly who have the most members, and members equal to the amount of at least one fifth of the total number of members. (150/1)*" Other than the elements listed in this article of the Constitution, parties (private individuals or legal entities) that are disturbed or experience damage from an issued PD will not have the right to objection.

The second problem is the increase of the work load and widening of the field of operation of the Constitutional Court due to the characteristics the PDs listed above of. That is to say, the object of the Constitutional Court's examination is mainly "laws (and regulations of equal to law)." When examining laws, the Constitutional Court has, so to speak, the Constitution as the cornerstone in its hand. However, with the changes introduced, the PDs which will be audited by the Constitutional Court will not be regarded as violation of laws. In this case, the AYM [CC] now has a second cornerstone, and the laws will be subject to review by the AYM, being limited to the supervision of the PDs. In fact, this is partially not a new situation. Before that, a similar situation in the supervision of executive order (EO) issued in reference to empowering law" was in question. The Constitutional Court primarily had to check compliance of EOs with the "empowering law" while checking their compliance with the Constitution.<sup>36</sup>

Besides, in states of emergency, a direr situation arises. The way to appeal for EOs that the President, who declares a state of emergency, issues in the same period is closed: "*A case cannot be opened to the Constitutional Court on the grounds that the presidential decrees issued in states of emergency and during war violate the Constitution in terms of form and substance.*" It can be said that these EOs have the force of Constitution in this case.

---

<sup>36</sup>In a decision of the Constitutional Court, a statement on this situation came as follows: "*Because EOs, which are regulated in Article 91 of the Constitution, are a legislative process in terms of functionality, the duty and authority of the conducting of supervision has been given to the Constitutional Court through Article 148 of the Constitution. In judicial review, problems of compliance of EOs with empowering laws, and later with the Constitution must be resolved. No matter how much the review of compliance of EOs in terms of shape and basis with the Constitution, not the review of its compliance with empowering laws, is mentioned in Article 148 of the Constitution, primarily the review of the compliance of EOs with empower laws enters within the review of its compliance with the constitution. Because in the Constitution, it is envisaged that the Council of Ministers should be given the authority to issue the Decree Law only within the limits specified in empowering laws. Leaving the authority brings EOs into a situation of noncompliance with the Constitution.*" Supreme Court decision: Cardinal Number: 2017/141, Decision Number:2017/123, Decision Date:26.7.2017, O.G. Date-Number:26.9.2017-30192



### *3.8 Should the President Be Able to Declare a State of Emergency (SOE by Himself and Should the State of Emergency Be Declared by a Decree?)*

According to the new regulation, “The President can declare a state of emergency in all or some parts of country, for a period of no more than six months A. 119).” In the present situation, the Council of Ministers that convenes under the presidency of the President can declare the State of Emergency. As there will not be the Prime Minister and the Council of Ministers in the new system, who or which unit should be authorized to declare the State of Emergency? Even with a brief evaluation, there remains almost no body or institution that can declare an SOE other than the president. The TGNA does not seem to be sufficient to declare a state of emergency. Because the TGNA will consist of 600 lawmakers. As its name implies in states of emergency, or in other words: “In states of war, in the occurrence of situations that require war, in states of insurrection, during powerful and active attempts against the homeland or the Republic, in the commonization of violent movements that endanger the integrity of the nation and the people domestically or abroad, in the revelation of common violent movements directed towards removing the order of the constitution or basic rights and liberties, in the serious degradation of public order due to violent occurrences, or in situations of the revelation of natural disaster or dangerous epidemic or heavy economic depression (a. 119)” it doesn’t seem possible for the assembly to promptly gather and seize the situation and take the necessary precautions. Secondly, the TGNA is not an institution that is constantly in session. However, the president is always on duty. Therefore, at the point of the declaration of an SOE, it seems like the most suitable candidate is the president. The President is also the "executive" himself, and in an state of emergency, the declaration of a state of emergency should be met normally. However, in the case of that the President alone declares an SOE, there must be strong objections. Constitutional and statutory regulations need to be made related to the supervision of this subject. Such that the possibility that an individual who is president will declare an SOE for arbitrary reasons should be omitted.

