

**REPUBLIC OF TURKEY  
BAHCESEHIR UNIVERSITY**

**PRESIDENTIAL ELECTIONS AND AUTHORITIES IN  
THE CONTEXT OF 1924, 1960 AND 1982  
CONSTITUTIONS**

**Master Thesis**

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MASTER OF GLOBAL AFFAIRS**

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**Thesis Supervisor: ASSOC. PROF. İ. BURAK KÜNTAY**

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## ABSTRACT

### PRESIDENTIAL ELECTIONS AND AUTHORITIES IN THE CONTEXT OF 1924,1960 AND 1982 CONSTITUTIONS

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Master Of Global Affairs

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In world politics, the presidency emerges as a product of a certain historical formation. In constitutional regulations, the President is the head of the state and the natural leader of the Executive. The political importance of the President, the duties and authorities of the President, the understanding of individual and institutional democracy, and the parliament's structure are all based on election methods. In this context, the importance of the presidency is directly related to its position within the regime. In addition to the presence of a symbolic but powerful president in the administration of states, the presence of a powerful government often leads to government crises. In this study, the powers and duties given to the President will be examined after reviewing the historical process of the Constitution. The study consists of three main parts. The first part will examine the theoretical and historical development of the parliamentary system and how the president is elected in parliamentary monarchies and republics, what authorities the president has, and the president's constitutional duties. In the second chapter, the differences between the presidential system and the parliamentary system are mentioned, the

electoral processes and authorities of the presidents of the countries governed by the presidential system will be investigated. In the third part, the President's election processes and duties will be examined taking into consideration the circumstances of the period by referring to the government crises in 1924, 1960 and 1982 constitutions in Turkey.

**Key Words:** President, Prime Minister, Legislative, Executive, 1921 Constitution, 1924 Constitution, 1961 Constitution, 1982 Constitution, Government Systems, Parliamentary System, United Kingdom, United States.



## ÖZET

### 1924, 1960 VE 1982 ANAYASALARINDA CUMHURBAŞKANLIĞI SEÇİMLERİ VE YETKİLERİ

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Dünya siyasetinde başkanlık, belli bir tarihsel oluşumun bir ürünü olarak ortaya çıkar. Anayasal düzenlemelerde Başkan, devletin başı ve Yürütmenin doğal lideridir. Cumhurbaşkanının siyasi önemi, Cumhurbaşkanının görev ve yetkileri, bireysel ve kurumsal demokrasinin anlaşılması ve Parlatentonun yapısı ile paralel olarak seçim yöntemlerine dayanmaktadır. Bu bağlamda, cumhurbaşkanlığının önemi, rejimin içindeki konumu ile doğrudan ilgilidir. Devletlerin yönetiminde sembolik ama güçlü bir cumhurbaşkanının olmasının yanında, güçlü bir hükümetin varlığı çoğu zaman hükümet krizlerine yol açmaktadır. Bu çalışmada, anayasanın tarihsel süreçleri inceledikten sonra Cumhurbaşkanına verilen yetki ve görevler incelenecektir. Çalışma üç ana bölümden oluşmaktadır. İlk bölüm de parlamenter sistemin teorik ve tarihsel gelişimi ve Cumhurbaşkanının parlamenter monarşiler ve cumhuriyetlerde nasıl seçildiğini, hangi yetkilere sahip olduğunu ve kendisine atfedilen anayasal görevleri incelenecektir. İkinci bölüm de başkanlık sistemi ile parlamenter sistem arasında ki farklara değinilerek, başkanlık sistemi ile yönetilen ülkelerin başkanlarının seçim süreçleri ve yetkileri araştırılacaktır. Üçüncü bölümde ise, Türkiye’de 1924, 1960 ve 1982 Anayasalarında hükümet krizlerine atıfta

bulunarak Cumhurbaşkanlarının seçim süreçleri ve görevleri dönemin koşullarını ön planda tutarak incelenecektir.

**Anahtar Kelimeler:** Cumhurbaşkanı, Başbakan, Yasama, Yürütme, 1921 Anayasası, 1924 Anayasası, 1961 Anayasası, 1982 Anayasası, Hükümet Sistemleri, Parlamenter Sistem, İngiltere, Amerika Birleşik Devletleri



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## ABBREVIATIONS

AK Party	: Justice and Development Party
ANAP	: Motherlan Party (Anavatan Partisi)
AP	: Justice Party (Adalet Partisi)
CGP	: Republican Reliance Party (Cumhuriyetçi Güven Partisi)
CHP	: Republican People's Party (Cumhuriyet Halk Partisi)
DP	: Democratic Party (Demokrat Parti)
DSP	: Democratic Left Party (Demokratik Sol Parti)
DYP	: True Path Party (Doğru Yol Partisi)
FP	: Virtue Party (Fazilet Partisi)
HADEP	: People's Democracy Party (Halkın Demokrasi Partisi)
MGK	: National Security Council (Milli Güvenlik Kurulu)
MHP	: Nationalist Movement Party (Milliyetçi Hareket Partisi)
RP	: Welfare Party (Refah Partisi)
SHP	: Social Democratic Populist Party (Sosyal Demokrat Halkçı Parti)
TBMM	: Grand National Assembly of Turkey (Türkiye Büyük Millet Meclisi)
USA	: United States of America
USSR	: Union Soviet Socialist Republics

## 1. INTRODUCTION

In World Politics, the presidency emerges as a product of a certain historical formation. In Constitutional regulations, the President is appointed as the head of the state and the natural leader of the Executive (Eroglu 1978). These powers vary from country to country. In parliamentary systems, the President has only certain limited symbolic powers. In countries governed by a presidential system, The President has broad powers. The political importance of the president is based on the method of election in parallel with the duties and powers of the president, the understanding of individual and institutional democracy, and the structure of the Parliament. In this context, the importance of the presidency is directly related to it's position within the regime. In this study, after examining the historical processes of the Constitution, the authority and duties assigned to the President will be examined.

The study consists of three main parts. The first part examines the theoretical and historical development of the parliamentary system and examines how the President is elected in the parliamentary monarchies and republics, what powers he has, and the Constitutional tasks attributed to him. The second part deals with the electoral processes and powers of the Presidents of the countries governed by the parliamentary system in England, Israel, Germany and Italy. In the presidential system The characteristics of Parliamentary systems will be examined and the presidency systems in the world will be discussed. The relationship between election in presidential systems in France, Russia and Iran, especially in the United States, the powers of the Presidents, the balance control and the separation of powers will be discussed. In the third part, the Turkish Constitution of 1924, 1960 and 1982 will be examined by keeping the conditions of the period in the foreground. The presidential authority, which is "irresponsible" and "symbolic" in classical parliamentary systems, has acted as an extension of the Turkish government tradition and conditions during the 1921 and 1924 constitutions. With the 1982 Constitution, it was at the centre of the Constitutional and political system. Presidential elections during the 1921 and 1924 Constitution; the personalities of the candidates of the period are due

to the parallelism between the legislative period and the presidential term and to the sovereignty of one party. During the single party period when there was no opposition in the assembly, effective parliamentary control was not achieved due to the power of the leadership and the discipline of the party and the rule of the executive was dominant. In addition, the military was under the control of political power, at least until the Celal Bayar period.

The 1961 constitution is important in terms of the fact that presidential elections are the most intense period of military-civilian struggle. Following the military pressure, the President was elected, Cemal Gürsel, who was not the candidate of the military, but the candidate to be approved by the military. Another feature of this period is the fact of the divided Parliament, excluding 1966. Divided parliaments and non-compromise political parties intensified external interventions and reduced the trust of society in the parliamentary and political parties. As a result, the 1980 presidential elections did not result in parliamentary antagonism. All political parties desire to make a president close to their political status, and the office was administered by proxy for about six months.

The 1982 Constitution introduced regulations that strengthen the executive of legislative and executive relations and give the President important powers within the executive. Although the relations between the legislative and executive are within the framework of the parliamentary regime, the President has been removed from being a symbolic figure. Kenan Evren, the First President of the period, became president with the adoption of the Constitution as a result of referendum. After Kenan Evren, Turgut Özal, the President of the Republic of Turkey, has been nominated as the party leader and has been elected as the President thanks to the majority of the Parliament. However, Özal's presidency has led to "legitimacy" and "neutral President" discussions and government President conflicts. Demirel's presidential period was also shaped by the discussions of the government-President. The election of Ahmet Necdet Sezer as president is important in terms of being the stage for the rare parliamentary compromise in history. In the presidential elections of the period, the role of the soldier appeared as "disapproval or disapproval" rather than

"direct intervention". The aim of the study is to examine the status of the presidency in the political system and the authority of the presidency taking into account the constitutional processes in the presidential elections. The inadequacy of the efforts towards the crisis in the presidential election process necessitated extensive research, and the results were tried to be extracted by taking into consideration both the Constitutional and social and historical research. In addition to being a symbolical but powerful president in the administration of States, the presence of a powerful government often leads to government crises. The existence of two titles in parliamentary systems creates difficulties in reaching the conclusion of these solutions. The solution of government crises is the presidential system because of the check and balance system. Starting from the formation of the Turkish state structure, referring to the Ottoman state, the presidency institution and elections have been examined in terms of constitutional periods. The importance of the presidents in the political system and the reasons for the crisis in the elections were tried to be generalised. In this context, the position of the President in the regime and its impact on the electoral process were examined. In this study, constitutions, historical documents and books, historical processes, articles written on the parliamentary and presidency system and Internet resources were utilized.

## **2. PARLIAMENTARY ASSEMBLY IN THE PRESIDENTIAL SYSTEM**

The word “Parliament” is a Latin word and corresponds to the words “Parliament” and “Divan” in Turkish and means the Council of the conferences to reach a decision. In law and political sciences, the Parliament is a political council composed of persons elected by the people to represent to the people, which makes laws and decides the important Affairs of the state (Demir & Karatepe 1989). In order to understand the parliamentary system, it is necessary to examine England, the country in which the parliamentary system was born. In England, between the centuries of XI. and XVII, the efforts of transition from absolute monarchy to constitutional monarchy are conspicuous to limit the king’s power.

The first attempt to limit the absolute power of King was with the Magna Carta dated 1215. Magna Carta is the first basic document in the history of contemporary democracy to limit the powers of the king. In this sense, Magna Carta is seen as a guarantee of the rights and freedoms of various classes and institutions that constitute the British feudal society in the traditional sense (Eroğlu, 2010, p. 38-39).

After the adoption of Magna Carta in England, the first House of Representatives called “model parliament” was established in 1295. The first institutions of the parliamentary system started in this way and the parliamentary monarchy was born towards the middle of the 18th century (Hekimoğlu 2009). Although the parliament was the most powerful organ under the influence of the theory of “Parliamentary sovereignty” in the early days, the Executive organ over time has seized this superiority.

## **2.1 HISTORICAL AND POLITICAL BACKGROUND OF PARLIAMENTARY SYSTEM**

The motherland of the parliamentary system is England, born and developed in England. The parliamentary government system in England has its own structure, unlike the parliamentary systems of other states (Yaşar 1987). The historical and economic

processes experienced by each country have led them to interpretation and to live parliamentary system according to themselves. During this period there was feudal monarchy in France and England. But these institutions have evolved in a completely opposite manner in both countries. In France, the feudal monarchy was replaced by absolute monarchy, while in England it was transformed into a limited monarchy and later into a parliamentary monarchy (Duverger 1986) Britain's and France's political systems will be examined extensively in the following sections.

Epstein defines the parliamentary system as a constitutional democracy in which the execution originates from the law and the execution is responsible for the law (Epstein 1968). Stepan and Skach reveal the characteristics of the parliamentary system in the form of the fact that the head of the executive power needs the support of the parliamentary majority, if it loses the vote of distrust, that the executive power has the power to dissolve the Parliament and go to new elections (Hekimoglu 2009).

Lijphart expresses the differences between the parliamentary system and the presidential system as follows: According to the author, the first basic feature is that the president is not responsible for the legislative body, whereas his cabinet bears responsibility for the legislative body. The second main feature is the election of the prime ministers by the legislative body. This can happen in a variety of ways. In Germany, Ireland and Japan, the prime ministers are elected by the legislature; in Belgium and Italy, the cabinet is elected by means of inter-party negotiations in parliament; In the UK, the majority party leader is



appointed Prime Minister by the king (Lijphart 2014). But the unchanging fact is that prime ministers are elected from within the legislative body.

A parliamentary system is based on separation of powers. This separation of powers is the separation of soft powers. The parliamentary system facilitates and increases the relations between legislative and executive. The relationship between legislative and executive functions can be evaluated both in functional and organic terms. From a functional point of view, it shows itself in making laws. The preparation and adoption of the laws takes place with the activities of the two bodies separately. The law is presented to Parliament by the government as a bill and discussed here. From the organic point of view, it occurs in the formation of the Executive. The President of the two-headed government, who is irresponsible, is elected by the dynasty in some monarchies, and by the Parliament in Republican administrations (Teziç 2016).

## **2.2 TYPES OF PARLIAMENTARY SYSTEMS**

There are two types of parliamentary system. The first is dualist parliamentarians who emerged during the transition from limited monarchy to modern monarchy. The second is the monist parliamentary system in which the President is not responsible for the government and the Council of Ministers, whose responsibility is only against the Parliament.

### **2.2.1 Dualist Parliamentary System-Monarchy**

In the dualist parliamentary system, which emerged during the transition from limited monarchy to modern monarchy, the President is involved in Active politics and can exercise his right to dissolve on his own without any condition. Ministers are responsible for both the President and the Parliament. The government needs the trust of the President and Parliament in order to continue its duties. In order for the system to continue regularly, the President and the majority of the Parliament must be on the same line. In England during the 18<sup>th</sup> century President played an active role in this system (Teziç 1996). In

parliamentary monarchies, the President is given names such as King, Queen and Emperor. Countries, ruled by monarchy, the name “king” is used in general.

Kings, heads of state of monarchical parliamentary systems, are determined by means of “probate”. In a kingdom, not everyone has the right to be king. The first condition is to be a member of the royal family. The fact that the reign will remain within a certain dynasty is stated in many monarchy constitutions. If the dynasty runs out, the Constitution decides at night who will come out and how the King will be determined. When the king dies in monarchies or renounces the throne, the title of the kingdom passes by itself and by the crown (Smith & Brazier 1989).

In monarchies, the Constitution requires kings to swear or make a statement before they ascend to the throne (Gözler 2001) the oath procedure of the kingdom is religious.<sup>1</sup> The kingdom does not have a time like the President. They will remain on the throne until they die or renounce the throne.

### **2.2.2 Monist Parliamentary System**

In the monist parliamentary system, The Government and the Council of Ministers are not responsible for the President of the state; their responsibility is only against the Parliament. In the monist parliamentary system, the executive body has two heads. The two-headed execution means that the execution is not left to the control of a single person or board. The president and the assembly shared the power. On the one hand there is a politically irresponsible state President and on the other there is a Council of Ministers (government). The President or the head of state does not play an active role in the management of the state, his powers are symbolic. There are certain conditions to be able to run for president. These conditions; citizenship, age, have the right to vote and the right to use civil and political rights.

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<sup>1</sup> For example, according to the Norwegian Constitution in 1814, the king swore to him: “ I promise to rule the Kingdom of Norway in accordance with its Constitution and laws. May God help me, who knows everything and who has power over everything. (Gözler, 2001, p. 51)

### **2.2.2.1 Eligibility requirements**

In the Constitution, it is said that the person to be elected president should be a citizen of that country (Gözler 2001). In some countries there are different situations. For example, in Finland<sup>2</sup>, those born in Finland can be selected. In Greece<sup>3</sup>, “being from the Greek generation of the Father” and “being a Greek citizen for at least five years” are required. In Israel<sup>4</sup>, it is necessary to reside in Israel as well as being an Israeli citizen.

In some countries, presidential candidates are required to have the right to elect and be elected in parliamentary elections. For example, in Germany<sup>5</sup>, Austria<sup>6</sup>, Iceland<sup>7</sup> and Greece<sup>8</sup>, the presidential candidate must have the right to vote in parliamentary elections. In order to be a presidential candidate in Italy<sup>9</sup>, it is necessary to have the ability to exercise civil and Political Rights. In Turkey<sup>10</sup>, in order to be a presidential candidate, there is a requirement to be “graduated from higher education”. There is no requirement for education in other parliamentary systems (Gözler 2001).

### **2.2.2.2 Election procedure**

In parliamentary systems governed by the Republic, the head of state is not determined by the crown, as in monarchies. Presidential elections are held by the -Parliament, a special election board or the people. This differs in every country. In some countries, the assignment method is used.

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<sup>2</sup> Constitution of Finland, 1999. Article 54.

<sup>3</sup> Constitution of Greece, 1975. Article 31.

<sup>4</sup> Basic Law On the President of the Republic dated 16 June 1964, sec.4

<sup>5</sup> Basic Law of the Federal Republic of German, 1949. Article 54/1

<sup>6</sup> Constitution of Austria, 1929. Article 60/3

<sup>7</sup> Constitution of Iceland, 1944. Article 4

<sup>8</sup> Constitution of Greece, 1975. Article 102/1

<sup>9</sup> Constitution of Italy, 1947. Article 84

<sup>10</sup> Constitution of Turkish Republic, 1982. Article 10/12

The elections of the third and fourth French Republic<sup>11</sup> , Israel<sup>12</sup> , Turkey<sup>13</sup> and Greece<sup>14</sup> are held by the Parliament. In some countries, a special election board is created. In Germany<sup>15</sup>, for example, half of the members of the Commission elected the president are members of the Bundestag, while the other half is composed of Representatives elected by the state parliaments on the basis of relative representation. In Italy<sup>16</sup>, an election board is created. This special Assembly consists of the members of the two parliaments and 58 regional representatives. When all zones send three delegates, Valle d'aosto<sup>17</sup> sends one delegate.

There are some rules for electing Presidents by Parliament or election boards. In Israel<sup>18</sup>, Italy<sup>19</sup> and Turkey<sup>20</sup>, there is a “secret ballot” rule in the elections. The President must be impartial and the political parties must stay away from the oppression. In some countries, the selection is multi-tour. If enough numbers are not captured in the first round, the second and third rounds are made. In the first and second rounds, “qualified majority” is called “absolute majority” in the later rounds. In some countries, only “relative majority” is sufficient.

In the 1961 Turkish Constitution, for the presidential election, there was the rule of the two-thirds majority in the first two rounds and absolute majority in the subsequent rounds. This Constitution did not give a sufficient way to choose the president obstacles during the election process. Therefore, in Turkey, from March 12, 1980 to military intervention (September 12, 1980), Parliament could not elect the President (Gözler 2000). The 1982 Constitution sought a way to resolve this deadlock in the presidential elections.

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<sup>11</sup> Constitution of French, 1947. Article 29

<sup>12</sup> Basic Law On the President of the Republic of Israel, dated 16 June 1964, sec.37

<sup>13</sup> Constitution of Turkish Republic, 1982. Article 101

<sup>14</sup> Constitution of Greece, 1975. Article 30,32

<sup>15</sup> Basic Law of the Federal Republic of German, 1949. Article 54/3

<sup>16</sup> Constitution of Italy, 1947. Article 83/1

<sup>17</sup> It is an autonomous region in Northwestern Italy.

<sup>18</sup> Basic Law On the President of the Republic of Israel dated 16 June 1964, sec.7,8

<sup>19</sup> Constitution of Italy, 1947. Article 83/3

<sup>20</sup> Constitution of Turkey, 1982. Article 102/1

In Greece, the Greek Constitution of 1975, as stipulated in Article 32, more detailed regulation was introduced to the elections. If a two-thirds majority is not achieved in the first and second rounds, the second round shall be held five days later. In the second round, a five-third majority is sought, and if this cannot be achieved, parliament will be dissolved and re-election is held. The Parliament convenes and the rounds are passed. In this situation, a three-fifths majority is sought, if could not found after five days, the fifth round will pass. In the fifth round, only the majority is sought if the sixth round is not achieved, two candidates who have received the most votes in the previous round will be joined and the candidate who has the most votes will be elected.<sup>21</sup> In Germany, in the first two rounds of the presidential election, not only the qualified majority, but also the absolute majority. If this majority is not found in the first two rounds, the candidate who receives the most votes is selected in the third round<sup>22</sup>.

In the pure parliamentary government systems, the President is not elected by the people. If the President is elected by the people, the government system becomes "presidential system" or "semi-presidential system" (Fabri & Fabri 1995).

Austria<sup>23</sup>, Finland<sup>24</sup>, Ireland<sup>25</sup>, Iceland<sup>26</sup>, Portugal<sup>27</sup> and the fifth French Republic<sup>28</sup> have a dualistic executive system. The President is elected by the people even though they have the characteristics of the parliamentary system in general. In France<sup>29</sup>, Austria<sup>30</sup>, Portugal<sup>31</sup> and Finland<sup>32</sup>, the electorate must take a pure vote for a candidate to be elected as President. If no candidate has

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<sup>21</sup> Constitution of Greece, 1975. Article 32

<sup>22</sup> Basic Law of the Federal Republic of German, 1949. Article 54/6

<sup>23</sup> Constitution of Austrian, 1929. Article 60/1

<sup>24</sup> Constitution of Finland, 1999. Article 54

<sup>25</sup> Constitution of Ireland, 1937. Article 12/2-2

<sup>26</sup> Constitution of Iceland, 1944. Article 3

<sup>27</sup> Constitution of Portugal, 1976. Article 124

<sup>28</sup> Constitution of French Republic, 1947. Article 6 (This procedure was adopted by the constitutional amendment made in 1962.)

<sup>29</sup> Constitution of French, 1958. Article 7

<sup>30</sup> Austrian Constitution of Austrian, 1929. Article 60/2

<sup>31</sup> Constitution of Portugal, 1976. Article 129

<sup>32</sup> Constitution of Finland, 1999. Article 59

achieved enough votes in the first round, the two candidates who have received the most votes in the second round will participate in the second round and win the election which has the most votes (Gözler 2001). Another different process is carried out in Australia<sup>33</sup>. According to the Austrian Constitution of 1900, the President of the Republic was appointed by the Queen of England.

### **2.2.2.3 Duties of the president**

The powers of the heads of State in parliamentary monarchies and republics are similar. First, the Duties and powers of the President as the head of the state, and then the legislative and executive Duties and powers will be examined.

#### ***2.2.2.3.1 Duties and powers of the “head of the state”***

In both monarchies and republics, there are some main duties and powers which the heads of state have as the “head of the state”. The President of the Republic has a “duty of representation”. The president represents the “unity” of the state, “continuity” and “personality” of the state. Represent the state at home and abroad. In the Constitution of some states, the task of the heads of state is to represent the unity of the nation. For example, according to the 1982 Turkish Constitution, “the President is the head of the state. In this capacity, it represents the Republic of Turkey and the unity of the Turkish nation.”<sup>34</sup> According to the Italian Constitution, the President represents the unity of the nation.<sup>35</sup> According to the Spanish Constitution, the king was a symbol of the unity and continuity of the state.<sup>36</sup> According to the Luxembourg Constitution, the Grand Duke is the symbol of the unity of the state<sup>37</sup> (Gözler 2001).

The President of the Republic has a “duty to watch.” The heads of state have to ensure that “the implementation of the Constitution” and “the regular and harmonious functioning of the state organs”. In the French Constitution, for

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<sup>33</sup> Constitution of Australian, 1900. sec.3

<sup>34</sup> Constitution of Turkish Republic, 1982. Article 104/1

<sup>35</sup> Constitution of Italy, 1947. Article 87/1

<sup>36</sup> Constitution of Spain, 1978. Article 56

<sup>37</sup> Constitution of Luxembourg, 1868. Article 33

example, the President ensures the observance of the Constitution.<sup>38</sup> According to the 1982 Constitution of Turkey, the President considers the implementation of the Constitution and the regular and harmonious functioning of the state organs.<sup>39</sup> The Greek<sup>40</sup> Constitution gave the President the duty and authority to “regulate the functioning of institutions” (Gözler 2001)

Presidents may act as “arbitrators” between the parties, groups and in particular Constitutional organs that conflict because they are neutral. Politics can calm the struggle and bring it together in common. Some constitutions give the President a definite “duty of arbitrators”. According to the French<sup>41</sup> constitution, for example, the President is “refereed” and ensures regular functioning of public power. The Spanish<sup>42</sup> Constitution also served as an arbiter to ensure the orderly functioning of the institutions. The President has the right to be informed about state affairs. For this purpose, the Prime Minister may request information (Gözler 2001).

These duties and powers are the “common basic duties and powers” of the heads of state. These are common in monarchies and republics. These duties and powers are due to the fact that the heads of state are “heads of state”. Therefore, it is very important for the heads of state to pay attention to the neutrality status in the exercise of these duties and powers.

#### ***2.2.2.3.2 Duties and authorities related to the legislature***

One of the most important powers of the heads of state regarding the legislative organ is the right to “termination”. Termination is the process by which the President ends the existence of a legislative assembly that has not yet completed its normal duration (Gözler 2001).

Only the heads of state have the right to terminate. In other words, they are kings in parliamentary monarchies and presidents in parliamentary republics. All

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<sup>38</sup> Constitution of France, 1958., Article 5

<sup>39</sup> Constitution of Turkish Republic, 1982. Article 104/1

<sup>40</sup> Constitution of Greece, 1975. Article 30/1

<sup>41</sup> Constitution of French, 1958. Article 5

<sup>42</sup> Constitution of Spain, 1978. Article 56

constitutions, except Israel, give the heads of state the authority to dissolve. In Israel, the authority of termination was given to the prime minister. But the Prime Minister can exercise his authority with the approval of the President. (Gözler 2000)

Some constitutions require the heads of state to take the opinion of some individuals or institutions before exercising their powers of termination. According to the French Constitution<sup>43</sup>, for example, the President must consult the Prime Minister and the Speaker of the National Assembly and Senate before exercising his authority for termination. According to the Italian Constitution<sup>44</sup>, the President must obtain the opinion of the Speaker before exercising his powers of termination. According to the Finnish Constitution<sup>45</sup>, the president should listen to the parliamentary groups before the dissolution. The 1982 Constitution also provided the President with the condition of consultation with the President of the Grand National Assembly of Turkey<sup>46</sup>.

With some exceptions, even though the constitutional right of termination in parliamentary government systems is at the head of state, the real owner of this right is governments and especially prime ministers. As a rule, the heads of state have to accept the Prime Minister's request for termination.

In some countries, especially monarchies, for example in the UK, the principle of continuity of Parliament is very important. In these countries, the heads of state have the authority to “invite parliament to the meeting“, “postpone meetings” and

“close the meeting periods” of the convening Parliament. This means that if parliament has not been summoned by the President, parliament cannot convene (Hauriou 1929).

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<sup>43</sup> Constitution of French, 1958, Article 12/1

<sup>44</sup> Constitution of Italy, 1947. Article 88/1

<sup>45</sup> Constitution of Finland, 1999. Article 26/1

<sup>46</sup> Constitution of Turkish Republic, 1982. Article 116



In some countries, especially in the republics, for example in Turkey, the principle of continuity of Parliament has been adopted (Gözler 2000). In these countries, as a rule, parliament has the right to assemble spontaneously without the request of the President (Esmein 1928). In these countries, although the President does not have the right to postpone and terminate the meetings of the Parliament, the Parliament has the right to invite the parliament to an extraordinary meeting (Gözler 2000). The presidents have the right to “send a message” to Parliament, The President has the right to express his views on national issues (Barthelemy & Duez 1933).

The president also participates in the final stage of the law construction. Before the law adopted by Parliament comes into force, it shall be submitted to the President of the state. There are different systems from country to country. The monarchies give the kings the power to “approve”, and the President of the Republic gives the authority to “send” them back to parliament once again for discussion of the law.

In some countries, the President has been authorized to submit the laws to referendum. For example, according to the Austrian Constitution<sup>47</sup>, the Federal President has the right to submit the laws to referendum. However, the Federal President may exercise his authority at the request of the National Council. According to the French constitution<sup>48</sup>, upon the joint proposal of the judge or of the two chambers, the organization of the public authorities may submit to the referendum any draft law on ratification of an international treaty which may be effective on the work of the institutions.

Some constitutions give the Presidents some powers in different phases of the Constitutional Amendment process. Some constitutions give the President the authority to propose amendments to the Constitution. According to the French constitution<sup>49</sup>, apart from the members of Parliament, the President has the

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<sup>47</sup> Constitution of Austrian, 1929. Article 49

<sup>48</sup> Constitution of French, 1958. Article 11

<sup>49</sup> Constitution of French, 1958, Article 89/1

authority to propose amendments to the Constitution. However, this may be done by the President upon the proposal of the Prime Minister.

According to the Netherlands Constitution<sup>50</sup>, the king has the authority to propose amendments to the Constitution. Some constitutions gave the President the authority to send the draft constitutional amendment back to be discussed once again (Gözler 2000). In some countries, the President has the authority to submit constitutional amendments to the referendum. According to the Constitution of Turkey, the President may submit the laws concerning amendments to the Constitution adopted by a two-thirds majority of the total number of members by the assembly to the referendum. Some of the constitutions have also empowered the heads of state to approve the constitutional amendments.

#### ***2.2.2.3.3 Duties and authorities related to the executive***

To appoint the president; “the authority to appoint the Prime Minister is the authority of the President of the parliamentary government system. In the first system, The President directly appoints one person as the Prime Minister. 1929 Austria, Denmark, France, Netherlands, Italy, Iceland, Portugal, Turkey, Greece have adopted this system (Gözler 2000).

In the second system, The President of the Republic does not have the authority to appoint a prime minister directly. The President first proposes a “candidate for prime minister” to parliament. If this candidate is approved by Parliament, then president appoints him as the “Prime Minister”(Gözler 2000).

Dismissal of the prime minister; although the President has the authority to appoint the prime minister, they do not have the authority to dismiss the prime minister as a rule (Vedel 1949). but some constitutions give the authority to dismiss the President. According to the Danish Constitution<sup>51</sup> ”the King

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<sup>50</sup> Constitution of the Netherlands, 1983. Article 137

<sup>51</sup> Constitution of Denmark, 1953. section14

appoints the Prime Minister and the ministers”. According to the French Constitution<sup>52</sup>, if the President submits his resignation to the Prime Minister, Prime Minister will end President’s duties.

Chaired by the council of ministers; The Constitution of some countries gives the President the authority to preside over the Council of Ministers. It is appropriate to divide these constitutions into groups among themselves. One of them always serves the President of the Council of Ministers. Others foresee the request of the President or the Prime Minister for this (Gözler 2000). According to the French Constitution<sup>53</sup>, the President presides over the meetings of the Council of Ministers at all times and without the request of the Prime Minister. In France, it is the rule that the President presides over the Council of Ministers.

The Constitution of Turkey gives the President the power to “preside over the Council of Ministers in the words” as he deems necessary or to convene under the chairmanship of the Council of Ministers.<sup>54</sup> Some constitutions gave the President the authority to preside over the Council of Ministers only upon the request of the Prime Minister. The Portuguese Constitution<sup>55</sup> authorises the President to preside over the Council of Ministers at the request of the Prime Minister. The Swedish Constitution<sup>56</sup> foresees that, where necessary, The Government may hold a special Cabinet meeting under the chairmanship of the President.

Some constitutions give the heads of state the mandate and authority to “sign the procedures of the Council of Ministers”. For example, according to the Danish Constitution<sup>57</sup>, “the decisions of the government must be signed by the king. The King's signature in these decisions must be accompanied by the signature of one or more Ministers. The King / Queen is not responsible from these decisions, the ministers who signed these decisions with the King / Queen

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<sup>52</sup> Constitution of French, 1958. Article 8/1

<sup>53</sup> Constitution of French, 1958. Article 9

<sup>54</sup> Constitution of Turkish Republic, 1982. Article 104

<sup>55</sup> Constitution of Portugal, 1976. Article 136 - I

<sup>56</sup> Basic Laws of Sweden, 1975, Section 5, Item 1

<sup>57</sup> Constitution of Denmark, 1953. Section 14

are responsible. The French Constitution<sup>58</sup> also gave the President the authority to sign decrees which were discussed in the Council of Ministers.

## **2.3 PARLIAMENTARY SYSTEM PRESIDENTIAL SYSTEMS IN THE WORLD**

This section examines the examples of the parliamentary system in the world. first, the parliamentary system was born in England, second Israel, third Federal Republic of Germany, and finally Italy will be examined.

### **2.3.1 England (Britain, United Kingdom)**

The parliamentary system was born in England and spread all over the world. In this section, England's political system, legislative processes and executive powers, in turn, the Queen's constitutional duties and powers will be examined.

#### **2.3.1.1 Political system in England**

Geographically, the whole of England, Wales and Scotland is called The Great Britain. With the addition of Northern Ireland, the United Kingdom of Great Britain and Northern Ireland is also the official name (Oakland 1998).

According to Britain's political history, the feudal monarchy, in which a king entitled to a power of nearly 800 years, has the authority to govern, shows a long universal process involving the passage of constitutional monarchy to which powers are restricted. (Duverger 1986)

The basis of British history is the history of the transition from the monarchy and aristocracy to the democratic parliamentary system. There is no text in the British constitutional system that has a written Constitution. Instead, all laws and traditions are respected. In England, “separation of powers” was replaced by “merging of powers”. The separation of powers is a system of government

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<sup>58</sup> Constitution of French, 1958, Article 13/1

management in which the legislative, executive and judicial powers, which are state bodies, are separated from each other. It is a system in which each state is divided into branches and areas of responsibility in separate and independent powers, so that each power and branch have no conflict with one another in terms of power and areas of responsibility.<sup>59</sup>

In the separation of powers, the powers are normally divided into three branches: legislative, executive and judicial. Unlike the principle of separation of powers in the United States, Britain has the principle of unification of powers because of the connection of legislative and executive powers. The British cabinet exhibits a joint responsibility to support the prime minister and is located on both sides of the gap between executive and legislative. In Britain, which has a parliamentary regime, voters elect a parliament that approves and reduces the executive body leading the prime minister in the election. In this case, execution is a committee of the law.<sup>60</sup>

The Westminster model is described as a parliamentary government system with its shortest and first conceivable definition. But the concept is not only a government system, but it meets its own traditional institutions and a pluralist system.

Basic parliamentary features such as the irresponsible President, the Cabinet's formation and the responsibility of Ministers, the Prime Minister's office and the right to dissolve have been the first form of the British Parliament and therefore the basic features of the parliamentary government system. However, as a result of the spread of this system in Britain over time from Canada to Pakistan, the main features remain the same, but differences have started to be seen on the basis of countries. In this context, the Westminster model has differences as a parliamentary system, as well as a holistic structure of all UK government institutions. In particular, the principles of "Parliamentary sovereignty" and "separation of powers" have acquired a unique meaning

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<sup>59</sup> [https://en.wikipedia.org/wiki/Separation\\_of\\_powers](https://en.wikipedia.org/wiki/Separation_of_powers) [accessed date 09.03.2017].

<sup>60</sup> [https://en.wikipedia.org/wiki/Separation\\_of\\_powers](https://en.wikipedia.org/wiki/Separation_of_powers) [accessed date 09.03.2017].

because of the larger meaning of the “Royal and Parliament” instead of the “state”<sup>61</sup>.

In the British political system, legislative, executive and judiciary are not equal. Sovereignty belongs directly to the parliament. The legislative body, in other words, is superior to the executive and the judiciary. This means that Parliament can make or change any law it wants. The toughened processes related to constitutional reform in many countries do not apply to Britain. The will of the Parliament and the legislative process are sufficient for the Constitutional Amendment.

### **2.3.1.2 Legislative in England**

The general features of the United Kingdom political system can be seen in the relationship between legislative and executive bodies and in the position of the dynasty in the current constitutional monarchy regime. The British political system consists of three basic organs; the Dynasty, Parliament and the government have four structural features in the relationship between. The first feature is that the Presidency (King/ Queen) and the head of the Executive (Prime Minister) are different. The second feature is used by the prime minister and his cabinet with political responsibility towards the Executive Parliament. The third feature is that the prime minister has to be a deputy. Most of the cabinet is elected from the legislature and is part of the legislature. The fourth feature is that the prime minister and the Cabinet are responsible against Parliament, both individually and jointly, except for some exceptional circumstances. In other words, they can be terminated by Parliament (Mahler 2003).

Since the United Kingdom was not federalist in the first place, it was mostly regarded as a unitary state. But there are Constitutional differences in the political and economic context between the states within it. Although the legislative authority of the Westminster Parliament is included in the entire UK,

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<sup>61</sup> <http://dergipark.gov.tr/download/article-file/275226> [accessed date 10.03.2018].

there are three different legal systems in the country, including its own courts. These are England and Wales, Scotland and Northern Ireland respectively. However, the political traditions that have emerged as a result of the reflection of the historical process of England have created a distinct understanding of power and are based on parliamentary sovereignty in the form of its first appearance. In this context, Britain is a constitutional Kingdom governed by the Westminster model known as parliamentary democracy. The term Westminster model is generally preferred to describe the majority model. As discussed in this study, it has been used more specifically to indicate the British Parliament and its administrative institutions. The Westminster Parliament, the House of Commons and the House of Lords are two parliamentary legislatures and the Supreme political authority.<sup>62</sup>

The House of Commons consists of 650 members, all of whom are elected. It has the function of the first Parliament with wide legislative powers in the structure of two chambers. Since the Speaker of the House of Commons is the person responsible for transferring the decisions of the parliament to the King/Queen, he is called a “spokesperson”. The main duties of the House of Commons are to establish the government, to follow the complaints of the people, to make laws and to supervise the Executive. (Arslan 2003)

The task of forming the government has evolved in the historical process of the UK as a model of the parliamentary system all over the world. The Speaker of the party holding the majority in the House of Commons is given the task of forming the government by the Queen / King. The Cabinet, composed of the party's leading parliamentary members, begins to function as a result of the simple majority of the House of Commons and the trust. In the British system, The Queen / King has no right to appeal to government members (Arslan 2003).

There is no written Constitution in the British system and there is no President of the state who has veto power. Therefore, it is possible to remove the

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<sup>62</sup> <http://dergipark.gov.tr/download/article-file/275226> [accessed date 10.03.2018].

monarchy or the house of Lords when a party with a majority in the House of Commons is requested (Taylor 2014).

The House of Lords has 812 active members and 846 members in total. There is no upper limit on the full number of members. These members elected by the Queen/ King upon the proposal of the Government shall have the right to be in parliament for the rest of their lives. This right cannot be transferred by inheritance to another. Legislative powers are very limited. To examine and organize the bills from the House of Commons, to initiate the process of making laws on certain issues; it is among the tasks of putting the relevant proposal on hold within a period of time enough to be able to express the views of civil society in the proposals of the law, and as a parliament to carry out free debate on many issues (Kingdom 2003).

The laws of the House of Lords can only be delayed for a year and up to a maximum. Members of the House of Lords have the same rights and immunities as members of the first Assembly. There are privileges of direct contact with the ruler. They can't vote in parliamentary elections (Demir, Karatepe 1989).

### **2.3.1.3 Executive in England; dynasty (crown)**

In the classical sense, the legitimacy of the United Kingdom political system is based on the separation of soft forces in the parliamentary system of legislative, executive and judicial power, which points to three important functions of state power, is based on two important sources in Weber's distinction:<sup>63</sup> The traditional authority and the legal authority. In the modern system, the legitimacy of the King / Queen, which increasingly plays a symbolic role as president, is based on tradition. There is no obstacle to ending the monarchy by the legislative body (Aykaç, Durgun 2015).

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<sup>63</sup> Weber class theory was created by Max Weber. Weber is based on the distinction between classes and status groups, which are two ideal types of layering in modern societies.



In the past, the dynasty lost its power struggle with the Parliament and adopted parliamentary sovereignty with the Constitutional limits given by the Parliament. The executive power of the King/Queen has disappeared. As a constitutional, he has some Constitutional roles as the head of legislative, executive and judiciary, as the symbolic President (Roskin 2011).