There are no changes in other provisions regarding the declaration of states of emergency: "The declaration of a state of emergency is published in the Official Gazette on the day the decision is made, and it is submitted for the approval of the Turkish Grand National Assembly on the same day. If Turkey Grand National Assembly is on holiday, an immediate meeting is to be called; The Assembly may, if it deems necessary, shorten or extend the duration of the state of emergency or abolish the state of emergency. The Turkish Grand National Assembly can extend the duration every time not exceeding four months at the request of the President. In times of war, this four-month duration is not stipulated. (a. 119)”

In this article, there is an important regulation related to the supervision of the authority of the President for declaring an SOE just by himself. Should the President of the Republic declare an SOE, the TGNA will be immediately called to the meeting and will discuss the SOE decision. Probably, what is lacking here is a specific time limitation and - seeing that a state of emergency is in question - a situation in which the TGNA cannot arrange a meeting comes up. Here, for problems like this, the ex officio stepping in of the Constitutional Court should be considered.

During an SOE, the President can issue SOE decrees (SOE PDs). The SOE PD is not much different from the SOE EOs currently being issued.<sup>37</sup> "In states of emergency, in matters that require states of emergency, irrespective of the limitations set forth in the second sentence of the seventeenth paragraph of Article 104<sup>38</sup>, the president can issue presidential decrees. In statutory law, these decrees will be published in the Official Gazette, and will be presented to the Assembly for approval on the same day." As it is seen, presidential decrees that will be issued during states of emergency are deemed to be law-abiding. Therefore, it is not possible for the Constitutional Court to cancel SOE resolutions on the grounds that it violates the law. Just like it is in SOE EOs in the current situation, "A case cannot be opened in the Constitutional Court on the grounds that the presidential decrees issued in states of emergency and times of war are in violation of the Constitution in terms of form and substance. "

SOE PDs are not subject to the same limitations that PDs in ordinary periods that are regulated in the 17th Anecdote of Article 104 are subject to. So the issues regulated by the law can also be regulated with SOE PDs.

A difference between the SOE EOs and the SOE PDs that will go into effect in the new system is on the issue of discussion by the TGNA. In the present system, it is sufficient to present SOE EOs to the TGNA on the same day for being entered into force. Thus, the condition of discussion or acceptance in the TGNA is not stipulated.<sup>39</sup> But in the new situation, this problem seems to have been overcome for the SOE PDs. According to this: "Presidential decrees that are issued during states of emergency are to be discussed and decided upon by the Turkish Grand National Assembly, except when the Turkish Grand National Assembly cannot meet for reasons of war or coercion. Otherwise, the Presidential decree issued in states of emergency will be abolished automatically. " Thus a critical point relating to the current situation will also have been overcome.

---

<sup>37</sup>There are more fundamental differences between the EOs in ordinary periods and presidential decrees in ordinary periods. For example, while there is a need for a "empowering law" for EOs, there is no such requirement for the PDs. As the name EO implies, while it is a regulation in the provision/level of law, PDs are a regulation beneath the law. Therefore, EOs can conflict with laws in effect, in other words while they could be in violation of them, PDs are cannot be in violation of the constitution and laws and even fields left blank can be regulated.

<sup>38</sup> The 17th Anecdote in question goes on: "*The President may issue Presidential decree in matters concerning executive power.*" *Basic rights, individual rights and duties found in the first and second section of the second article of the Constitution and political rights and duties found in the fourth section cannot be regulated with Presidential decrees. Presidential decrees cannot be issued on subjects whose regulation has been exclusively foreseen in the constitution. Presidential decrees cannot be issued on subjects that have been openly regulated in the law. Should different regulations be found between Presidential decrees and the law, the legal regulations are to be imposed. Should the Turkish Grand National Assembly pass legislation on the same subject, the Presidential decree becomes null and void.*

<sup>39</sup> Thirty SOE EOs were issued after the SOE that was declared following the military coup attempt that occurred in Turkey on July 15, 2016, and only 5 of these were discussed, coming to the TGNA. Because the Constitution stipulates not that the EOs are discussed in the TGNA but that the EOs are presented to the presidency of the TGNA. On a TV program where the criticism of this issue was in question, the explanations of Prof. Dr. Burhan Kuzu, who is a famous constitutional lawyer, longtime AK Party lawmaker who has served on the TGNA Constitutional Commission, and unyielding defender of the presidential system, in the direction of the EOs which had not been debated in the TGNA after 1970 are important in this element. For the TV program: <https://www.youtube.com/watch?v=nIKt7hMnIH0> (Accessed: 14.01.2018)

## 5. Shortcomings of the New System

Just like there seem to be positive aspects of the Presidential Government System which will come into force with the first general and presidential election to be held, there are negative and ambiguous aspects as well. Some have been discussed above, and from time to time subjective evaluations have been put forward.