King / Queen represents the state and its unity. The King/ Queen is also the head of the church and commander of the armed forces. The government is officially referred to as “His/Her Majesty's government.” Ministers and bureaucrats are servants of His/Her Majesty. Members of Parliament, judges, soldiers, and stereotype leaders pledge allegiance to the crown. The ruler has no power to make laws, can't collect taxes, can't spend public resources and can't act as he/she wants. He/She spends his/her budget for the Parliament due to official assignments and pays taxes for his personal wealth. His/Her Majesty's government runs on behalf of His/Her Majesty. Fulfills its constitutional role in accordance with the recommendations of the prime minister and cabinet members (Roskin 2007)

Among the Queen's / King's Constitutional duties are the use of the term “my government” in the opening speech of the legislative year, which includes issues given to him by the prime minister in the house of Lords. Other duties are to exercise the authority to dissolve the Parliament on the recommendation of the prime minister, to appoint ministers and other officials, to present the Royal approval in accordance with the laws passed by the parliament, to perform international duties upon the recommendation of the Cabinet members and to distribute the titles of honour in accordance with the list the Prime Minister (Roskin 2007).

It is an important task to elect and appoint the Prime Minister for the monarch, but in reality, it is no more than a dynastic endorsement of the result achieved through democratic elections. The party leader who won the election is appointed by the dynasty to form the government. The government creates the government program that determines the Cabinet. The King/ Queen has no authority. The dynasty is traditionally only the approval authority. The dynasty

does not have the authority to list the Cabinet with the prime minister, to remove and add the names he/she wants.

As you can see, the power represented by the crown for the United Kingdom political system corresponds to the symbolic state presidency in parliamentary systems. The symbolic President of the parliamentary system is the head of the Executive. However, the prime minister and his cabinet are those who use executive powers other than the symbolic powers of the President and have political responsibility for the Parliament as an individual and as a partner.

### **2.3.2 State of Israel**

The State of Israel was founded on May 14, 1948 by the United Nations General Assembly on November 29, 1948. Israel was founded a few hours before the mandate over Palestine ended. Israel, one of the most problematic countries in the region in terms of international relations, is the only country governed by a democratic and parliamentary regime in the Arab Middle East with its state structure and institutions.

#### **2.3.2.1 Political system in State of Israel**

The State of Israel was founded on May 14, 1948 by the United Nations General Assembly on November 29, 1948. Israel was founded a few hours before the mandate over Palestine ended. Israel, one of the most problematic countries in the region in terms of international relations, is the only country governed by a democratic and parliamentary regime in the Arab Middle East with its state structure and institutions.

Although Israel does not have a long-established state tradition, it has maintained its ties with pre-state political mechanisms regarding state institutions and functioning. The experience of the diaspora life in the historical process, the intense concentration of this experience with religious motifs, has been effective in shaping the post-state structure. In addition, the existence of a complex social structure has led to the questioning of parliamentary democracy

in Israel from time to time and the application of different methods to overcome the political crisis. The most typical example of this is the direct election of the Prime Minister by the people (Aykaç,Durgun 2015).

The belief and rituals of Jewish religion that shaped today's Israel's domestic and foreign policy, the idea of “return to Holy Land”, constituted an important part of the Zionist movement and state organization as a force to continue the promise that the Jewish people had chosen to complete their destiny in Zionism. The Constitutional documents of the states play a fundamental role in the establishment of the basic principles of the regime, in the determination of the relations between the legislature and the executive, and in the supervision of the judiciary. The Israeli constitutional system has its own structure. There is no officially written constitution. In Israel, the issues related to the functioning of state institutions, political structures and processes, which are usually in the Constitution, are regulated by certain “Special Laws”. These laws are called the basic law. Although a constituent assembly elected in the Declaration of Independence of 14 May 1948, when the establishment of the State of Israel was declared, was to prepare a Constitution by 1 October 1948 at the latest, the beginning of the first Arab-Israeli war prevented this commitment to the Constitution from taking place. (Mahler 2004)

In November 1948, the Provisional State Council adopted the Transitional law which determined the organs of the state and the powers of these organs, and in accordance with this law, it transferred all its powers to the Constituent Assembly and turned into Knesset<sup>64</sup> on 8 March 1949 (Sager 1985). There is no written constitution in Israel as in England. The difficulties created by the formation and powers of the basic organs of the state, human rights and freedoms, civil rights and religious freedoms were not determined within the Constitutional framework, were tried to be overcome by the basic laws adopted by Knesset at certain times and which bring regulations for these areas (Sager 1985). Although Israel has adopted a constitutional system of laws enacted at

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<sup>64</sup> Knesset, a Hebrew word, means a great assembly.

different times, it does not have the characteristics of a rigid Constitution (Sager 1985).

### **2.3.2.2 Legislative in State of Israel**

Knesset is the organ that acts as a legislative officer in Israel. The structure of the Israeli parliament is regulated by the Knesset Basic Law of 1958. The duties of Knesset, elected by the people consisting of 120 members, are to authorize and supervise the prime minister and his cabinet, primarily to make laws, to elect senior officials and to make political decisions (Mahler 1981).

The supremacy of Parliament increases Knesset's political power. This political power from the fact that Knesset has unlimited authority to make laws. There is no power to veto the Knesset (Mahler 1981).

Knesset is executed by the General Assembly and commissions according to the Knesset Basic Law. Proposals for the law are submitted by a single member of the Knesset or by the parliamentary group or government and commissions. The Commission dealing with the Law has the right to make changes in a way that is not contrary to the law if necessary after its first reading is approved at Knesset. After that, the draft law is approved after the second or third readings at Knesset. The law is published in the Official Newspaper.<sup>65</sup>

### **2.3.2.3 Executive in State of Israel – president**

The Executive task in Israel is carried out by the government consisting of the President and the prime minister and the Council of Ministers on the basis of the Articles of basic law. According to the first article of the Basic Law of the President of the Republic dated 1964, the President was defined as the head of the state. As the highest representative of the State of Israel, the President of the state who has a post-party position has no administrative powers and no political responsibility. The position of the President has a completely symbolic and

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<sup>65</sup> Chazan, Naomi, The Knesset, Israel Affairs, Vol.11, No.2, April 2005 (S.392-416)

ceremonial status. The President of the Republic is elected by Knesset by secret ballot consisting of two rounds in five years.

There is no other condition other than being a citizen of Israel to be elected president of the state. If one of the candidates in the first round does not reach a sufficient majority, the person who has received the most votes in the second round is elected as the President. The president, who has served two terms, cannot be a candidate for the third term. But with the amendment to the President's basic law in 1998, the President can only be elected once and his term of office is seven years. According to the President's basic law, the duties of the president are to ensure the establishment of the government and to accept the resignation of the government, to sign all laws other than the laws governing its powers, to give diplomatic representatives a letter of trust, and to accept foreign states' letters of trust. Other duties include signing bilateral or multilateral interstate agreements approved by Knesset and appointing or dismissing senior officials. The President has no veto power. With the election of the Prime Minister by the people, the authority to appoint the Knesset member to form the government has disappeared.<sup>66</sup>

As a result, since the day Israel declared its independence, it has gathered its political structures and institutions and its democratic and non-democratic characteristics. In Israel, which is not yet a written Constitution, the legislative, executive and judicial organs of the state and the human rights and freedoms are regulated by laws enacted at different times as defined by the basic law.

### **2.3.3 German Federal Republic**

The Germans reached the stage of history in the fifth century after Christ. With the fall of the Roman Empire, many Germanic kingdoms were established from European lands. The German people have always had a fragmented political structure throughout history. With the beginning of the nineteenth century, the idea of a German nationhood began to be born. In 1871, the German nation

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<sup>66</sup> Akinci Selçuk. Constitutional order of Israel, unpublished Master thesis, Kırıkkale University, Institute of Social Sciences, Kırıkkale, 1998, p.95-95

established its first real political unity, the German Empire, which consisted of twenty five States. It was organized in the form of an imperial federation. The structure of the empire that was defeated during the First World War changed with the founding of The Weimar Republic in 1918. Germany has historically been a strategically important country in the centre of Europe as well as a geographical location. The history of Parliamentarism dates back to the nineteenth century in Germany. With the establishment of the political union, it has become a parliamentary monarchy. After the First World War, The Republic of Weimar developed within the framework of the parliamentary republic. The Constitution of Weimar, which was adopted in 1919, remained in force until 1945. The Nazi regime was founded in 1933. The period of Hitler began in 1934. With the strengthening of the right-wing view as a result of the situation in Germany, Hitler had closed other political parties and a full authoritarian regime was established by taking the presidency. Hitler started The Second World War in 1939. With the defeat of World War II, the German political forces ended again in 1945

### **2.3.3.1 Political system in German Federal Republic**

The Germans reached the stage of history in the fifth century after Christ. With the fall of the Roman Empire, many Germanic kingdoms were established from European lands. The German people have always had a fragmented political structure throughout history. With the beginning of the nineteenth century, the idea of a German nationhood began to be born. In 1871, the German nation established its first real political unity, the German Empire, which consisted of twenty five States. It was organized in the form of an imperial federation. The structure of the empire that was defeated during the First World War changed with the founding of The Weimar Republic in 1918. Germany has historically been a strategically important country in the centre of Europe as well as a geographical location. The history of Parliamentarism dates back to the nineteenth century in Germany. With the establishment of the political union, it has become a parliamentary monarchy. After the First World War, The Republic of Weimar developed within the framework of the parliamentary republic. The Constitution of Weimar, which was adopted in 1919, remained in force until

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The Second World War was lost in the continuation of the first rule of National Socialism. After that, the country was divided into two parts: the Federal Republic of Germany (West Germany) and the Democratic Republic of Germany (East Germany). The 1949 Constitution, which came into force in the western part of the country, introduced a powerful parliamentary system. Later, after the unification of two Germany, it maintained its existence.

Germany is a democratic and social federal state, according to Article 20 of the Constitution, where the main principles of the state are established. According to the same article which emphasizes the separation of powers, sovereignty is entirely of the people.<sup>67</sup>

In the context of the two-headed executive of the classical parliamentary systems, the German President (Bundespräsident) was equipped with irresponsible and symbolic powers in the executive, while the Federal Assembly (Bundestag), which has been elected by the people due to the soft power differences, relies on the trust of the federal parliamentary majority and can always be dismissed by the Federal parliamentary majority.<sup>68</sup>

The first three paragraphs of the twentieth article of the Constitution reveal the basic principles of the Constitution. The first of these principles is a democratic and social federal state and the principle of the state of law; second, the principle of democracy emphasizes that the people, which is the source of all forces, will exercise their authority through Parliament, composed of representatives

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<sup>67</sup> Basic Law of the Federal Republic of German, 1949. Article 20

<sup>68</sup> [https://www.tbmm.gov.tr/yayinlar/parlamentar\\_sistem.pdf](https://www.tbmm.gov.tr/yayinlar/parlamentar_sistem.pdf) [accessed date 12.03.2018].

elected by them, and third, the principle of the Federal State prevents the power of the state from.

### **2.3.3.2 The legislative in German Federal Republic**

Legislative bodies are the most important political institutions in many countries. Germany has never had a strong parliamentary tradition as a legislative body (Roskin 2009). Due to the fact that the National Unity has been achieved fairly late and the bad parliamentary experience, the importance of the Parliament has remained in the background. The real importance has been given to the government in the executive power and in the Executive.

The legislative body is divided into Bundestag (National Assembly) and Bundesrat (State Assembly). The first of these is elected by direct votes throughout the country, while the second is composed of representatives of the provinces. Within the legislative process, these two institutions balance each other. The legislative body carries out its work through commissions most of the time.

The Federal Assembly is composed of 598 deputies elected for four years as representatives of the entire population.<sup>69</sup> The electoral system is regulated by the Federal Election Law. The Federal Assembly, which gathers within 30 days after the elections, elect the President, the Vice-Presidents and the clerk members.<sup>70</sup> The Federal parliament has a number of functions and powers, such as making laws, supervising the government, accepting and controlling the budget, electing the Chancellor, electing the president and electing a member of the Constitutional Court. The Federal Assembly makes the Chancellor's election. To be Chancellor, the condition is to have only the ability to elect and to be elected. It is not required to have Federal parliamentary Membership. The Chancellor is elected by secret ballot by the Federal Assembly upon the proposal of the President. The candidate who receives the vote of the absolute

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<sup>69</sup> Basic Law of the Federal Republic of German, 1949. Article 39/1.

<sup>70</sup> Basic Law of the Federal Republic of German, 1949. Article 40/1.



majority is elected and appointed by the President.<sup>71</sup> As Head of the Government, the Chancellor manages cabinet sessions, sets the principles of government policy and assumes responsibility for this.<sup>72</sup> In the Federal Council, The States participate in the legislative and administrative functions of the federal state and in the affairs of the European Union.<sup>73</sup> It consists of members that state governments can appoint and dismiss.

### **2.3.3.3 Executive in German Federal Republic**

The executive power in the German political system was distributed on paper between the President and the government. In practice this power is in the hands of the government. In order to prevent the formation of a possible dictatorship, it can be said that the President has symbolic power within the Executive. The real power within the government is in the hands of the Prime Minister. The President of Germany is elected by the Federal Assembly. Half of the participants of the Federal meeting are members of the Bundestag and the other half are members elected by the State Assemblies. In the first two rounds of the election, the candidate is elected as the president who receives the vote of the majority. In the absence of a majority, the candidate who receives the most votes from the third round becomes president. In order to become president of Germany, every German citizen who has the right to vote in the Bundestag elections and has reached the age of 40 has the right to be a candidate. The President is elected for five years and has the right to be elected at most twice in a row. He / She's not allowed to work in any other job during his term. According to one opinion, the German presidency is a sort of semi-retirement business, usually awarded as a prize to distinguished senior politicians (Roskin 2009).

In the Constitution, the powers of the president are listed as follows: to represent the state in the international arena, to sign the international agreements on behalf of the state. To appoint and dismiss national judges, officers, officers and petty

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<sup>71</sup> Basic Law of the Federal Republic of German, 1949. Article 63/1-2.

<sup>72</sup> Basic Law of the Federal Republic of German, 1949. Article 65.

<sup>73</sup> Basic Law of the Federal Republic of German, 1949. Article 50.

officers. In special cases, amnesty in the name of the state. All decisions and procedures of the President shall take effect as a rule upon the approval of the prime minister or the authorized Minister. According to the Constitutional lawyers, the president should not be in the forefront of politically controversial issues and should be in favor of government policy in all circumstances (Wolfgang 2000).

### **2.3.4 The Republic Of Italy**

Politically, the word “Italy” was used until 1860 to refer to the whole nation on today's peninsula. Italy's unique geographical location and history can be classified as the main element that causes the Italian nation to pass (Smith 1997). Italy, with its political structure shaped after the Second World War, has become one of the most important countries of Western democracies. Italy, which became a middle-sized and regional actor in time, has created an impact on both its internal political characteristics and its environment. With its history, the North and South, its changes and its continuity, its central structure and its processes between the authoritarian regime and the democracy dilemmas, and its instability are the most fundamental characteristics of Italian political life (Koff, Koff 2000).

#### **2.3.4.1 Political system in the Republic of Italy**

Politically, the word “Italy” was used until 1860 to refer to the whole nation on today's peninsula. Italy's unique geographical location and history can be classified as the main element that causes the Italian nation to pass (Smith 1997). Italy, with its political structure shaped after the Second World War, has become one of the most important countries of Western democracies. Italy, which became a middle-sized and regional actor in time, has created an impact on both its internal political characteristics and its environment. With its history, the North and South, its changes and its continuity, its central structure and its processes between the authoritarian regime and the democracy dilemmas, and its instability are the most fundamental characteristics of Italian political life (Koff, Koff 2000).

Today's Italian political life has not started to be shaped in the early years of the Cold War. The origins of the institutionalization and identity-building processes of the Italian political system are seen in Italy's geopolitical and historical background. Italy has made its political unity late. therefore, it has not been a political unit in European history until the end of the nineteenth century (Smith 1997).

For this reason, the last 150 years of Italian political history studies are taken into consideration. The political history of Italy, which varies in certain periods, can be classified as: Liberal Italy (1861-1926); Fascist Italy (1926-1943); Democratic and Republican Italy; First Republic Period (1946-1992) and Second Republic Period (1992-present) (Colerisi 2007).

Italy has historically been defined as a region with many geographical and political urban States. In the formation of this multi-state, the presence of different administrative concepts was a hindrance to the unity of Italy (Smith 1997).

In the north of Italy, after the Napoleonic occupation, Italy became a political entity in Europe by establishing a kingdom under the name of the kingdom of Italy. For the first time, the Italian people were persuaded to form a central government together with Napoleon Administration and learned about the methods of administration and the laws (Smith 1997). However, after the Napoleonic wars in 1815, according to the Vienna Congress, the kingdom of Italy was torn apart again (Sabetti 1982).

With the end of Napoleon's rule, the aristocrats, who were privileged and powerful in non-political areas, became dominant again, and these groups formed a participatory class in the political unity movement (Smith 1997). Italy's political life, full of instability, began in 1862. For example, with the resignation of the Prime Minister of Turin Baron Bertina Ricasoli in 1862, the tradition of not completing the constitutional processes of Italian politicians has started (Paoletti 2008).

Italian political life has been the scene of the struggle for survival of governments, rather than the country's political and economic initiatives with long-term strategies. For this reason, Italian society focused on the new alternative political preferences because of both instability and problems arising from external factors. In this context, fascism emerged as a rising political power in 1926. In the shaping of Italy's political system, post-World War II developments were effective. In 1947, the Republican regime was introduced. Until 1993, the period of the First Republic was experienced. The second republican regime started with the change of the Italian electoral system with the referendum held in 1993.

Although Italy has adopted the Republican regime since June 2, 1946, it has a different state structure consisting of 15 regions<sup>74</sup> and 5 autonomous regions<sup>75</sup>. The political authority in Italy was distributed locally in the 1948 Constitution. The Constitution has sections that authorise sub-national governments or regional governments. Unlike the federal system, Italy can be defined as a state of territories. Unlike the federal government, these regions do not have their own Constitution and powers, but they have some different laws (Koff, Koff 2000).

In theory, the independence of the state's legislative, executive and judicial functions is an important issue in Italy, as in other Western democracies (Çam 2005). The main aim of the Constitution, which was formed after the fascist regime and monarchy after the Second World War, can be explained as preventing any man from having dominion over it. In this context, although the executive and legislative are related to each other in terms of responsibility, there is a separation in the matter of authority. In practice, the legislative body, Parliament, shows more activity than the executive body, the government. In both periods of the Republic, Parliament maintains high control over the laws proposed by the executive with priority.<sup>76</sup>

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<sup>74</sup> Abruzzo, Basilicata, Calabria, Campania, Emilia-Romagna, Lazio, Liguria, Lombardia, Marche, Molise, Piemonte, Puglia (Apulia), Toscana, Umbria, Veneto

<sup>75</sup> Friuli-Venezia Giulia, Sardegna, Sicilia, Trentino-Alto Adige, Valle d'Aosta

<sup>76</sup> Kreppel, A. (1999) Executive – legislative Relations and Legislative Agenda Settings in Italy: From Leggere to Decreti and Deleghe, *Bulletin of Italian Politics*, 1.2, s. 183-209

#### **2.3.4.2 The legislative in The Republic of Italy**

Legislative power in Italy is used by parliament.<sup>77</sup> The Parliament is obliged to approve the laws proposed by the Government (the Council of Ministers) which has this function and to grant the Council of Ministers trust.<sup>78</sup> According to the 1948 Constitution, the Parliament in Italy consists of two parts: The Assembly and the Senate. According to the Constitution, 630 members of the assembly and 315 members of the Senate are elected by the same methods and have similar legislative powers.<sup>79</sup> Both assemblies are elected for five years.<sup>80</sup>

The Constitution gave the Parliament the authority to approve the laws that the Parliament had chosen to carry out. According to Article seventy-second, before each bill goes to one of the Assemblies, it is examined by parliamentary commissions in accordance with the procedure rules and submitted to the assembly for the final vote (Koff , Koff 2000).

Italy has the most effective legislative power in addition to other Western democracies. The reason for this is the reaction to the fascist system in which it lived in its past. This response reveals strong legislation and relatively weak conduct (Hogwood 2003).

#### **2.3.4.3 Executive in The Republic of Italy**

Today, in Italy, the execution is carried out by the President and the Prime Minister as “dual-head”. However, the Executive function is mostly carried out by the prime minister and the Council of Ministers (Bull, Newell 2005).

The President shall be elected by the Parliament by a joint session of the Assemblies. This election is attended by three delegates elected by the Regional

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<sup>77</sup> Constitution of Italy, 1947. Article Part I – Article 55.

<sup>78</sup> Constitution of Italy, 1947. Article 55.

<sup>79</sup> Constitution of Italy 1947. Article 55-56-57.

<sup>80</sup> Constitution of Italy 1947. Article 60.

Council for the representation of minorities in each region. Valle d'Aosta sends only one delegate. The President is elected by secret ballot and by a two-thirds majority of the General Assembly. when a third ballot is applied, the absolute majority suffices.<sup>81</sup> Any citizen over the age of 50 who has civil and Political Rights can be elected president.<sup>82</sup> The President is elected for seven years.<sup>83</sup> The President is the Head of the state and represents the national unity. The President may send messages to the Assemblies. The President shall allow the draft laws of the government to be submitted to the Assemblies; he shall publish the laws and issue decrees and regulations with the force of law; he shall have the general public vote in accordance with the Constitution; he shall appoint the state officials; he shall appoint and accept diplomatic representatives; and he shall approve the international treaties, The President is the commander-in-chief of the Armed Forces, presiding over the Supreme Defence Council established by law and declares war upon the decision of the Assembly. The President presides over the Supreme Council of judges. He can provide special amnesty, deduct fines. The president gives the order of the Republic, honour and rank and shares.<sup>84</sup> The President may, in consultation with the speaker of the assembly, terminate one or both of the Assemblies of the Parliament.<sup>85</sup> The President's written order is not valid unless it is signed by the Minister receiving the responsibility of a written order. The provisions of the law and other written orders based on the law shall also be signed by the Prime Minister.<sup>86</sup>

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<sup>81</sup> Constitution of Italy 1948. Article 83.

<sup>82</sup> Constitution of Italy 1948. Article 84.

<sup>83</sup> Constitution of Italy 1948. Article 85.

<sup>84</sup> Constitution of Italy 1948, article 87

<sup>85</sup> Constitution of Italy 1948, article 88

<sup>86</sup> Constitution of Italy 1948, article 89

### 3. COMPARISON OF PARLIAMENTARY SYSTEM AND PRESIDENTIAL SYSTEM

In the presidential system, The executive body consists of one person, “The President”. In the presidential system, there is no symbolic presidential authority other than the President. The President is both the head of the government and the head of the state. The Vice-Presidents elected by the President and approved by the Assembly shall not form a cabinet. In the parliamentary system, The executive branch is in the dual system; on the one hand there is the President of the state with symbolic powers, on the other there is the Council of Ministers consisting of the prime minister and ministers.

In the presidential system, The President is elected directly by the people. The President is elected for a certain period of time and, as a rule, cannot be dismissed before the term of office is over. The Council of Ministers, which has an active role in conducting the parliamentary system, mostly comes from within the Parliament. The President is elected by the Parliament in the republics.<sup>87</sup>

In the presidential system, The President does not take the trust from the legislative body and cannot be dismissed by the legislative body by the vote of distrust before the term of office is over. The President is not responsible for the legislative body, he has only responsibility for the people who elect him. In the parliamentary system, The executive body has to take the trust of the legislative body. In the parliamentary system, The President has no responsibility for his duty other than for treason crimes. However, the Council of Ministers is responsible for the legislative body. The legislative body can supervise the executive body or dismiss the executive body. In parallel, the President has the authority to terminate the legislative organ if certain conditions are fulfilled.

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<sup>87</sup><http://www.turkiyehukuk.org/baskanlik-sistemi-ile-parlamentar-sistemin-karsilastirilmasi-infografik/> [accessed date 13.03.2017].

In the presidential system, a person cannot be employed in the legislative and executive organs at the same time. The absolute separation between the legislative and executive bodies in this system requires that the executive body cannot interfere with the legislative body's work.

In terms of legislative-executive relations, the most important difference between the parliamentary system and the presidential system is that in the parliamentary system, The Government leaves the Parliament and remains in Office only as long as it has its trust. In contrast to the possibility that the Parliament can always cast down the government by the vote of distrust, the government can also dissolve the Parliament and go to the new elections among the main elements of the parliamentary system. In other words, in the parliamentary system, both organs can end each other's legal existence. In the presidential system, neither legislative nor Executive can end the legal existence of the Executive, nor the Executive can end the legislative body and go to new elections. In this system, The President and the legislature are elected by the people by General vote for separate and fixed periods and can survive independently against the other organs during this period.<sup>88</sup>

### **3.1 ADVANTAGES OF PARLIAMENTARY SYSTEMS**

The parliamentary government system is based on the soft separation of the forces and consists of two parts, namely the President and the Council of Ministers of the Executive. In this system, The Executive function is fulfilled by the Council of Ministers, which comes out of the Legislative Assembly with an irresponsible President. Parliamentary government systems are flexible. The presidential system is a system based on the separation of the forces, which is impossible to interfere with the other organ in the process of the legislative or executive body or the termination of its mandate. Therefore, in the presidential system, no matter how bad the administration is, the legislative body cannot dismiss the President until the term of office is over. The absence of such an

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<sup>88</sup> Özbudun, E., 2013. "Hükümet Sistemi Tartışmaları" *Yeni Türkiye Sistemi Sayısı, Mart-Nisan, Yıl:9, Sayı 51, s.206*



opportunity leaves the system insecure when the President shows authoritarian tendencies. However, in the parliamentary government system, The Council of Ministers can only remain in office as long as it has the trust of the legislative body. There is no need to wait four or five years to dismiss the government, which has lost its reputation in the public eye and has failed to take office (Gözler 2011). Parliament can end the task of the government, which has been mismanaged by its decision.

Obstructions in the political system do not only arise from the inadequacy or abuse of the executive body. The Parliament may also be responsible for these obstructions. Therefore, in parliamentary systems, the executive organ has been authorized to terminate. Thus, the executive body is not completely secured against the legislative body. The government may decide to dissolve Parliament and go to new elections and apply to the People's referees for final decision in the dispute between the two bodies (Gözler 2011).

A parliamentary system does not cause polarization. In the presidential system, because the nature of the system is not conducive to the division of the Executive position belonging to a single person, it is inevitable that the political struggle is transformed into a whole or nothing game (Erdoğan 2013). However, political struggle is lower in the parliamentary system. The parties can obtain some ministries in the Cabinet, even if they are not in first place, and can maintain their effectiveness in the political process.

The President can play an active role in resolving disputes. In parliamentary systems, the President is usually neutral and above partisan (Gözler 2011). In this way, there is a better chance of reaching the solution.

There is a solution to the obstructions in the parliamentary system. Since the executive organ comes out of the legislative body and relies on its trust, the

possibility of a crisis between the legislative and executive organs is lower than the presidential system.<sup>89</sup>

### **3.2 DISADVANTAGES OF PARLIAMENTARY SYSTEM**

It is known that the classical parliamentary system is based on the principle of equality and balance between forces. (Kuzu 2012). As a natural consequence of the principle of equality and balance based on the parliamentary system, the legislature has the authority to overthrow and oversee the government with its control mechanisms. The executive body may also show its strength by dissolving the Parliament or by renewing the elections on certain conditions.

It is not possible for the majority of the parliament to drop the government formed by its own party or to dissolve the Parliament which the government itself relies upon through the President of the Republic. In this respect, the power to terminate the parliamentary system has become an institution in which the government has applied to put itself on a stronger majority in parliament (Kuzu 2012).

One of the disadvantages of the parliamentary system is that the Executive is not directly responsible for the voters. Because the government is not directly determined by the voters. Voters only determine the representatives and the government is determined among these representatives. Even though the members of the Council of ministers have to stand before the electorate, they can only be candidates for parliament. After becoming a member of Parliament, being a minister depends on the demand of the Prime Minister (Kuzu 2012).

Another disadvantage of the parliamentary system is the lack of government stability. In parliamentary systems, the proportional electoral system generally applied causes the formation of the coalitions. Another disadvantage of parliamentary systems is that there is no effective legislative control against the

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<sup>89</sup> Gözler, K., 2000. Türkiye’de Hükümetlere Nasıl İstikrar ve Etkinlik Kazandırabilir? (Başkanlık Sistemi ve Rasyonelleştirilmiş Parlamenterizm Üzerine Bir Deneme) *Türkiye Günlüğü*, Sayı 62, Eylül – Ekim, pp.25-47.

execution of parliamentary systems. Indeed, in the political party regime, when there is strict party discipline, it is very difficult to control the governments (Kuzu 2012).

### **3.3 ADVANTAGES OF PRESIDENTIAL SYSTEM**

The fact that the presidential system completely separates legislative and executive organs from each other, and that these organs share some important powers has brought the necessity of compromise. If the president who has a strong position in this system does not get along well with Congress, this will result in the President not being able to exercise any important authority. Because of two important powers such as law enforcement and budget, the President is bound to Congress. Therefore, check and balance mechanisms have been introduced to prevent overuse of powers granted to legislative and executive bodies (Turhan 2012).

Another advantage of the presidential system is that the legislative body will only function on matters related to its own field of office, so they will adopt a more independent attitude in legislative activities, as there is no expectation of being the President of the legislative body.<sup>90</sup>

One advantage of the presidential system is that it provides stable management. The representative of the presidential system is one of the Democratic regime types, and the most basic characteristic of the system is based on the separation of the hard forces (Turhan, 2012, p. 35). In this system, there is no dependency between the legislative body and the President because of the separation of the forces. Therefore, the President cannot be dismissed for a certain period of time and will continue to work as the government cannot be cast down by the legislative body by the vote of distrust.

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<sup>90</sup> Tunç, H., Yavuz, B. Avantaj ve Dezavantajları ile Başkanlık Sistemi. *TBB Dergisi Sayı. 81*, pp.35

Since there is no danger of being lowered by distrust, the President will not have problems such as observing intra-parliamentary balances or confronting pressure from Party groups during his term of office. There are no government crises in the presidential system. On the other hand, in parliamentary systems, legislative and executive powers have mechanisms that can end each other's existence. This often leads to instability. Ensuring government stability has an important impact on achieving political stability. However, government instability does not always cause political instability. The issue that leads to political instability is more powerless and bad governments.<sup>91</sup>

Another advantage of the presidential system is that it provides more democracy. The presidential system is more suitable for democratic values than the parliamentary system. One of the arguments on which this claim is based is that the president who holds the executive power is directly involved with the people. Secondly, the fact that the responsibility in this system is clear, that the public knows the person who will ask for the account when things are not going well, makes the system more democratic. Thirdly, the presidential system is more democratic in terms of predictability. The concept of knowability is that the candidate who is elected will know who will use his authority if he wins the candidate who is elected when he throws the ballot. In the parliamentary system, voters who voted for representatives of a party do not know who the party will support as Prime Minister.

In the presidential system, Parliament makes laws and the President is solely responsible for government and Public Affairs within the framework of the law (Erdogan 2013, p.11). 208). In the parliamentary system, The legislative body, according to the requests of the executive body, is making the law (Kuzu 2012).

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<sup>91</sup> Tunç, H., Yavuz, B. Avantaj ve Dezavantajları ile Başkanlık Sistemi. *TBB Dergisi Sayı. 81*, pp..32

### 3.4 DISADVANTAGES OF PRESIDENTIAL SYSTEM

In the presidential system, it is difficult to resolve the crisis and the obstructions between the Constitutional organs in a democratic way because the legislative and executive organs are weak in their ability to influence each other.

One of the disadvantages of the presidential system is the legitimacy of the legislative and executive organs which are formed by the election of the people in these systems. This problem is more likely if the majority of people who have the sole owner of executive power and the majority who have the power to live with the President show different political tendencies (Yazıcı 2005).

The presidential system could be solid. The fact that there are no necessary mechanisms for resolving the obstructions between the forces such as confidence and termination in the presidential system can lead to the political process being frozen. No matter how bad it is during the term of Office, it is impossible for the President to assume his political responsibility, even if he has disgraced his reputation in the eyes of the public.<sup>92</sup> In parliamentary systems, The no-confidence mechanism of the legislative body gives the opportunity to change the government that has lost its popularity and legitimacy. However, in parliamentary systems, this power of the legislative body is not possible to operate in practice in terms of two-party or moderate multi-party countries (Yazıcı 2005).

In the presidential system, legislative and executive bodies were completely separated and some important powers were shared. In this way, the fact that the legislative and executive organs of the system are mutually dependent brings with it the necessity of reconciliation. The President, having a very strong position in this system, becomes unable to exercise any important authority if he does not get along well with Congress.

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<sup>92</sup> Gözler, K., 2000. Türkiye’de Hükümetlere Nasıl İstikrar ve Etkinlik Kazandırabilir? (Başkanlık Sistemi ve Rasyonelleştirilmiş Parlamenterizm Üzerine Bir Deneme) *Türkiye Günlüğü*, Sayı 62, Eylül – Ekim, s.42

### **3.5 PRESIDENTIAL SYSTEMS IN THE WORLD**

In this section, the presidential system will first be explained through the United States. Then the presidential system will be examined through France, Russia and Iran.

#### **3.5.1 United States Of America**

In order to explain the American political structure, it is necessary to examine the processes created by its constituent elements on the system. American history is a process in which different cultures agree with common goals. Although the first settlements were the result of colonization activities, immigrants from Europe and other regions later settled here for the freedom and welfare they could not live in their own countries (Bilgin 2007). America appeared on the stage of history just four hundred years ago. Most Europeans who immigrated from Europe to North America in the early 1600s came to the American continent to escape political oppression, to live their religious beliefs freely, or to catch up with the prosperity they could not find in their country (Outlined American History 2002).

The American society, as a result of these migrations, has been a mixed Society of people from different countries (Dereli 1998). The aims of the colonies to be a powerful and independent society are full of historical events by the American state aimed at increasing the power of the community (Hardt, Negri 2004). The most important element of their mission is that the true role of the United States will become world leadership.

The great economic crisis that took place in American history in 1929 also has an important place. This depression is an event that deeply affects American Society. In this period, a system called New Deal emerged for the way out of the crisis. Especially in the new world order that emerged with the end of the Second World War, America became a very powerful actor and assumed its leadership on one side of the bipolar World (Armaoğlu 1999).

It is known that the philosophy of politics at the foundation of the United States of America came from two main sources. These are the American Declaration of independence dated 1776 and the American Constitution dated 1787 (Tanıcı, Akgün 2008). The colonies, which achieved their independence, started to work on the Constitution as the first business. Representatives gathered to make the Constitution adopted the idea that it could be the most basic need to reconcile the power of a semi-independent central government. The functions and power of the centre have been carefully defined, and the principle of leaving all remaining operations and power to the States has been adopted (Ana Hatları İle Amerikan Tarihi 2002).

The American constitution, which is still in force, was written in 1787, ratified in 1788, and was adopted in 1789. With the adoption of the Constitution in 1789, Americans became a nation. A national government has been formed that dominates all citizens. It has also become a federal state with the unity between the States (Bryce 1962).

The first Federation in the world is America. Federalism is the division of authority between many levels of government. In other words, the situation in the United States means that federal government and state governments share authority (DeSipio 2004). The Constituent Assembly has authorized the federal government to issue all laws necessary for its use in determining its power.

The British Constitution was taken as an example of the separation of legislative, executive and judicial organs as the most important guarantor of individual and public freedoms (Bryce 1962). The separation of powers was made up of the experience of the founders who had experienced the British tyranny. The founders feared that the government could abuse citizens' rights by being unchecked. For this reason, the division of forces has built check and balance into the system. This construction has prevented situations that would threaten freedom (Kraft, Furlong 2007). The Constituent Assembly has established a system of government consisting of legislative, executive and judicial organs that brake and balance each other. Accordingly, the laws enacted by the Congress cannot enter into force until they are approved by the President.

The President shall submit the appointments to the Senate to approve the agreements to be signed. On the other hand, Congress can start a parliamentary investigation about the President and dismiss him (Ana Hatları İle Amerikan Tarihi 2002).

The first three articles of the Constitution divided the powers of the United States government into three separate bodies. The legislative body represented by the Congress; the executive body represented by the President; the judicial body represented by the Supreme Court. The purpose of this separation, called the separation of forces, is to prevent any organ of the administration from becoming more powerful than necessary.

### **3.5.1.1 Legislative in the United States**

Legislative power is regulated in the first article of the Constitution of the United States of America. Accordingly, the legislature of the United States of America is Congress. The Congress consists of two chambers: the House of Representative and The Senate.

In order to be elected to the house of Representatives, candidates must be 25 years old, at least 7 years of citizenship of the United States and reside in the province where they came to Congress. The Congress determines the total number of members of the house of Representatives. This number is determined by the population census done every ten years in the States. It is guaranteed by the Constitution that each State sends at least one member to the House of Representatives regardless of its population. Today, there are only one Congressman in 7 States. On the other hand, 6 states<sup>93</sup> have over 20 representatives; California alone has 57 representatives. The capital, district of Columbia(DC) representative has the right to attend, but cannot vote.<sup>94</sup>

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<sup>93</sup> Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont ve Wyoming

<sup>94</sup> <http://amerikabulteni.com/2013/01/05/abd-kongresinin-yapisi-senato-ve-temsilciler-meclisi-nedir-yasa-nasil-yapilir/> [accessed date 17.03.2017].



Senate; every state has the power to elect two Senators. It is a constitutional requirement that senators have completed their 30 years of age and have been U.S. citizens for at least 9 years and live in the state of their choice. Senators are elected by state-wide elections in the years ending with double digits. The term of Office of the senators is 6 years. Every two years, a third of a Senate is elected. According to the Constitution, the Vice President is also the President of the Senate. However, the Vice-President cannot vote unless there is equality in the votes.<sup>95</sup>

The legislative task of the Senate is to adopt the laws presented to the house of representatives with the approval of the President. The executive powers are to accept or reject the high-ranking federal government officials appointed by the President, including judges and ambassadors, and to accept the President's signed agreements with two-thirds majority of those present in the Senate (Bryce, 1962, p.30).

The main duties of Congress are to impose and collect taxes, duties, customs duties, production and consumption taxes, pay public debts and provide the United States common Defense general welfare, to borrow debt on behalf of the United States, to establish a higher Tribunal, and to declare war (Açıklamalı Amerika Birleşik Devletleri Anayasası, 1987, p.23-24).

### **3.5.1.2 Executive in The United States**

The regulations relating to the executive body are laid down in the second article of the Constitution (Açıklamalı Amerika Birleşik Devletleri Anayasası,,1987). The reason for the emergence of the presidential system was that the Constitutional makers believed in the necessity of a powerful executive body to ensure the national unity of the diverse communities united in the Americas (Çam 2000).

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<sup>95</sup> <http://amerikabulteni.com/2013/01/05/abd-kongresinin-yapisi-senato-ve-temsilciler-meclisi-nedir-yasa-nasil-yapilir/> [accessed date 17.03.2017].

The United States political system has a distinct place within world political systems with its own presidential system model for nearly two centuries (Dereli 1998). The term of Office of the President and the Vice President is four years. The President can be elected twice. In 1947, the arrangement of Truman period prevented the election of a president more than two successive periods. However, after a term of Office has been suspended, he has the right to be a candidate again (Çam 2000).

In order to be elected president, it is necessary to be born in America and be at least thirty-five years old. In the election of the president, the people of every state, technically, cannot vote directly for the President and vice-president. Each State shall have the right to appoint a second number of electors equal to the number of Representatives and senators it holds in Congress. The candidate who gets the most votes in every state wins the second overall vote in that State. The second electorate convenes in the state capitals after the election. In their own states, they vote in favor of the candidate who has received the highest number of votes. A presidential candidate must have at least 270 votes in order to win. If no candidate can provide the necessary majority, the house of representatives shall elect the president by secret ballot from among those who have the highest vote in the list of candidates for the presidency (Açıklamalı Amerika Birleşik Devletleri Anayasası 1987).

Every political party participating in the US presidential election determines its candidacy within itself. There is no provision in the US Constitution that regulates the process of determining this candidate. However, for many years, some traditions have emerged by the parties that regulate this process. The Democratic Party and Republican Party, which are two major parties of the United States, determine the candidates for the President through the pre-elections. These pre-elections are made according to the State by the method of primary or Causus. The primary method is the elections that are open to every US citizen who is a party supporter. The Caucus method is only available to registered members of the party. (Açıklamalı Amerika Birleşik Devletleri Anayasası 1987).