### 5.1 *The Possibility of Domination of the Legislation by the President*

As mentioned above, the fact the president is a party member is not a problem itself: As the head of a party he/she may manipulate the nomination of representatives in the elections by promoting for those who are loyal and obedient to him. Thus, the domination of “legislation” by the president is not appropriate for the essence of a presidential system. Mechanisms that prevent this were not included in the constitutional changes. In this respect, by removing the provision that the president is not party member, an ambiguity has been created. This gap must be eliminated with regulations that will be added to the constitution or with arrangements that will be made in political party law.

### 5.2 *The Limitation of the number of Vice-Presidents and the Representation Problem of the President*

In the new system, a vice presidential post has been created but the number of vice presidents has not been limited: “*The president can appoint one or more vice-presidents after being elected.*” That there is no limitation of the number for this post has caused various criticisms, and such statements as that the president can appoint three hundred or even a thousand vice president have appeared. The number of the vice presidents could have been regulated in the Constitution with the amendment; actually it would be more appropriate to do this by law because the optimal limit of the vice presidents may vary depending on time and circumstances. It is probably a good decision not to include this in the constitutional amendment package. In the current situation, there is also the post of vice prime ministry, and the number of vice prime ministers has not been determined in the constitution. A restriction has been introduced with the Law No.3046 “On the Establishment and Duties of Ministries,” and it has been connected to a provision that a maximum of 5 vice prime ministers can be appointed. An arrangement similar to this can also be brought concerning the number of vice presidents.

Another issue is the issue of representation of the president. The regulation is as follows:

*"Should the presidential office become vacant for any reason, a presidential election is to be held within forty-five days. The Vice President is to stand in for the Presidency until a new president is elected and is to use the authorities granted to the President. ... In situations where the President temporarily vacates his position for reasons like illness and international visits, the Vice President is to stand in for the Presidency and is to use the authorities granted to the President."*

With the regulation made a ranking like primacy, *primas inter pares* or chief vice presidency has not been determined. Moreover, a meaning as if just one single vice president will be able

to be appointed is also being inferred from the text of the article. "*The Vice President stands in for the Presidency.*" This gap may not present a problem should the President be temporarily absent, because in this case, the president may himself be able to authorize the individual to stand in his place among his vice presidents. However, in cases like death, loss of consciousness, disappearance, abduction, and sudden illness in which the president will not be able to appoint a representative and in which he will continuously be absent from his position, it has not be regulated how, under what conditions, and who will stand in his place. In order to overcome this problem, it is necessary to make a regulation. In this regard, it seems necessary to establish an institution such as "chief vice presidency" or to make a legal regulation on how to act in such cases.

### *5.3 Broad Authority of Appointment Granted to the President*

One point that has received criticism in the new system is the broad and unauthorized authority granted to the President. In the present case, all appointments that involve the ministers (ministries), the Prime Minister, and the President will be made by the President with the new system going into effect.<sup>40</sup> This "unlimited" appointment authority granted to the President has been subjected to much criticism, and it has been stated that this authority may drag the President into an arrogance of power.

The limitation or accountability of the authority to appoint granted to the President on this issue can lead to the formation of a more democratic and rational system of administration. For example, some very high-level appointments, such as those in the US, may be submitted to the parliament for approval, or a selection procedure may be introduced to the TGNA for a certain number of candidates that the president may appoint for a particular authority. Apart from this, after the assignments are made, the person can be given the authority while in office to take the task to the TGNA.

In the United States, the president makes thousands of appointments but a large majority of them are subject to the approval of the Senate. "The Senate examines the appointment of a civilian bureaucracy composed of 65,000 officers every year and around 2,000 mostly foreign service workers." The vast majority of these appointments are discussed and approved in the Senate as a block<sup>41</sup> (Boyunsuz, 2016: 22).