The preliminary elections are not held in all States on the same day. The pre-election begins in January of the year when the presidential election starts in some States, and continues from state to state until June. Traditionally, the first pre-election States are Iowa and New Hampshire States. These states are followed by other states, respectively. In some days, only 1 or 2 states can vote on the same day. On a special Tuesday that coincided with February or March, the pre-election of many states coincided with the same day. That day is called Super Tuesday.

The US presidential system allows the presidents to be elected for a second time. Although the parties do not have to nominate their elected Presidents a second time, they are easily nominated a second time by the parties of the Presidents who have traditionally served a term.<sup>96</sup>

At the end of August and at the beginning of September, after the preliminary elections, each Party shall hold a congress. In this Congress, each party formally appoints its candidate. The candidates for the vice-president are not elected. The candidate for the President determines the candidate for the Vice-President completely. This usually takes place just before the Party Congress. The presidential election campaign will last for two months after the end of the Congress. (Açıklamalı Amerika Birleşik Devletleri Anayasası 1987).

The result of the US presidential election is determined by the number of members of the electoral board, not by the percentage of votes received by the candidates across the country. The election board is a meeting immediately after the presidential elections. The President of the United States is elected by the President of the United States. The US presidential election is a system based on the determination of the members of the electoral board.

Each citizen of the United States who participates in the election is not elected to the candidate that he or she actually supports, but to the member of the Board

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<sup>96</sup>[https://en.wikipedia.org/wiki/United\\_States\\_presidential\\_election](https://en.wikipedia.org/wiki/United_States_presidential_election) [accessed date 17.03.2017].

of voters who will represent the candidate. Each State shall determine its share of the number of members of the Board of voters. The number of members in each state's election board is equal to the number of Representatives in the Senate and the House of Representatives of that State. The only exception to this rule is Washington, DC, which is the capital of the United States. Washington, DC has a special status and there are no Senators or members of the house of Representatives. However, in order for the voters of the city to participate in the presidential election, the city has been granted the right to send at least one member to the electoral board with an equal number of members. The state has a wide freedom to determine the members of the electoral board.<sup>97</sup>

The results of the presidential election are approved by the US Congress in January following the election. In the event of a dispute over the outcome of the elections, the US Congress will resolve the dispute. The President and the vice-president who won the election take over the office at noon on the first 20 January after the election.

The president is the head of the state, the Executive, the Congress, the diplomacy, the army and the party. The duties of the President in the Constitution are to inform Congress about the state status from time to time and to present the necessary measures to their views; to call both assemblies or one of them in exceptional cases; to accept ambassadors and representatives of foreign states; to observe the implementation of the laws; to appoint important public officials (Çam 2000). The powers of the president are limited by the Constitution and it is not possible to use authority other than the powers written in the Constitution. The President may exercise all the powers required by public benefit, provided that it is not contrary to the Constitution.

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<sup>97</sup>[https://en.wikipedia.org/wiki/United\\_States\\_presidential\\_election](https://en.wikipedia.org/wiki/United_States_presidential_election) [accessed date 17.03.2017].

### 3.5.1.3 Legislative and Executive Affairs

The President of the United States is the President of both the state and the government. The United States political system is based on the separation of hard forces. One of the main characteristics of the presidential system is that the legislative executive organs are not superior to the other. The President, The representative of the executive power, is responsible in front of Congress. Congress cannot be overruled by the President. The President and his cabinet do not need Congressional trust. The President can't drop it. Since it has no confidence, the government is not obliged to rely on a majority (Dereli 1998,).

According to the Constitution, although the legislative power was given to the Congress, the President, the main preparer of public policy, has an important role in the legislative field. The President can veto any draft law coming from Congress. If two-thirds majority of each assembly cannot decide to remove this veto, the draft law cannot be enacted. The President has the authority to convene an extraordinary meeting.

The president needs Congress to come up with a law he wants. Congress requires the approval of the President in order to make any law. The Constitution has been able to curb the possibility of the President gaining excessive Power by the President's veto power, while the President's abuse of veto power keeps the Congress in balance by giving the Congress the opportunity to break this veto by qualified majority (Örgün 1999).

The transfer of legislative power is theoretically unthinkable. The president, who is the head of the Executive, may carry out regulatory actions to ensure the enforcement of the laws. However, the Supreme Court considers that this power should not be transformed into a kind of legislative power (Dereli 1998).

Congress holds the legislative power. There is no such thing as government bills. Congress management has very strong ways to influence (Eroglu 1996). As a rule, the President does not have the authority to legislate in Congress. At the beginning of each legislative year, the President can draw the attention of

the members of Congress by explaining which issues he wishes to adopt by means of an annual message sent to Congress (Dereli 1998). Congress does not have to discuss the laws recommended by the President.

The American president has no “criminal responsibility” for treason, embezzlement, and other misdemeanors. If the President is indicted and convicted of these crimes, he will be dismissed. This authority, called Impeachment, is available in almost all presidential systems as a means of dismissing the President. Due to these acts, the authority to blame the President belongs only to the House of Representatives. Those accused by the House of representatives are publicly tried by the Senate. If the President is accused, the Supreme Court President shall preside over the Senate (Gözler 2001).

The basic constituent elements that characterize the United States are federalism and separation of forces. As a result of the reaction of the communities forming the country to a central authority, the federal system emerged as an ideal management. The separate forces that balance each other prevented the state authority from concentrating on a single wing. Federalism is a phenomenon that shapes the political process of the country, the establishment of federated and federated units, its administrative structure, and its administrative-political geography. The separation of powers is an element that provides functioning in a federal structure, summarizes the functioning of tasks, and facilitates balance and control.

### **3.5.2 The Republic Of France**

France has always been a political and cultural power in Europe, both in the Middle Ages and in the new age. The 1789 French Revolution and the "Universal Declaration of Human Rights" published after it have created significant effects in the world. Examining the present-day French political system, it can be seen that France has a long and diverse political experience. After the 1789 revolution, France had fifteen Constitutional regimes. These regimes are absolutist, constitutional monarchy, parliamentary republic and semi-presidential systems. France has had different political periods throughout

its history. The first of these is the period when the Jacobins seized power after the French Revolution (1792-1804). After the revolution of 1789, the absolute monarchy was abolished and replaced by a change based on the principles of liberal democracy. The Declaration of human and citizen Rights was adopted by the revolutionary Assembly and the separation of powers was attempted to be integrated into the system (Çam 2000,).

The Constitution of 1791 served as the duty of making laws to the legislative and gave king duty to produce. The first constitution applied in the First Republic is the Constitution of 1794. Accordingly, the two-sided Parliament forms the legislative power. The execution was carried out by a committee of five elected by both parliaments. Napoleon Bonaparte, who fought a coup in 1799 and ended the First Republic, declared himself emperor in 1804. After Napoleon was removed from office, the second Republic began with a popular uprising issued by Republicans in 1848 (1848-1852). In the second Republic; the representative regime and social rights of the separation of powers have been given great importance.

The nephew of Napoleon Bonaparte, Louis Napoleonic Bonaparte, chose himself as president and then gave himself an imperial cut. The third Republic (1870-1940) started with the overthrow of the Bonapartist administration by Socialist revolutionaries of the period. The Constitution of 1875 was put into effect, according to which the President holding the executive power is elected by the majority of votes as a result of the joint meeting of both chambers for seven years (Çam 2000).

The President is responsible, but the ministers are responsible for both assemblies. The legislative power is in the Assemblies elected by the Board of local representatives, not directly elected by the people. The President handed over his executive powers to the President of the party or the Council of ministers, who actually provided the majority in parliament. Therefore, his authority has been symbolized in a manner appropriate to the parliamentary system. In the third largest Republic in the republics of France, there can be talk about the existence of an unstable but effective Parliament. (Çam 2000)

Also in today's terms the importance of the third Republic, the majority electoral system and two kinds of narrow bicameral voting for the only candidate, based on regional regulations such as the use of fourth and fifth republics.

The fourth republic was founded by the Constitution of 1946 (1946-1958) after the liberation of France from the German occupation. This Constitution also gives the Parliament an effective power and authority. The fact that the Parliament is so competent against the limited power of the governments and, most importantly, that it is able to block the Government during the legislative process, has brought political instability.

Since 1958, the Constitution of the fifth Republic has been in force in France, which has experienced a variety of constitutional experiences from 1789 to the present day. It is possible to express the constitutional order as the main factor shaping a political system. The principle of separation of powers and finally the principles which are accepted for the basic qualities of the state constitute the backbone of the political system of a country. The Constitution, which strengthens the executive body by giving the President a central role, can be considered as an intention to break away from the political tradition that produces instability. This Constitution, in which the Republican, liberal and parliamentary traditions of France are maintained, is a view that increases the President and the Government's authority and restricts the parliamentary authority to a large extent (Karahanoğulları 2004). With the constitutional amendment in 1962, the President was elected by the people and the "semi-presidential" system was adopted. The most prominent feature here is the fact that France is the first country in which the President is elected by the people and the parliamentary system is called as a semi-presidential system.



### **3.5.2.1 Legislative in the Republic of France**

In France, Parliament refers to a two-Parliament structure. These structures represent the assembly Nationale (Assemblée Nationale) and the Senate, which are elected by the people with more authority than the other.

The National Assembly is the sub-parliamentary<sup>98</sup> body in the structure of the French parliamentary system. There are 577 seats in the National Assembly. 539 of these chairs were chosen from the homeland of France, 19<sup>99</sup> from overseas provinces, 8 from overseas territories and local governments. 11 seats are elected to represent the French living abroad. The Senate is the Supreme Council of the Senate<sup>100</sup>. The Senate also has 348 seats since the 2011 elections. 326 of these seats are chosen from the homeland of France, while 10 are chosen from overseas territories and overseas governments, while 12 are chosen by French citizens living abroad. The elections are held in two degrees because the voters elect Senators through the representatives they elect. The members of the Electoral Committee, which consists of approximately 150,000 people to elect the senators, are elected according to the population density of municipalities (Şencan 2014).

### **3.5.2.2 Executive in the Republic of France**

With the constitutional amendment made in France in 1962, it was accepted that the government system was semi-presidential since the President was elected by the people (Parsak 2012). The semi-presidential system is regarded as an intermediate system that includes the characteristics and institutions of the presidential system and the parliamentary system.

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<sup>98</sup> The lower chamber is one of the two chambers, together with the upper chamber in the bicameral legislative organs. Although every Sub-assembly has its name, it is the most authoritative legislature in many legislative bodies around the world. The legislative rate of a single lower chamber is defined as a single parliamentary legislative body.

<sup>99</sup> Guadeloupe, Martinique, Fransız Guyanası, Reunion, Mayotte

<sup>100</sup> The upper Parliament is one of the two chambers, together with the Lower Chamber in the bicameral legislative organs. Sometimes called the Senate. Officially, the upper house is usually smaller and has less power than the lower house.

The semi-presidential system is similar to the presidential system because the President is directly elected by the people and endowed with powerful powers under constitutional guarantees. The fact that the government in charge of Parliament (Prime Minister and Council of Ministers) is similar to the parliamentary system (Parsak 2012).

There are three key elements of the semi-presidential system: the election of the president by the people. More actively participate in the government than the parliamentary system. In other words, the President has been empowered with the Constitution in the field of legislative, appointment and emergency, with the authority to abolish Parliament in the first place. In addition to the presidency, the prime minister and the Council of Ministers are politically responsible for the Parliament. Although the President of the state is endowed with important powers in these relations, he does not have any authority on the Council of Ministers (Parsak 2012).

The executive body in France has two heads, as in parliamentary systems: the President and the government. However, unlike parliamentary systems, the executive body in France has given the President considerable powers, not symbolic powers.

In France, the President is elected by a one-year general election, according to article six of the Constitution. According to the same Article, no one can serve as president for two consecutive terms. The election of the President shall be held at least twenty-two or thirty-five days before the end of the powers of the President in Office. The President is elected by an absolute majority of the votes cast. In the case of a vacancy of the presidency for any reason, the duties of the President shall be temporarily fulfilled by the President of the Senate, and, if he is disabled, by the government.

It can be said that the President has two kinds of powers. Only the powers owned by him and the powers he has used together with the Council of Ministers. (Şencan 2014). To be a presidential candidate, the age limit is 23. Every French citizen who has the conditions to be elected at the age of 23 may be nominated

by the proposal of 500 people who have come to the local or central government organs and the Constitutional commission finds it appropriate.

According to Article 8 of the Constitution, the President appoints the prime minister and the ministers, but the President does not have the authority to dismiss the Prime Minister appointed by the President. According to Article 9, The President presides over the Council of Ministers. In accordance with Article 10, The President has to approve the necessary laws for the entry into force of this Act, which has been adopted by the Parliament, within 15 days, but may return the act to Parliament for reconsideration. After the second meeting, he must accept and ratify the law without modification. One of the most prominent features of the system, the referendum authority was given in Article eleventh of the Constitution of the President. According to this article, by taking the approval of the President's government or Parliament, he can disable the Parliament during the legislative process and legalize some laws with the approval of the people directly.

This authority alone is not the authority of the President. If the government and the president are the same party or the majority of the Parliament are the same party as the President, this authority can be used as the authority of the President alone in practice. The President shares some powers with the Council of Ministers. Special authorized ambassadors, government representatives in overseas regions, generals, members of the Court of accounts, rectors and other high-ranking officials are appointed. The President is empowered to appoint ambassadors and ambassadors to foreign countries and to accept ambassadors of foreign countries. He is the head of the President's armed forces and the President of the Supreme military. The presidency has the authority to send a message to the Parliament whenever it deems it necessary (Şencan 2014).

With the Constitution of 1958 and the Regulations afterwards, the presidency has been granted vast powers. The characteristic of the Parliament is also of great importance in relation to the exercise of these powers conferred upon the President. In other words, whether the President is symbolic or fully empowered or not is closely related to political parties and groups in parliament (Duverger

1996). In France, the President is responsible for the public, although he is the irresponsible wing of the Executive.

### **3.5.3 Russian Federation**

In modern history, Russia has never been a traditional state. Imperial Russia was an empire with a large number of States spread throughout the Eurasian space. After that, the Soviet Union of Socialist Republics (USSR) was a country that continued The Imperial tradition under different names (Sharlet 1994-1995). Although the USSR is a multi-national, multi-religious and very complex Federation of the Confederacy, in fact it has given the appearance of a centralized bureaucratic unit controlled by the Communist Party. Although the rights of the republics have been accepted in the USSR, the rights of the Republics from the authority of the Communist Party until the end of 1980s when the power of the party began to decline were only formal (Kızılcık 2003).

After the collapse of the USSR, the Russian Federation, one of its republics, was born in a power to maintain the importance of the Soviet Union. Although it is not comparable with the Soviet Union, the Russian Federation is a very large country geographically and still has the longest borders in the world. There are 21 republics, 6 regions, 49 regions, 2 federal cities<sup>101</sup>, 1 Autonomous government region in the country.

In the Constitution adopted in 1993, it was stated that the integrity of the economic field in the Russian Federation, the free circulation of goods, services and financial resources, the support of competition, the freedom of economic activities, and the private, state, municipal and other forms of property were accepted and protected equally. Economic and political transformation has also been reflected in changes in institutional structures such as free elections, banks and media. However, Western market democracy was not born in Russia (Rutland 1995). It can be said that in the construction of the state of Russia, a structure that is incompatible with the mixture of Soviet system and Western

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<sup>101</sup> Moskova ve St. Petersburg

models has emerged (Sharlet 1994). This structural transformation has not yet been completed. Although the Constitution states that the form of state is “Federal”, this structure will either become a very weak Federation dominated by large blocks or become a confederation or in the dictatorship of the Communist Party, contrary to Constitutional regulations, there is a view that the Russian Federation will look like a unitary state (Sharlet 1994-1995).

There is no consensus on the government system in the Russian Federation. In theory, the “strong presidency” of the Russian system (McPherson 1999-2000), “the dominant presidency created within the semi-presidential system<sup>102</sup>” (Krylova, 1995-1996), “his own semi-presidency” (Becerren Kalagan 2007) fans with systems were found. In Russia's political tradition, there is a risk that the powerful state will often turn into a “absolutist” regime (Remington 2000).

Russia is a very old country, full of search, successes and tragedies, with a great revolution affecting the world (Gorbachev 1988). In 862, Russian leader Rurik named the state he founded as “Russian”. Orthodox Religion and Cyrillic alphabet was adopted in 989. Ivan came to power in 1533 and took the title of “czar” IV. Ivan took the first step on the road to the Russian Empire. When Czar Pedro came to power in 1862, westernization began in Russia. (Tellal , Keskin 2004). After the 1905 revolution, the February 1917 revolution accelerated the destruction of the tsarist autocracy and the treaty regime in Russia ended with the uprising in March 1917. (Werth 2008). The start of the First World War and the great losses of Russia, the difficulties experienced in the economy disturbed the Russian people. On October 7, 1917, Communists led by Vladimir Ilyich Lenin, founded socialism in Russia on October 24, 1917, and a new constitutional system was established (Werth 2008). With the October Revolution led by Lenin, the Bolsheviks in power established the USSR in 1922. Joseph Stalin was defeated by Lenin's death in 1924. Between 1941-1945, the USSR fought Hitler Germany and defeated the Germans. After the war

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<sup>102</sup> Becerren, E. & Kalağan, G., 2007. Başkanlık ve Yarı-Başkanlık sistemi; Türkiye’de Uygulanabilirlik Tartışmaları. *İstanbul Ticaret Üniversitesi Sosyal Bilimler Dergisi*, Yıl 6, Sayı: 11

ended, the Cold War with the Western powers, especially the USA, started with the USSR, and with Gorbachev's resignation in 1991, both the Cold War ended and the USSR disintegrated.

The Russian Federation was governed by the Soviet Constitution of 1978, which contains more than 300 amendments from 1991 to December 1993, when the USSR collapsed. The Constitution of the Russian Federation was adopted by referendum on December 12, 1993 (McPherson 1999-2000). In the Constitution, the state sovereignty will be exercised on the basis of the separation of the legislative, executive and judicial powers and these organs will be liberated. For the Russian Federation, this Regulation was interpreted as the lack of federalism and human rights guarantees, and essentially provided an unequal balance of the separation of powers in the unitary state (Sharlet 1994-1995). When evaluated together with the tenth article in which the separation of powers is regulated and the section in which the rights and powers of the president are regulated, it is seen that the separation of powers does not make any sense.<sup>103</sup>

Article 11 of the Constitution of the Russian Federation on the exercise of state sovereignty by the President of the Russian Federation, the Federal Assembly, the Government of the Russian Federation and the courts of the Russian Federation. The democratic principles of the President's rights and responsibilities of the Russian Federation, the executive body of the government in the balance - control system and the Federal Assembly, the independent judicial authority and local Autonomous governments are defined.<sup>104</sup>

### **3.5.3.1 Executive in the Russian Federation**

One of the most critical elections after Independence in 1991 and the Constitution of 1993 was the election between the parliamentary system or the presidential system. In spite of the preference of the presidential system in terms

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<sup>103</sup> Fogelklou, A., 2000. Constitutional Order in Russia: A New Territory for Constitutionalism. *Review of Central and East European Law*, Vol. 26, No 3

<sup>104</sup> Yakovlev, A. M., 1997. Russia: On The Crossroad of History. *Emory Int'l L. Rev.*, Vol.11.

of the stability of the Executive, democracy, the limitation of the Government, the legislative-executive impasse, less coverage of the Government, the abuse of power and the influence of informal power groups in the decision-making process, the negative situation has been taken into consideration.<sup>105</sup>

In Russia, the President is equipped with very large powers. According to the Constitution, the President is the head of state. The President shall be elected by the citizens of the Russian Federation for a period of six years by secret ballot, on the basis of the right of equal general and direct election. The President of the Russian Federation, who is not less than 35 years of age, residing permanently in Russia for at least 10 years, may be elected. The same person cannot serve as President more than two consecutive terms.<sup>106</sup>

The president, in accordance with the Constitution and federal law, determines the basic aspects of state internal and external policy and represents the Russian Federation as the Head of state in domestic and international relations. The authority to decide on basic political issues underlines the fact that the President is the head of the Executive because this authority was not given to the Prime Minister.<sup>107</sup>

With the proposal of the State Duma, President of the Republic can appoint the prime minister and dismiss him. The Deputy Prime Minister and the Federal ministers are appointed by the proposal of the prime minister and dismissed by the President and presided over the sessions of the government.<sup>108</sup> Forms the Secretariat of the presidency, appoints the authorized representatives and dismisses them. It has important legislative powers, may issue binding decrees and orders throughout the Russian Federation, without prejudice to federal laws.<sup>109</sup>

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<sup>105</sup> Metcalf, L. K., 1995-1996. Presidential Power in the Russian Constitution. *J. Transnational L. & Policy*, Vol. 6, No:1.

<sup>106</sup> Constitution of the Russian Federation, 1993. Article 93

<sup>107</sup> Fogelklou, A., 2000. Constitutional Order in Russia: A New Territory for Constitutionalism. *Review of Central and East European Law*, Vol. 26, No 3

<sup>108</sup> Constitution of the Russian Federation, 1993. Article 83

<sup>109</sup> Constitution of the Russian Federation, 1993. Article 90

Sign and publish federal laws.<sup>110</sup> This authority of the President has been accepted as an indication that the separation of powers between the legislative and executive bodies is completely ignored. There is no provision that the orders and decisions issued by the President in the Constitution will be automatically invalid if the orders and decisions that conflict with the Constitution are taken (McPherson 1999-2000, pp.161). In the same way, the government's decisions and orders may be annulled by the President in cases where they are in violation of the Constitution, federal laws and President decrees.<sup>111</sup> This makes the President superior to the government.

The President may be dismissed by the Council of the Federation only on the basis of the accusation of treason or other serious crimes brought forth by the State Duma and on the opinion of the Supreme Court of the Russian Federation on the existence of the elements of crime in the actions of the President, and on the opinion of the Constitutional Court.<sup>112</sup> While the President can easily dismiss the State Duma, it is difficult to dismiss the President.

The Constitution gave the President more authority than the President in other modern democracies.<sup>113</sup> With these powers, the President has the power to completely change and re-establish the administrative structure.<sup>114</sup>

### **3.5.3 Islamic Republic Of Iran**

Iran, one of the oldest civilizations in the world, has a historical and political significance both in terms of history and in terms of today and is a country at the crossroads of Civilizations. Iran has been at the forefront of the Great Powers throughout history and because of its rich natural resources it has

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<sup>110</sup> Constitution of the Russian Federation, 1993. Article 107

<sup>111</sup> Constitution of the Russian Federation, 1993. Article 115

<sup>112</sup> Constitution of the Russian Federation, 1993. Article 93

<sup>113</sup> Simes, D. ,1994, The Return of Russian History, *Foreign Affairs*, Vol. 73, No.1

<sup>114</sup> Fogelklou, A., 2000. Constitutional Order in Russia: A New Territory for Constitutionalism. *Review of Central and East European Law*, Vol. 26, No 3.



already had, and has often been occupied, and has experienced political – social crises.

In the sixteenth century safavids became the official faith of Iran in the Shia arm of Islam. Since then Iran has the largest Shia Muslim population in the Muslim world. In the years in which the USA and the USSR fought on the global level and the Cold War experienced, the conditions of revolution in Iran had matured and the Islamic Revolution had taken place in 1979. Since Shah Riza Pehlevi's monarchy is Pro-USA, the developing Islamic Movement has naturally formed as an anti-American feature. Until the revolution, the United States and Iran were allies and two close friends.

The Islamic Republic of Iran, founded by the revolutionary leader Ruhollah Khomeini, was built on the model of Imamete (Twelver Doctrine). Imamete means "leadership" and is a concept in Twelver theology. The Twelve Imams are the spiritual and political successors to Muhammad, the Prophet of Islam, in the Twelver branch of Shia Islam. According to Twelver theology, the successors to Muhammad are infallible human beings, who rule justly over the community and maintain and interpret sharia and undertake the esoteric interpretation of the Quran. The words and deeds of Muhammad and the Imams guide the community. For this, the Imams must be free from error and sin and chosen by divine decree nass through the Prophet.<sup>115</sup>

The structures of the new state have either been adapted from the old structure, altered, or completely restructured in order to carry out the new understanding. In other words, many institutions such as the new constitution, Parliament and political parties have been formed in Iran. Unlike the West, these institutions have to be “within the framework of Islamic rules”.

Iran's political system can be described as partially democratic, partly theocratic, because it acts in accordance with religious rules. In addition to the

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<sup>115</sup> <https://en.wikipedia.org/wiki/Imamate> [accessed date 22.03.2017].

elected president, the members of the assembly are the institutions which have significant weight in the system and are directly under the control of the appointed religious guide. In this respect, Iran's political system is in a different position from today's democratic and non-democratic contemporary countries. The Iranian political system is based on the Islamic regime, not in theocratic countries "Guardianship of the Islamic Jurist" "Vilayat-e Faqih " organization (Durgun 2015).

The imam-supported Guardianship of the Islamic Jurist" "Vilayat-e Faqih approach is regulated in the fifth article of the Iranian Constitution. According to this, in the Islamic Republic of Iran during the time of Imam Mahdi's disappearance, the guardianship and guardianship of the Ummah (administration of state and people) will belong to a fair, courageous, prudent and prudent ruler, who is aware of and appreciated by the majority of the population, to a fiqaha (scholars of a moderate level of fiqhi).<sup>116</sup>

According to the Constitution, the structure of state and power is the authority, leadership or authority of the judiciary, which guarantees the deviation of various institutions from the basic Islamic responsibilities. This authority is needed to oversee the activities of the government. Thus, with the view of Khomeini, a system of authority has been established in Iran which has never been seen before (Kheirabadi 2003).

With this system, The religious guide had the final say in all legislative and executive Affairs. In other words, members of the Islamic Council of Shura, which has come into effect by election, have the final say in the guidance of religion. The president, who is elected by the general elections, needs the approval of the religious guidance in his inauguration. This power is limited to almost all of the authority and power of the elected government. The religious Guide has the authority to determine and oversee the general policies of the Islamic Republic of Iran, as well as to make important decisions such as war, peace, the determination of the President and the referendum. For this reason,

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<sup>116</sup> [https://en.wikipedia.org/wiki/Guardianship\\_of\\_the\\_Islamic\\_Jurist](https://en.wikipedia.org/wiki/Guardianship_of_the_Islamic_Jurist) [accessed date 24.03.2017].

the principle of separation of powers in Iran is relative in terms of being independent of each other. In other words, these forces are not dominant in full sense. Iran's legal system cannot be such a distinction because it is based on Shia fiqh (Yagmai 2002).

The most important feature distinguishing the current Iranian regime from other republics and Islamic regimes is that the name of the country is expressed as the Islamic Republic of Iran. Although Iran is a state with a constitution, this Constitution states that the laws should be in accordance with the Constitution as well as Sharia, and that there is a religious leader above all. There is a kind of “dual sovereignty” problem in the structure of the Islamic Republic of Iran (Bashiriye 2009).

### **3.5.3.1 Executive in the Islamic Republic of Iran**

In many countries, the duties of the President and the duties of the president are separated from each other. But it can be said that Iran has two executive powers, one as a prominent religious figure and the other as a standard President, rather than a ostensible monarch or a weak President, as in Germany. The executive body consists of the President and the religious leader. The religious leader is the real power (Roskin 2009).

The Head of Executive is the president. In other words, the Executive consists of the President and the government. When we look at the ninth chapter of the Islamic Republic of Iran Constitution, the execution is dealt with under two sections. These are the Presidential and the Council of Ministers and the army and Revolutionary Guards.

By changing the Constitution in 1989, the Prime Minister's Office was abolished and important executive powers were given to the presidency. With the amendment of the 1989 Constitution, both the Prime Minister and the religious leader were obliged to be Merce-i Taklid (the great Ayatollah) and it could be said that the presidency, in a sense, has turned into a missing presidential system (Oguz, Çakır 2000). Following guidance in Iran, the presidency is the highest

official executive authority in the country. To implement the constitution; to organize the relations of the three bodies; to preside over the power of executive - other than those directly related to the guidance authority is one of the basic duties of the President. However, the Executive task is not entirely in the hands of the President. Although the President performs the task of balancing the three body, the responsibilities of the President of the Council of Ministers actually belong to the religious leader.<sup>117</sup>

According to the Constitution, the candidates must be Iranian and Iranian citizens; however, they must have administrative and cautious, criminal, credible and cautious, that is, they must adhere to the basic principles of the Islamic Republic and the official religion of the country.<sup>118</sup>

However, more importantly, whether the applicants have the necessary qualifications to be nominated is examined by the Constitution protection Council. As a result of the Council's examination, candidates are identified and must be from among those known for political and religious identity.<sup>119</sup> If the Constitutional protection Council approves that the election is “in accordance with the procedure”, the President shall be empowered by the religious leader.

The term of the presidency is limited. The President is elected by the people for a period of four years. A person may be elected president more than twice in a row. This arrangement was made to block the request. Although the authority of the presidency has expanded as a result of the change in 1989, the authority of the President is reflected in the state mechanism to the extent that it is in harmony with the religious leader. If the President and the religious leader adopt different political programs, the President is neutralized or liquidated.

As a result, Iran has a very different political structure and an understanding of the 1979 Islamic Revolution based on the Shiite interpretation of Islam. The political system not only controls the public sphere but also controls the society.

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<sup>117</sup> Constitution of the Islamic Republic of Iran, 1989. Article 115

<sup>118</sup> Constitution of the Islamic Republic of Iran, 1989. Article 115

<sup>119</sup> Constitution of the Islamic Republic of Iran, 1989. Article 118

#### 4. TURKEY

The idea of limiting state power to the rules and thus preventing arbitrariness in the political arena is actually seen as a modern thought. For this reason, the concept of Constitution was born with modern age. The concept of the Constitution was born at the end of the search for a way to express the techniques that could be used to control the state power in Europe with the decline of absolutism. In the period when the United States prepared the Constitution of 1787 for the first time around the world, these techniques called the Constitution. This was followed by France's 1791 Constitution in Continental Europe. The French understood this Constitution as a legal document that restricts the rule of the king. After that, the concept of Constitution was used as a means of political freedom and therefore appreciated. (Erdoğan 1997)

The waves of revolution in 1848 brought new constitutions with them. After the First World War, many Central and Eastern European countries underwent a fundamental Constitutional change. After the Second World War Italy, Western Germany and Japan, 1950 and 1960s, the colonial administrations of the independence of the many nations of Asia and Europe declared the independence of the new Constitution has made. In the 1970s, some countries emerged from authoritarian regimes and adopted new democratic constitutions (Atar 2000).

In Turkey, the Constitution is expressed in different words. In the Ottoman Empire, the “Kanuni Esasi” was used in return for the Constitution. With the liberation movement in Anatolia, he left his place to the “Teşkilat-i Esasi kanunu”. The 1921 and 1924 constitutions have this name. In 1945, this changed as the Constitution. 1961 and 1982 texts are called “the Constitution” (Turhan 1997).

In this section, the constitutional changes in Turkish history and later in the Ottoman Empire and the Republic of Turkey will be examined. In these

constitutions, the authority and duties of the President, relations with the Parties and the legislative processes will be investigated.

#### **4.1 PRESIDENCY IN TURKISH HISTORY**

In ancient Turks, boy-type organization has transformed its place into state authority in the historical process. Since the establishment of Turkish States, there is no complete agreement on state organization, but the idea that the form of state is “monarchy” is common. In the Turkish States before the Ottoman Empire, the President of the State was called “Khan, Kaan” and stayed in this office until he died. Because of its divine power, the kaanism was not elected but was always determined as the privilege of an ancient and mostly legendary dynasty (Selcik 2003). The state authority is operated by the autocratic understanding of the President (Kahraman 1992). It can be assumed that the absolute rule of Kaan is maintained by religious, customary and traditional rules.

The Turkish - Islamic states have created a state structure that combines Islamic understanding and the traditional structure of the old Turkish States. In addition, they tried to determine the ruler in accordance with Islamic law (Selcik 2003). In the Great Seljuks, the state belonged to the dominant family. He was the representative of the sovereign state. As a result of the expansion of Islam, he transferred his caliphs to the ruler (Aldıkaçtı 1960).

##### **4.1.1 Constitutional Formations During The Ottoman Empire**

The Ottoman Empire was an absolute monarchy in terms of State Administration. There was no written text for the powers of the Sultan. There were no legal rules to limit the powers of the Sultan and no legal mechanisms to influence these rules. In the Ottoman Empire, ruled by the absolute monarchy as the administration, the system which was legally owned was the Islamic law, which became the Law of seriat and customary law.

Constitutional developments in the Ottoman Empire began at the end of the seventeenth century and beginning of the nineteenth century. In 1789, the French Revolution became the biggest factor affecting the development of constitutional processes in the world. As a result of this revolution, the demand to limit power in Europe has also affected the Ottoman Empire. The first attempt of constitutionalism in the Ottoman Empire was made by the allied forces. The Constitutional lawyers generally accept the “Sened-i İttifak” as the first Constitutional document in Turkish history and start their constitutional movements in Turkey with this. As an attempt to limit state power, there are also those who likened this document to the British Magna Carta, which was adopted in England in 1215.

The Tanzimat Edict (Edict of Gülhane), published in 1839, is a constitutional document that was declared against the people after the death of Sultan Mahmud II. The commandment begins with explaining the reasons for the existing disorders at that time and explains the reason for their existence. In order to restore the state and restore it to its former glorious days, some rules were deemed necessary to be made. As a result of this obligation, it has been decided that the provisions of the law and the laws of the government will be restricted in a way, that life, property and rape will be ensured, that the judiciary will be made clear, that the equality between citizens and military service will be ensured and that the confiscation will be abolished (Temel 2014).

The aim of the Ottoman Reform Edict issued in 1856 is to ensure that non-Muslim Ottoman citizens have equality with Muslims in all aspects. The first Constitutional period started with the Law published in 1876. This Constitution will remain in force for 2 years and will then begin the period of confinement for more than thirty years. The most important aim that comes with the Kanun-i esasi is the establishment of the General Assembly of the Ottoman Empire (Meclis-i Umumi). The two-storey assembly was composed of the ayans appointed by the Sultan, the one appointed by Ayan and the one appointed by the Ottoman National Assembly to the detriment of every fifty thousand people. This Assembly, whose powers were limited, criticised the government in a harsh manner because of the weakening of the Ottoman Russian war in terms

of the country, the defeat of the army, and the injustices that took place in the country and put the Sultan and his government in charge of them. In the face of this situation, the sultan closed the assembly indefinitely in 1878 and the Constitution was practically abolished (Gözübüyük 2005).

On July 23, 1908, the second Constitutional period began when Parliament was called to the meeting General Assembly of Ottoman Empire (Meclis-i Mebusan) by Abdulhamid II. The pressure of the army on the Sultan, the secret and widespread work of the Union and progress Society (İttihat ve Terakki) , the movements in the Balkans have paved the way for the second constitutional monarchy.<sup>120</sup> With the Constitutional Amendment of 1909, the government program was prepared and presented to the public for the first time. Another step is the election and the formation of the legislative body.

#### **4.1.2 Constitutional Formations Of The Republic Of Turkey Period**

With the initiation of the National War of independence by Mustafa Kemal Atatürk and his friends, the Turkish Grand National Assembly established in 1920. With this establishment, the first steps of the republic were taken with the war of independence. There are four official constitutions in the Republic of Turkey. In this section, the Constitution of 1921 which laid the foundations of the pre-Republic regime and the 1924 constitution which came into force together with the Republic. And then the 1961 and 1982 constitutions, which came into force with the revolutions in the country, will be examined in detail. In this detailed examination, presidential elections, powers and duties will be detailed in the Constitution.

##### **4.1.2.1 1921 Constitution period**

The Ottoman Empire, in particular, has a multi-national structure, and many states have experienced shaky processes since the end of the nineteenth century

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<sup>120</sup> Güneş, İ., 1990. II. Meşrutiyet Dönemi Hükümet Programları, *AÜ Osmanlı Tarihi Araştırma ve Uygulama Merkezi Dergisi* ,pp.178-179



and the beginning of the twentieth century. The First World War started with the nation-state formations. In this process, the new Turkish Republic, which was founded after the Ottoman Empire, was preparing its constitution for its period.

Upon the occupation of Istanbul, the Mebusan Assembly became unable to work. The Government of Damat Ferit Pasha dissolved Mebusan in order to prevent the assembly from convening (Aldikçi 1973). The Parliament abolished Mebusan and abolished the title of the members of the council (Aldikçi 1973). Before this period, Parliament of mebusan published the National Declaration on 28 January 1920 and prepared the basis of the principles of the national liberation movement that started in Anatolia (Gözübüyük 2005).

Atatürk issued a circular demanding that elections be held in 15 days in order to convene a Parliament with extraordinary powers in Ankara. The Grand National Assembly of Turkey was convened on 23 April 1920 in Ankara (Gözübüyük 2005).

The Turkish Grand National Assembly adopted a written Constitution 9 months after its establishment. The draft constitution of 1921 was prepared by the Council of Ministers with the guidance of Atatürk and examined by a special Assembly of the Grand National Assembly and presented to the Assembly (Gözübüyük 2005). On January 20, 1921 Constituon (Teşkilat-ı Esasiye) was accepted. The Constitution of 1921, as the first and only soft constitution in Turkish Constitutional history, provided a broad representation in the participation of the people and it can be said that it is a constitution approaching to the construction of a democratic Constitution (Tanör 1992). It can be said that there is a constitution approaching the construction of a democratic Constitution. The “Parliament government” system based on the “national sovereignty” was established by this Constitution, where legislative, executive and judicial powers are gathered in the assembly, where the President is not the president but the powers of the president are exercised by the speaker of the assembly (Atar 2005). The political atmosphere of that period was not in a healthy process for the formation of the “president” position.

One of the original aspects of the 1921 Constitution was the fact that the President of the assembly gave Mustafa Kemal Pasha the powers of the natural state presidency. Although these powers sometimes give the impression of dictatorship, the meticulousness of the Assembly in political control did not allow this to happen in reality (Velidedeoğlu, 1974).

As a result of the efforts of the second group formed within the assembly to push Mustafa Kemal out of the assembly and to associate the Ottoman Caliphate with the Assembly, the issue of making a new election for Mustafa Kemal has become mandatory.<sup>121</sup> With the early elections, the People's Party (Halk Fırkası) was victorious and Mustafa Kemal was brought to the Presidency of the Assembly. The President of the Government has been Fethi Okyar.

The most important action of this second Grand National Assembly was the declaration of the Republic. When the government led by Fethi Bey, who resigned, could not be established, the need for a head of state arose after this crisis. The Republic was declared on October 29, 1923, with the change of some articles of the Organization-I Principality. With this constitutional amendment, the form of government became Republic and the Presidential procedure determined by election was introduced in the formation of government. After the constitutional amendments, Mustafa Kemal unanimously elected president.

Among the issues reflected in the press after the proclamation of the Republic and the election of the president, some of the members of the Assembly want Mustafa Kemal to be the president and head of the parliament, while others want Mustafa Kemal to be only the president. It has been claimed in some media that Mustafa Kemal will serve more as the "head of government" instead of being the president. The direction of the discussions in the press is on which field M. Kemal will serve more. As a matter of fact, the election of M. Kemal to the presidency after the sultanate was abolished after the War of Independence

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<sup>121</sup> Erdoğan, M., 1998. Siyasal Sistem ve Demokrasi, *Yeni Türkiye, Cumhuriyet Özel Sayısı*, Yıl:4, Sayı:22\*24 Eylül-Aralık, pp.802

shows that there was no action against the "presidency" institution (Aldıkaçtı 1960). However, even an untouchable person such as M. Kemal could not easily sit as president due to the characteristics of the era. As a matter of fact, more than half of the Assembly did not attend the first presidential election, in which Mustafa Kemal Pasha participated as the only candidate (Mangırcı 1999).

With the Constitutional Amendment made in 1923, the establishment of the Executive Deputies Committee was given to the President as a constitutional authority. According to the Constitution, the President is elected among the members of the Grand National Assembly of Turkey, and his term of office is four years. The President selects the prime minister from among the members of the Grand National Assembly of Turkey, and shall be approved by the President of the Council of Ministers chosen by the Prime Minister. The tradition of the Sultanate from the Ottoman Empire, the Constitutional Amendment of 1923, has been completely in history.