### *5.4 The Decision to Renew Elections*

One of the unique features that make the new executive presidential system unique to Turkey is the ability of the execution (President) and the legislation (Parliament) to mutually call for new elections. The issue that sparks debate here is not the authority given to parties to decide whether to renew elections but the imbalance that arises in being able to make this decision. Thus, while the President can decide alone to renew elections (an example of this has been seen in the process that occurred after the June 7 2016 elections), 360 lawmakers need to

---

<sup>40</sup>See here for a study that includes an evaluation related to appointments that will be valid in the new system: Nazım Kartal and Yılmaz Demirhan, "Türkiye'de Cumhurbaşkanlığı Hükümet Sistemi ve Yeni Sistemin Kamu Yönetimine Yansımaları", Uluslararası Ekonomi, Siyaset ve Yönetim Sempozyumu, 12-14 Ekim 2017, Diyarbakır. <http://www.dicle.edu.tr/Contents/a852c89f-c22a-4b28-b736-256395dabfaa.pdf>

<sup>41</sup>Şule Özsoy Boyunsuz, p. 22.

indicate an opinion in the same direction so that the TGNA can make such a decision: “*The renewal of elections can be decided with a three-fifths majority of the total number of members of the Turkish Grand National Assembly (a. 116).*” Therefore, the decision to renew elections by the TGNA seems to be a very hard process.

Along with this, it should be noted that the decision to "renew the elections" will not be an easy decision for either wing. It is necessary to take account that such a "threat" will brake both the President and the assembly on certain issues.

### *5.5 The Appointment of a Minister or a Vice Presidential Within the Assembly*

There is no prime minister and a Council of Ministers in a classical sense in the new system. The ministers and vice presidents, who are expected to act like bureaucrats, will be appointed among individuals who have the qualifications of being a deputy, they might be chosen within or outside of the assembly and they can be discharged by the President (a. 106).

The new regulation allows ministers or vice presidents to be appointed among deputies. Pursuant to the constitutional provision, “*If members of the Turkish Grand National Assembly are appointed as vice president or minister, their memberships to the assembly come to an end (a. 106).*” If such a thing happens, that is if a deputy is appointed as minister - their deputy status will eventually fall - but after a while if they are dismissed from their ministry position, will they be able to reclaim their deputy rights? It does not look easy to appoint a member of parliament as minister or vice president without answering this question and without a satisfactory regulation being made.

In fact, an arrangement made for the members of executive body for taking part within the legislation is not something in accordance with essence of the presidential system; such a way should be kept close. However, this regulation has been made and has taken its place in the Constitution. In this case, should there be a possibility like this, in other words should a deputy be appointed as a minister or vice president, it is definite that this person will lose his/her deputy status. So what happens if they are dismissed from their position by the president one day after being appointed as minister or vice president? Will this person be able to return to deputy post? It is not possible to answer this question with current regulations. The compliance of the laws with the subject needs to be made certain based on two possibilities. This will result in either; yes, as it is mentioned the deputy status of the individual will fall and return will not be possible or the deputy status will fall and should they desire, they will regain their deputy rights.

## **6. Conclusion and Evaluation**

In this study, the parties and shortcomings that arise discussions around the Presidential Government System, which was presented for referendum on April 16, 2017 in Turkey and is going into effect after the presidential and TGNA elections that are planned to be held on November 3, 2019 were evaluated and we attempted to offer some subjective and objective suggestions.

Turkey has entered a new path with this change. It cannot be said that the presidential system



of government is excellent with its current situation. In order to be able to make better evaluations, it is necessary to wait for the harmonization legislation that is planned to be enacted by the time the system enters fully into force.

However, it cannot be said that any system being implemented in the world is perfect. The issues discussed in the study will be discussed again and again in the future, and gaps or shortcomings in either the constitution or in other statutory regulations will be tried to be solved, yet this will not be easy and without debates.

For this moment, the criticism directed to system focuses on the fact that the model lacks mechanisms of check and balances present in other countries like the US or other Western democracies.

Unprecedented executive powers have been granted to the president and democratic institutions might falter, should there be abuse of powers. The balance between the stability of the political system and functioning of the up-to-date democracy should be established in the forthcoming harmonization packages. The new model is thought to run the risk of turning into dictatorship to some degree; to prevent these better control mechanisms should be introduced. Weakening checks and balances may damage Turkish democracy and political institutions. Therefore, it is possible to say this new model introduced to the Turkish administrative and political body will yield much discussion and be subject to many other amendments.