In 1921-1930, the one-party parliament, elections are controlled, the leader and the minority's will, intervention and domination of the presidential system is mentioned (Aydemir 1980). Until 1938, Atatürk, always elected as the President of the state, dominated the entire state life of the Constitution. Until Atatürk's death, the Assembly, the Party and the State united in the personality of Atatürk (Tanyol 1980).

With the end of the war of independence, the extraordinary period ended and the process of gathering the state forces in one hand began. For this purpose, in the first place, the assembly was renewed and the assembly was formed with an appointment in a sense.<sup>122</sup>

There is a remarkable case during the parliamentary debate of 1924 Constitution. This case is the struggle of the assembly to keep these powers in its own hands by Mustafa Kemal against the executive body, especially the

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<sup>122</sup> Kamalak, M., 1997. Nasıl Bir Anayasa, *Yeni Türkiye*, Yıl:3, Sayı:13, Ocak Şubat, s.244

powers wanted to be recognised by the President (Koçak 2000). Among the most controversial issues of the 1924 Constitution are the fact that the term of Office of the President is increased to seven years, the powers of the commander-in-chief, the dissolution of the assembly and the demands for veto powers. However, these recommendations were not accepted. The opposition in parliament was rejected (Parla 1991). One of the important steps for the construction of a single type of society was taken in 1935. The General Secretary of the Republican People's Party (CHP), the Head of the Interior office, the heads of the provincial organization of the party are appointed as governors, and the deputies are elected from the Republican People's Party (CHP) with the appointment. Thus, the last step towards the formation of the party dictatorship is taken (Ahmad 1995).

#### **4.1.2.2 1924 Constitution period**

While examining the period of Turkey between 1923 and 1933, it should be seen as Atatürk's Turkey. Domestic politics in Turkey is also very affected by the political developments in the world. This is a normal process. Mustafa Kemal put his signature under a legend of heroism at Çanakkale during the First World War, which had started in 1914, and had the Allied Powers admit to the fact that " Çanakkale is Unpassable!"

The first Assembly has been between 23 April 1920 and 1 April 1923. Has done important tasks such as ending the occupation, declaring independence, abolishing the Sultanate, and thus took the name of the "Constituent Assembly" and has the appropriate authority. 1921 Constitution was also made during this period.

#### *4.1.2.2.1 Terms and conditions of the environment*

The second Assembly was elected by the pro – revolutionary candidates serving between 11 August 1923 and 23 October 1927. The second assembly was called the “Revolutionary Assembly” because of its revolutionary activities. The 1921 constitution, which was prepared during the war of independence and came into force, replaced the 1924 Constitution in order to adapt to the changing world order. The second Assembly approved the Treaty of Lausanne on August 28, abolished the Caliphate and made Ankara the capital and declared the Republic.

The abolition of the Caliphate caused great reactions, the opposition “Progressive Republican Party” (TCF) was established and then Sheikh Sait rebellion emerged.

The “Law of calm” (Tahrir-i Sükun Kanunu), which gives extraordinary powers to the government in order to suppress the uprising, was adopted. The Law of calm was the limit of freedoms. By taking advantage of the provision, all kinds of activities of the reactionary could be eliminated. Because the law gave the government all kinds of authority, from closing the Newspapers to distributing the parties.<sup>123</sup>

The war between 1920 and 1923 had a negative impact on both the economy and the finances. In order to revive the economy, economic Congress was held in Izmir between 17 February – 4 March 1923. Five months after the Congress, the Lausanne peace treaty was signed, and the capitulations were abolished at the end of the great struggle.

Despite the Declaration of the Republic and the establishment of organs, the Constitution of 1921, which was issued during an extraordinary period, was far from the needs of the new Turkish state. On November 1, 1922, with the

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<sup>123</sup><http://www.tarihsinifi.com/3770/%C5%9Feyh-sait-isyan%C4%B1-ve-takrir-i-s%C3%BCkun-kanunu.html> [accessed date 30.03.2017].

abolishment of the Sultanate, a new Constitutional requirement was created as a necessity to respond to the needs of the new state and to guide society. The 1921 Constitution, as stated in the above section, is a text which is the product of extraordinary circumstances and does not include any major issues. After successful departure from the transition period, a new superstructure was needed to determine the basic foundation of the state, the position of society and individuals. According to Mustafa Kemal Atatürk: (İnan 2000)

*“The new Constitution should be a text that defines the shape of the state and the way the government is formed by the nation, showing mutual rights and duties of the nation and government, regulating the business division and relations between the powers and executive power of the law”*

The situation with two constitutions (1876-1921) should now be put to an end. For these reasons, a new constitution was created after the 1921 Constitution, which remained in force for three years. Since the 1924 Constitution was based on the Union of forces, all powers were gathered within the Grand National Assembly. The 1924 Constitution is the continuation of the previous Constitutional period in terms of the principles on which the state system is based. In other words, “national sovereignty”, “Republic” and “religious qualities of the state” form the basis of this Constitution. The new Constitution adopted the “parliamentary government” system, which gives the power of legislative power to the Parliament and which foresees that the Parliament can always lower the government, but does not give the Government the authority to dissolve the Parliament (Erdoğan 2003).

The 1924 Constitution, although accepting the “parliamentary government” system in its main provisions, has shifted to the parliamentary regime with the salutations it gave to the “President”. First of all, gave to the President the “authority to form the Delegation of the Executive deputies”, is not different from the presumptions of the President of the parliamentary regime (Aldıkaçtı 1973).

The Assembly shall exercise its authority to exercise its legislative power by the hands of the President and the Council of Ministers. The Prime Minister is elected by the President among the members of the assembly. The Ministers shall be elected by the prime minister and submitted to the assembly after being approved by the President of the Republic. It has also included the elements of the parliamentary system with the provisions of the government that accept the “political responsibility” (Atar 2005). The 1924 Constitution was first prepared to meet the needs of a transitional regime, and all the power was gathered in the Assembly, which was under the influence of the executive body due to the party mechanism (Karpat 1996).

The 1924 Constitution was based on three principles: the Republic, the unity of nationalism and merging of power. The principle of the Republic is very important so that the article about the state form of the Republic cannot be changed or even changed. It is stated in the first article that the Republic, which was declared a little more than one year ago after the adoption of the 1924 Constitution, is the foundation of the Turkish state. The most important characteristic of this republic is its national identity. The non-national state mentality of the Ottoman period was abandoned. Since the establishment of the Grand National Assembly of Turkey, the rapidly developing understanding of nationalism, thus the foundation of the Republic can be counted as well.<sup>124</sup>

Atatürk, when opening the Grand National Assembly, put the word “Turkey” at the beginning of his name and thus took the exact form of the Assembly's name at every opportunity. The 1921 constitution is now put in the phrase “the state of Turkey”. The National Republic has also laid its foundation on the principle of the unity of powers in terms of politics. Mustafa Kemal Pasha's admiration for the unity of powers, was adopted exactly by those who made the 1924 Constitution.<sup>125</sup>

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<sup>124</sup> <http://www.atam.gov.tr/dergi/sayi-05/1924-anayasasi> [accessed date 02.04.2017].

<sup>125</sup> <http://www.atam.gov.tr/dergi/sayi-05/1924-anayasasi> [accessed date 02.04.2017].

#### ***4.1.2.2 Election of the president***

According to Article 31 of the Constitution,” the President shall be elected by the assembly from among its members for a period of election. This task continues until the new president is elected. It is possible to be re-elected."However, if the elections are to be renewed before the end of the term, then the presidential elections must be renewed. In other words, the parliament will elect the President of its own circuit. This time can shorten and extend. The President is bound to elect the assembly. He stays in office with his presence. This is the result of the parliamentary government system. For this reason, a parliament which was in conflict with the President may decide to renew the elections and distance him from his office (Aldıkaçtı 1973).

The Constitution of 1924 envisioned a “president” who was very attached to the Turkish Grand National Assembly in terms of election and term of office as the remnant of the parliamentary government system. The articles included in the Constitutional bill and causing controversy can be any Turkish presidential candidate who has the authority to be a deputy (Aldıkaçtı 1973). Proposals for a seven-year term of Office, for the President to dissolve the assembly, for the commander in chief, were rejected at the General Assembly. The Constitution tends to keep the President's powers as narrow as possible against the danger of dictating from the commander-in-chief (Velidedeoğlu 1974).

#### ***4.1.2.3 Powers of the president***

The 1924 Constitution gave the President very limited powers. These are to preside over parliament at special ceremonies, to sign and reject the laws, to elect the prime minister, to form the government, to exercise the authority of special amnesty. Two important Constitutional powers; the right to elect the prime minister and to return the laws. On the other hand, this Constitution has made the execution of the Turkish Grand National Assembly as a body authorized to use the sovereignty directly-the President and the government - completely dependent on the assembly. In practice, the fact that the presidents have unlimited control over the Parliament and the country and emerged as



leaders leading political life is the historical personality of the majority and the founder-leader of the Parliament.<sup>126</sup>

The status given to the President of the state by the 1924 Constitution prevents him from becoming a force, a factor of balance in the face of the assembly. The President is not a separate force, but an organ that uses the executive body of the assembly. He may only refer the parliament to the law to be discussed once again. The President was given the opportunity to play a role among the parties together with the Board of executive agents. In accordance with the principle of irresponsibility, the President, having to use all his powers with the signature of “the applicant and a representative”, retained the status of the representative of the state and became the symbol of the unity of the state (Aldikçti 1973).

Since the President is the highest authority of the state, he presides over the assembly and the government in the ceremonial sessions as he deems necessary. Since it is neutral, the assembly cannot participate in debates and debates and cannot vote. He may exercise his powers only with the participation of the prime minister and the Minister concerned. (Tanor 2004).

The 1924 Constitution is far from carrying sufficient provisions to ensure impartiality of the President. In fact, a close relationship was established between the President and the ruling party. The Presidents were elected once every four years, after the new assembly was convened, to be registered with the Office of that assembly. In addition, the tradition of the withdrawal of the Presidents from membership of the party had not been established; on the contrary, they were the ones who took the most part in the party. Therefore, the 1924 system eliminated one of the parliamentary rules, making it difficult for the “irresponsible” President to be “neutral” at the same time (Tanilli 2000).

Both the 1921 Constitution and the 1924 Constitution, the single and disciplined party that dominates the Parliament and the government, and the

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<sup>126</sup> Eroğul, C., 1978. Cumhurbaşkanının Denetim İşlevi. *Türkiye’de Demokrasinin Denetim Kurumları AÜSBFD, Cilt:33, Sayı:1-2, Sevinç Mat., Ankara, Mart-Haziran* , s.39-45

political regime that operates on the axis of powerful leaders, ultimately led to the rule of law; the government was in a working order dependent on the parliament and not the parliament, but on the government and the leader (Tanör 2004).

#### ***4.1.2.2.4 Mustafa Kemal Atatürk's election as president***

“The shape of the Turkish state is republic” was added to the first article of 1921 Constitution. With this article, the shape of the regime was constitutioned and immediately after the elections of the President Mustafa Kemal Pasha unanimously elected president. However, only 158 of 287 deputies attended the session where the Republic was declared and the first president was elected (Çavdar 1995). Important names such as Kazım Karabekir Paşa, Rauf Orbay and Adnan Advar followed all the processes from Istanbul. Among his criticisms, Mustafa Kemal quickly went to the “one man” according to them in Ankara, there is no election, there is no approval, there is no approval (Coşkun 1995).

After the end of the war of independence, after the Sultanate was abolished, the election of Mustafa Kemal to the presidency shows that there was no opposition to the presidency (Aldıkaçtı, 1960). However, even an untouchable personality, such as Mustafa Kemal, could not sit at the presidency easily. Mustafa Kemal Pasha's first presidential election as a single candidate did not participate in more than half of the assembly.

The passive resistance of the members of the Assembly in the presidential elections of Mustafa Kemal gives clues that the upcoming presidential elections will be difficult. Atatürk, 1 Kasım 1927'de, 319 üyeden 288'inin, 4 Mayıs 1931'de 317 üyeden 289'unun, 1 Mart 1935'te 399 üyenin 386'nın katıldığı meclis toplantılarında “oybirliği” ile cumhurbaşkanı seçilecektir. (Coşkun 1995)

According to Lewis, the election of Mustafa Kemal by Parliament as president is nothing but a question of shape. In fact, he was the President of the Republic

by appointing and dismissing the prime minister and the ministers he wanted with the powers of any Sultan (Lewis 1996). Until 1938, Atatürk, always elected as the President of the state, dominated the entire state life of the Constitution. Until Atatürk's death, the Assembly, the Party and the State united in the personality of Atatürk (Tanyol, 1990). One of the most important stages of Atatürk's political life is the election of President. The unanimous election of the national liberation leader as president can be seen as a natural result that coincides with the historical facts.

#### ***4.1.2.2.5 Legislative and presidential relations***

The 1924 Constitution did not separate the president, who was the head of the executive, from the assembly. From time to time, the President and the assembly are in a relationship. After his election, the President takes office by oath in the presence of the assembly. He can't attend the assembly meetings. At the beginning of each meeting period, the Assembly may make an opening speech. When the President deems it necessary, The Assembly may call for a meeting at the time of the holiday. Again, he may preside in the assembly where he deems necessary and in special ceremonies.

The most important issue in the relations of the president with the Parliament is undoubtedly the authority to promulgate the laws regulated in Article thirty-fifth of the Constitution. The Constitution has given the President the power to veto a postponement on this matter. Accordingly, the President has the authority to send his / her announcement to the assembly for re-deliberation within ten days of the announcement date, if he / she does not consider it appropriate from the laws which are not in accordance with the Constitution and budget laws (Abadan , Savcı 1959).

Although the President can be effective against the Parliament in this way, it does not really have much influence and importance.<sup>127</sup> If the President does not

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<sup>127</sup> Okandan, R.G., 1962. Millî Hakimiyet, Millî İrade Mefhumlarının ve Kuvvetler Birliği Sisteminin Esas Teşkilât Hukukumuza Girişi, *İst. Huk. Fak. Mec. C. XXVII, S. 1-4.*

prevent a law that he does not want and does not like, he can delay it. However, during the period in which the 1924 Constitution was in force, no President has used this authority (Soysal 1968).

The 1924 Constitution adopted some basic principles that were applied in the first TBMM period and later in the 1921 Constitution (Teşkilat-I Esasiye) in terms of the settlement of the revolutions and the application of Atatürk's thoughts. The supremacy of the assembly is among the most obvious principles of the Constitution. In addition, there are some provisions towards the parliamentary system. Thus, the Constitution did not fully accept the parliamentary system or the government parliamentary system. It is clear that even the assessments that the Constitution gives importance to any of them are far from reflecting the truth. Because it is possible to find the most obvious features of both government systems in the Constitution. For this reason, the Constitution has established some basic features of both government systems, which we can call a complete mixed regime.

A system has been created considering the conditions and conditions of the period. However, regardless of the system in the Constitution, it does not matter much in the face of its current situation. Because, in practice, the Executive, i.e. the government and the President, discipline of the party has dominated the Parliament most of the time through the party mechanism. During the single party period, almost all of the Parliament was composed of deputies of a political party. The President was elected the leader of this party, and the government was made up of the leaders of this party. "With a single disciplined party that dominates the Parliament and the Government, the political regime that operates on the axis of the powerful leaders (Atatürk, İnönü) led to the rule of law" (Tanor 2004).

Since it was under the influence of the legislature, it was able to adopt the bills without much difficulty. On the other hand, the Constitutional Court gave the Parliament an opportunity to dissolve or renew elections. In practice, however, because the government is usually composed of the leaders of the ruling party, it is accepted that the elections they have taken or the early elections have been

decided without any difficulty by the General Assembly. In the multi-party period, the principle of supremacy of the assembly began to show itself extremely, quite hard and the majority of the political power in parliament, thanks to this majority can do anything in itself (Soysal 1969).

#### ***4.1.2.2.6 Ismet inönü's period***

With the proclamation of the Republic, when elected to the presidency of Atatürk, inönü is brought to the Prime Ministry and thus the foundations of many years of cooperation are laid and until 1937, he is continuously the unchanging Prime Minister of Atatürk's era and the second man of the “one party power” (Koçak, 1986). For the Presidential Office vacated with the death of Atatürk, inönü's name is the cause of an extremely fast “undisputed compromise” by the army and Parliament. Inönü, who worked as the prime minister in almost all of his presidential period except for the last year of Atatürk's death, has become “natural successor” both in the eyes of the people and in the eyes of the ruling CHP and the parliamentary majority (Öngörder 2006).

In the Extraordinary Congress of the CHP on December 26, the Statute of the party was amended to solve the problem of the party presidency which was vacated upon the death of Atatürk. Atatürk was declared “The founder of the Republic of Turkey and the CHP's eternal President ”and Inönü has been declared as “CHP's permanent chairman”. This incident has been evaluated as a tendency towards totalitarianism in the history of the Turkish revolution (Şenşekerci 2000).

The heavy political environment between 1938 and 1946 was described as “Republican dictatorship” as Duverger called it. In a manner similar to the totalitarian regimes prevailing in Europe, the powers were gathered in the “National chief” in one person, both as the party and the President.<sup>128</sup> During the

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<sup>128</sup> Eriş, M., 1997. Demokrasi ve Türkiye'deki Varlığı Üzerine Bir Deneme, *Yeni Türkiye, Türk Demokrasisi*, Yıl: 3, Sayı: 17, Eylül-Ekim, pp.664

years of war, inönü, which carried out foreign policy by one hand, has gathered all the powers and has increased the monopoly and authoritarian character of the regime.

The transition to democracy was carried out by the CHP government under the influence of President İnönü. (Karpaz 1996). Until 1950, the circuit continued with the presidency of İsmet İnönü, and continued to dominate the state life in the period of Atatürk.

#### ***4.1.2.2.7 Celal Bayar's period***

As a result of the disagreements between Atatürk and inönü, Bayar established a government as prime minister on November 8, 1937, and will continue to serve as Prime Minister during the presidency of İnönü. On January 7, 1946, Adnan Menderes was appointed to the General Presidency of the Democratic Party which he established with Refik Koraltan and Fuat köprülü (Karatepe 1999).

The period of 1946-1950 is the time when the social opposition against the “one party administration” of the CHP became widespread and rising. In the 1950 elections, president inönü personally participates in the election campaign. However, with the help of the electoral system, the DP succeeds in putting 408 deputies into the 487 seat parliament, and for the first time in Turkey, the government changes hands. However, with the institution, rule and political culture of the single party period and the transition to multi-party political life and the election victory of the DP, the power of the military and civilian bureaucratic cadres has been shaken. The unpopular power of the DP has shaken the balances in the state.

In the process of determining the candidate for president, the DP, which was guaranteed by the military to sit in the seat of power, started to discuss with the party president who the President will be (Toker 1992). Bayar is represented by his party's parliamentary group as a candidate for president. In the elections held on 22 May, 453 deputies received 387 votes and were brought to the

presidency.<sup>129</sup> In accordance with the principle that the President cannot be the Chairman of the party, the president also leaves the party's office (Ahmad, Ahmad 1976). Thus, the National chief is involved in history. Adnan Menderes is appointed as Prime Minister (Coşkun 1995).

The most important event that took place immediately after Bayar's election as president was the liquidation process of the Turkish armed forces in order to break the influence of İnönü on the army and the rumors of a coup against the new government (Mangircı, 1999). As a result, the DP government's follow-up to a partisan army policy caused many army members to cooperate with the opposition, and after 1950 the government changed, although there were more than one party in the Assembly, the Democratic Party dominated the parliamentary majority, the state mechanism as wished, ruled.

In all three periods, the 1924 Constitution was actually suspended. As a result, although the system established by the 1921 and 1924 constitutions foresees the principles to prevent personal power, the periods of Atatürk, İnönü, Bayar and Menderes have been the scene of personal administration (Aldıkaçtı 1973). After the general elections of 1957, Bayar fell to minority within the electorate, the DP was elected by the votes and Bayar's insistence that the President of the state at that time could not be impartial has weakened his political power (Arcayürek 2000).