## References

- Akad, M. (1997). *Genel Kamu Hukuku*. Extended 2. Edition, İstanbul: Filiz kitabevi. Belçika'da 540 Gün Sonra Hükümet Kuruldu. Retrieved from <http://www.ntv.com.tr/dunya/belcikada-540-gun-sonra-hukümet-kuruldu,NXJFPacYk0i1ew-OhZDJSg>
- Boyunsuz, Ş. Ö. (2016). *Siyasi Parti Sistemlerine Göre Başkanlık Rejiminin Türklere*. *Amme İdaresi Dergisi*, 49(3), September.
- Duverger, M. *Siyasal Rejimler*. Trans. Teoman Tunçdoğan, İletişim Yayınları, (without date).
- Fendoğlu, H. T. (2010). *Başkanlık Sistemi Tartışmaları*. Ankara: Stratejik Düşünce Enstitüsü yayınları, p. 6.
- Gözler, K. (2011). *Hukuka Giriş. (Extended 8<sup>th</sup> ed.)* Bursa: Ekin Yayınları. Hollanda'da 150 Gündür Hükümet Kurulamadı. Retrieved from <http://www.trthaber.com/haber/dunya/hollandada-150-gundur-hukümet-kurulamadi-328773.html>
- Gözler, K. (2016). *Anayasa Hukukuna Giriş*. Bursa: Ekin Yayınları.
- Hükümet Sistemleri. Retrieved from <http://www.hukumetsistemleri.org/icerik.php?bilgi=11&bolum=10>
- İba, Ş. (2003). Türkiye'de Başkanlık ya da Yarı-Başkanlık Rejimi Uygulanmalı mıdır?. *Mülkiye Dergisi*, 27(240), Summer.
- Karatepe, Ş., et al. (2017). *Sorularla Cumhurbaşkanlığı Hükümet Sistemi*. Ankara: Memursen



Yayınları.

- Keskinsoy, Ö. (2017). *Anayasa ve Türk Anayasa Hukuku*. Ankara: Monopol Yayınları.
- Kışlalı, A. T. (1991). *Siyasal Sistemler*. Ankara: İmge Kitabevi.
- Lijphart, A., et. al. *Çağdaş Demokrasiler*. Trans. Ergun Özbudun & Ersin Onulduran. Ankara: Yetkin yayınları (Without date).
- Nazım, K., & Yılmaz, D. (2017). Türkiye’de Cumhurbaşkanlığı Hükümet Sistemi ve Yeni Sistemin Kamu Yönetimine Yansımaları. *Uluslararası Ekonomi, Siyaset ve Yönetim Sempozyumu*, 12-14 Ekim 2017, Diyarbakır.  
<http://www.dicle.edu.tr/Contents/a852c89f-c22a-4b28-b736-256395dabfaa.pdf>
- Nohutçu, A. (2016). *Devlet Teşkilatı Hukuku, 1*, Ankara: Savaş yayınları.
- Nohutçu, A. (2016). *Kamu Yönetimi*. (12<sup>th</sup> ed.) Ankara: Savaş yayınları.
- Okutan, Ç. (2012). *Siyasal Sistemler*. Siyaset Bilimi, ed. Halis Çetin. (3<sup>rd</sup> ed.). Ankara: Orion Kitabevi.
- Özbudun, E. Cumhurbaşkanının Parti Üyeliği.  
<http://www.hukumetsistemleri.org/icerik.php?bilgi=11&bolum=10>
- Rejim Değil Hükümet Sistemleri. Retrieved from  
<http://www.milliyet.com.tr/rejim-degil-hukümet-sistemi--siyaset-2348297/>
- Rousseau, J. J. (2011). *Toplum Sözleşmesi*. Trans. Vedat Günyol. (7<sup>th</sup> ed.). İstanbul: Türkiye İş Bankası Yayınları.
- Soysal, M. (1979). *100 Soruda Anayasanın Anlamı*. (5<sup>th</sup> ed.). Gerçek Yayınevi.
- Tunçkaşık, H., Başkanlık, Sistemi: Teori, Pratik ve Tartışmalar. *Karşılaştırmalı Hükümet Sistemleri: Başkanlık*, Ed. Havvana Yapıcı Kaya, TBMM yayınları.  
[https://www.tbmm.gov.tr/yayinlar/baskanlik\\_sistemi.pdf](https://www.tbmm.gov.tr/yayinlar/baskanlik_sistemi.pdf) 30/08/2017
- Türkiye Yol Ayrımında Çünkü Rejim Değişiyor. Retrieved from  
<https://www.aydinlik.com.tr/turkiye/2017-subat/turkiye-yol-ayriminda-cunku-rejim-degisiyor>
- Versan, V. (1960). *Amme İdaresi*. İstanbul İktisadi ve Ticari İlimler Akademisi yayınları.
- Yusuf, T., & Çağatay, M. (2011). *Türk Siyasal Hayatı*. Ankara: Orion Yayınları.

### Copyright Disclaimer

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).