After 27 years of CHP power, the 10-year DP power led to the one party power towards the end and led to the emergence of a wide social opposition. Especially in the military bureaucracy, the opposition has facilitated the collapse of the DP power. The "Investigation Commission" established in parliament is one of the most important developments that make political campuses irreversible and thus prepare the end of DP power. The Investigation Commission, which aims to

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<sup>129</sup> With the transition to multi-party life, one of the issues that the Democratic Party established in 1946 was primarily focused on was the separation of the Presidency and the party presidency. When the DP came to power in 1950, it remained faithful to this idea and separated the Presidency and the Presidency from each other.

prevent all opposition within and outside the Parliament from almost all political activities, has put the army, universities and people in the streets.

As a result, during the 1921 and 1924 constitutions, the importance of the President was not based on the Constitution, but on the majority of the Parliament and the historical personality of the President. The tendency for personal power of the period has been influenced by the lack of democratic institutionalization and the tolerance of society against authoritarian regimes and charismatic, personal and extraordinary authorities. (Kışlalı 1991). The Constitution envisaged the parliamentary government, but in practice the Parliament did not weigh much in the face of execution. The rule of execution continued in the multi-party period. The parliament was unable to use this power in the single-party period due to the fact that the president, the President and the Prime Minister dominate the state activities during the two-party period.<sup>130</sup>

#### **4.1.2.3 1961 Constitution**

Towards the end of the 1950-1960 period, the repressive attitude of the assembly resulted in the seizure of the army in the country Administration on 27 May 1960 (Gözübüyük, 2005, p.126). The National Unity Committee provided a legal basis for its administration by the Constitutional Amendment on 12 June 1960. Accordingly, the Authority of the Turkish Grand National Assembly was transferred to the Turkish Grand National Assembly by the Constitution of 1924, and the head of the Turkish Grand National Assembly was accepted as the President of the Republic (Öztekin 2001). The Constitution, prepared by the Constituent Assembly, came into force on July 9, 1961 by the referendum of the people.

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<sup>130</sup> Öztürk, N. K., 1992. Türkiye’de Cumhurbaşkanlığı Geleneği ve 1982 Anayasasındaki Düzenlemenin Parlamenter Sistemle Uyumu, *Amme İdaresi Dergisi, Cilt:25,Sayı:1*, s. 69



#### ***4.1.2.3.1 Political life between 1950-1980***

The Democratic Party came to power as a result of the elections held on May 14, 1950. This meant that the civil-military bureaucracy, which established the state and held power since its establishment, was excluded from the government (Sezen 1994). Using Parliament as a means of pressure, the opposition and the DP administration were not satisfied as a result of its attempt to silence the opposition with antidemocratic laws. Attempts to intimidate the opposition after the elections in 1957, in particular the establishment of the “Investigation Commission” which has a lot of authority, has broken the relationship between the ruling and the opposition (Karatepe 1999).

In 1955-1960, the Junta, consisting of mid-level officers, took over the administration on May 27 and led the former commander of the forces, Cemal Gürsel, to the National Unity Committee. Gürsel is brought to the presidency of the state, the Prime Ministry and the command of the Armed Forces (Erdoğan 2013).

Between the years 1960 and 80, three out of the five elections, no party could provide the majority to form a government alone. The lack of democratic tradition and tolerance has hindered inter-party dialogue. Therefore, there was a difficult time in the formation of the government. Established coalition governments have not lived long. This has prevented the assembly from working. The presence of a powerful government was a threat to both the revolutionaries and the President. As a result of the general elections of 1961, the failure of the CHP to power worried the army (Altuğ 1991).

Gürsel's presidential term is the period when the political activity of the Turkish Armed Forces is most intense. This led to the politicization of the TSK. In 1966, President Gürsel's disease played a unifying role in politics, enabling the AP and CHP to agree on Cevdet Sunay (Arcayurek 2000).

Cevdet Sunay, who drew a harmonious image of the President-Government from his election to the presidency until March 12, was reorganized as the

political regime was demanded by the military (Karatepe 1999). Prior to the presidential election of Fahri Korutürk, on March 12, 1971, the chief of staff and five commanders of the army were appointed to the Memorandum. This situation caused Demirel to be removed from the Prime Ministry and started a new period under the name of March 12 regime. Turkey's sixth presidential election was held at a time when democracy was suspended. After Nihat Erim, Minister of National Defense Ferit melen was appointed as Prime Minister. The most important event during the government period, which worked for eleven months, was the election of President Cevdet Sunay, whose term expired (Özdemir 1994).

AP, CHP and CGP nominate Fahri Korutürk. The reason for the agreement on korutürk is the fear of the impact of the crisis that may arise if the election is prolonged. In the presidential election held on April 6, Korutürk was elected president in the fifteenth round (Toker 1992).

During his term of office, Korutürk was charged with being “passive” by political parties. In this context, the role of the President and the actors of the government system in the presidency is different. Political life from 1961 to 1980 has been shaped around three basic problems. The first is the government instability, the second is the political polarization based on the left and right, and the third is the semi-military administrations formed as a result of military interventions.

The years 1961-1965 and 1974-1980 were shaped by governments and non-functioning parliaments trying to reconcile the different interests with the coalition and minority governments. Every time a deep depression appeared in the country's administration, it made it a habit of turning the eyes into the army. During this period, on the basis of the military interventions on 27 May 1960, 12 March 1971 and 12 September 1980, the judicial opinion of the bureaucratic Elite was accepted as a general concern for the protection of the state. In this respect, the military bureaucracy took back most of the freedoms they gave in 1961 in 1971 and 1980. Between the years 1960 and 80, The Presidency gained great political importance as an intermediary institution in civil military

relations. After the general elections of 1961, the majority of the party alone could not achieve the power. After that, under the leadership of İnönü, started the period of coalition governments (Öztekin 2001).

The 1980 presidential elections were held with the proposals of regime discussions and constitutional amendments. In the proposals made on the Constitutional Amendment, it was thought that the president should be given more role in the situations of depression.

In the event of a crisis, suggestions such as the ease of renewal of the elections by the President, the recognition of large powers in extraordinary times, the ability to take every measure, making the government completely self-reliant, the appointment of the Prime Minister and cabinet members freely, the election of the two-round general elections for 7 years and the possibility (Tanör 2004).

Two days before the presidential election, the CHP leader's call for an interview with the AP leader was unrequited. When the election rounds were started on March 22, neither the AP nor the CHP did not nominate the President of the Republic. In the prolongation of the presidential election, the press's executive publications, such as “no party can elect its own candidate, must unite on one of the quota groups”, led to expectations in a large part of the quota group, and they waited for the current candidates to come to their seats by not voting (Batur 1985).

The 1961 Constitution did not take into account the technical flaws of the system sufficiently depressed and extraordinary conditions. In particular, due to the unstable majority, governments have not been able to establish effective mechanisms to eliminate obstructions in situations such as failure and resignation. Even if it is possible for the parliament to decide to renew the elections during the political crisis, the difficulty of using the power given to the President and the lack of applicability can be considered as a deficiency of the Constitution (Tanör 2004).

Another striking point in this period is the division within the Parliament, as well as the divisions within the party. No party is agreed on the candidate within itself. The issue that draws attention to the presidential elections is that the leaders and factions in the AP and CHP are involved in the conflicts (Özdemir 1998).

According to parliamentary democracy in Turkey, the presidency is equipped with symbolic powers. In spite of this, the role of the President in the political system is important in normal situations and vital in the periods of crisis. During the depression dominated by the economic and social crisis, the President symbolizes the existence of the state as well as the political power that is in bad condition (Cizre 1993).

The 1980 presidential election was not concluded as a result of unmanageable coalition governments, uncompromising political parties and the political instability experienced. The failure of the elections has been shown to be one of the reasons for the September 12 military intervention.

#### ***4.1.2.3.2 Position of the president***

The fourth article of 1961 Constitution states that “The sovereignty of the nation shall be exercised by the competent organs according to the principles laid down by the Constitution” and the President is now one of these competent organs and has the power of state which takes its source from the Constitution (Turhan 1997)

The 1961 Constitution introduced regulations to ensure the impartiality of the President, to make the election relatively independent from the Parliament, and to ensure continuity of State Administration in the face of changing political majorities (Tikveş 1982).

In theory, therefore, the position of the president is symbolic and representative in accordance with the classical parliamentary system. The President's duty is to represent the Republic of Turkey and the unity of the nation. When it comes

to their powers, it is stated that the executive powers will be exercised not by the president but by the Council of Ministers. In the Constitution, on the one hand, all the decisions taken by the President will be signed by the prime minister and the ministers concerned, on the other hand, the responsibility arising from these decisions will belong to the prime minister and the Minister concerned.

The duties and powers of the President of the Republic; to elect a member of the Republic Senate, to call an extraordinary meeting of the parliament, to publish the laws, to renew the elections of the National Assembly, to publish the laws and to send them back to the assembly, to approve and publish the treaties. To appoint the prime minister, to preside over the Council of Ministers as necessary, to send and accept diplomatic representatives, to represent the commander-in-Chief, to appoint the Chief of General Staff and other generals and superiors, and to preside over the National Security Council as necessary. In relation to the judiciary; the Supreme Court of Appeals for annulment of the law and the parliamentary rules envisioned the election of members of special pardon and high courts (Tanilli 2000).

There are different opinions on whether the President can exercise his duties and powers alone. A group says the President cannot be held responsible for the duties and powers given to the President under parliamentary regimes. According to the other group and generally accepted opinion, the President is able to perform the actions as President of the Republic alone, while the duties of the government regarding the determination of its general policy and the conduct of its duties as Head of the Executive are subject to the counter-judicial rule (Turhan 1997).

The President is “irresponsible” by the parliamentary system. His irresponsibility requires him to sign all his decrees to the prime minister and the relevant Ministers. The signature of the president is to put the “symbolic” weight of the state presidency into these, thus to express the continuity of the state power. Since all powers of the president are exercised by the Council of Ministers in front of the legislative power, he will be able to “arbitrate” in

disagreements between the parties. Thus, according to the 1961 Constitution, the president gains the identity of a “neutral leader”. This is the biggest innovation that the Constitution brings to the executive body. The ones who prepared the 1961 Constitution wanted to ensure that the President was “an element of balance” in the field of political relations (Tikveş 1982).

#### ***4.1.2.3.3 Election of the president***

The Constitution of 1961 stipulates that “the President of the Republic shall be elected by the Turkish Grand National Assembly for a period of seven years by a two-thirds majority of the total number of members and by secret ballot; if the majority of the votes in the first two cannot be achieved, the absolute majority shall be suffused. No one can be elected president twice in a row. If the President has been elected, his / her party will be dismissed and the term of the TBMM membership will be terminated.” In response to the partisan and special-appointed President of 1924 Constitution, the 1961 Constitution took all measures regarding the impartiality of the President (Tanor 2004).

The term of Office was limited to seven years and the President tried to ensure his impartiality by cutting off his affiliation with the Party of the person to be elected. In a sense, the Constitutional constructors have tried to ensure that the President is a “balance” element in the political relations field (Tanilli 2000).

In the Constitution, there are reasons for the President to be elected by the tgna and among its members. Reasons such as preventing demagogic incidents from mixing up with the presidential elections, preventing the election of the President, which should be an impartial and respectable body, from causing polemics in public (Tikveş 1982).

Both the Presidential and parliamentary elections, the majority of which were constitutionally held in the vote could not be achieved and if the elections were blocked, there was no rule to open it (Velidedeoğlu 1974).

The term of office and election of the President is different from the Legislative Assembly. The reason for this is to prevent the majority of the assembly from always choosing one of its own political tendencies, to make the election relatively independent from the Assemblies, and to ensure continuity in the administration of the state in the face of changing political majorities. The 1961 and 1966 presidential elections were too easy to pose a problem. The presidential elections in 1973 and especially in 1980 have been a big mess for Turkey, and then democracy has been interrupted. The 1961 Constitution was so sharp that the results of the presidential elections would be impossible in partial parliaments (Mangırcı 1999).

#### **4.1.2.4 1982 Constitution period**

The TSK carried out a coup d'état on September 12, 1980, just as the state authority was shaken by the government machinery governed by the 1961 Constitution. The Constitution, which was composed by the Constituent Assembly composed of the National Security Council, was accepted with a vote of 91% in the referendum on 7 November 1982 (Karatepe 1999).

The 1982 Constitution strengthens the executive against other forces because of its importance to the concepts of "strong state and authoritarian administration" in response to the 1961 Constitutions and even 1924 Constitutions (Tanor). It has been placed at the center of the constitutional-political system, especially by equipping the president with important authorities. There are opinions that the system introduced by the 1982 Constitution is "semi-presidential", "clumsy presidential-authoritarian presidency", "presidential parliamentary regime".

The bearer of the power used by the President is the MGK. It is a presidential parliamentary system which is arranged so that one automatically does not take over the duty. The main distinction in terms of the system brought by the 1982 Constitution is; whether the president is elected by the people, and whether the executive participates directly in the decision-making process.

From this point of view, the system introduced by the 1982 Constitution is not presidential or semi-presidential. If it can be assumed that there can not be a single type of parliamentary model, it can be said that it is a parliamentary system which has been removed from the classical model. With the influence of political factors, it can be assumed that the political parties in parliament may take different forms, such as whether the president is a majority party, whether the majority party is the leader, or the position of the president.

According to the Law on the Constitutional Order adopted by the National Security Council, the President of the MGK has been appointed as a judge on both legislative and executive positions (Karatepe 1999). After that, legal life between 1980-1983 was organized by the MGK under the presidency of Kenan Evren.

The people who had to say "yes" to the 1982 Constitution had approved the presidency of Kenan Evren along with the Constitution. There was uncertainty about what would happen if the Constitution was rejected by the public with high majority acceptance. The official campaign aimed at preventing the discussion of the constitution before the public vote and accepting the Constitution was influential in the outbreak of the game (Erdogan 2003).

In an environment where the President was banned from discussing temporary articles, it was automatically ensured that the President was elected by the people directly (Yazici 1997).

One of the most important regulations on the President of the 1982 Constitution is the one that brought the president to the new constitutional order and, in the first place, as a guardian of the transitional arrangements (Soysal 1968).

The Democratic order was restored with the elections of 6 November 1983. The 1982 Constitution foresees a transitional period for the normalization of political life. For a period of seven years, the opportunity to steer and supervise the civilian power of the new Constitution by taking advantage of the broad powers granted to the President of the new Constitution was given to Kenan Evren (Özbudun 2013).



With the referendum held on September 6, 1987, Suleyman Demirel and Bülent Ecevit returned to the political scene. From 1983 to 1987, Özal changed the Constitution and election laws according to his own needs, and thanks to the facilities provided by the last election law, he managed to enter the parliament with 292 deputies (Buran 2005)

On November 6, 1989, Kenan Evren, the President of the Republic, was in full office. Just a year before the term of office expired, the idea of constitutional change was proposed by some circles in order to re-elect the President of the universe. Erdal İnönü opposed the view that “the Constitution cannot be changed according to the people” and Suleyman Demirel followed a stance in favor of the election of the president by the people (Tanör 2000).

The presidential system, which was put forward by Turgut özal in 1987, was put forward to support the 1982 Constitution and the two-round electoral system has also brought the debate to the agenda.<sup>131</sup> Özal, in order to prevent some of the power focus emerging on the way to the presidency, has first entered into some arrangements within the Armed Forces. But during this period, the Demirel barrier continued. DYP received a high vote in the 1986 midterm elections. Ozal, who has the majority to allow the ban to be lifted, has gone to the solution of the constitutional amendment on this issue through popularization. However, when the outcome was not as expected, early elections were decided. Following the return of the early election decision from the Constitutional Court, the election was postponed to 29 November. Özal succeeded in putting the majority in parliament to guarantee his own presidency in the elections held (Mangırcı 1999).

In addition to the legitimacy debate on özal's election, in the presidential period, anti-parliamentary system practices and neutrality discussions were on the agenda. Özal acted as the head of political power in both domestic and foreign

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<sup>131</sup> Üste, R. B., 2003. Başkanlık ve Yarı-Başkanlık Sisteminin Türkiye İçin Değerlendirilmesi, *Amme İdaresi Dergisi*, Sayı:36/1.

policy, and merged with the party, the government and President of the Republic of Turkey. (Gürkan 1990).

Upon Özal's sudden death, the 1993 presidential election was opened with the slogan of an impartial candidate in reaction to Özal. DYP deputies gave 180 signed proposals, and they nominated Demirel as the presidential candidate. SHP announced that they would support Demirel's Presidency. With the support of the MHP, the absolute majority required for the election of the President was guaranteed (Arcayürek 2000).

Demirel, who was removed from the Prime Ministry seat twice in 1971 and 1980, paid attention not to take it before the military during the presidential period and supported the February 28 process. Demirel played a role as a bridge between military authority and civilian authority in his own words (Muradoğlu 2001).

Demirel was active in politics during the presidential period. He always felt his weight on the Government established under the Prime Ministry of Mesut Yılmaz. In the April 20, 1999 general elections after the closure of the RP, the DSP became the first party and MHP became second party. Demirel brought Ecevit to the Prime ministry and supported the formation of the DSP, MHP and ANAP coalition government. Because of his coalition with the soldiers, Demirel was planning to stay in Çankaya for a while (Muradoğlu 2001).

The performance of the February 28 process, political instability after 1991, and the weakness of the coalition governments have brought to the agenda the extension of Demirel's term of office, and for this purpose the proposal was given to amend the Constitution under the leadership of Prime Minister Ecevit.

The political structure of the period was shaped by the statement from the MGK meeting, which was called "February 28 intervention" in the political history of Turkey. A number of measures have been taken to reshape the society with its institutions and values, declaring asylum as a priority domestic threat. In this process, the policy was reformatted on the basis of "secular-Islamist

opposition”. REFAH- YOL coalition has disintegrated. February 28th, the RP has caused a profound change in its tradition. The important transformation in Turkish politics took place with the establishment of the AK Party, which broke out of this political tradition (Özipek 2004).

Following the general elections of 18 April 1999, the DSP-MHP-ANAP coalition government was formed under the Prime Ministry of Ecevit. Two years before the expiry of Demirel, Ecevit proposed a constitutional amendment which would allow the President Demirel to be re-elected and allow the President to be elected twice (Tanor, Yüzbaşıoğlu 2001).

The constitutional amendment that paved the way for re-President of Demirel could not provide enough majority in parliament, Attempts to extend Demirel's term of Office have failed.

Following the meeting of the Chief of General Staff, the Prime Minister and the Speaker of the Assembly, the Constitutional Court President Ahmet Necdet Sezer was given an alliance to nominate the candidate for the presidency. In the process of seeking candidates, as in every presidential election, the most important criterion was the determination of a candidate who would not be “reacting to the army”. After özal, the presidency has become a place where it is not seen as a position to be filled by military personnel. Military trends and preferences still exist as criteria to be taken into consideration by civilians. In this sense, the political parties do not have the opportunity to move freely in the presidential elections. Sezer's candidacy was welcomed by particularly liberal and democratic circles (Muradoglu 2001).

The presidential elections in Turkey, whose political and constitutional structure is shaped by the reactions, are shaped by the reactions. A total of 13 candidates participated in the presidential elections. On the last day of the application, sezer was nominated by 131 deputies from five parties. The FP, CHP and HADEP supported the candidacy of the Constitutional Court President sezer from outside. In the third round, Ahmet Necdet Sezer was elected president by 330 votes from 533.

Sezer's presidency has not been seen by political circles, especially in the direction expected by Prime Minister Ecevit.

#### ***4.1.2.4.1 Position of the president***

The eighth article of the Constitution provides that the president is both "a branch of the executive" and "the head of the state" by saying "the executive authority and the duty are exercised and fulfilled by the president and the council of ministers in accordance with the constitution and laws" predicted the status (Erdoğan 1993).

In this context, the execution, which was defined as "duty" in 1961 Constitution, was transformed into "authority" with 1982 Constitution. In 1982 Constitution, the President was given more authority than the President in classical parliamentary regimes. The presidency is removed from being a "representative and symbolic" authority and equipped with very important powers (Erdoğan 1993).

The legislative, executive, judicial functions and powers of the President constitute a partial Union of forces in the personality of the President. The fact that he does not apply to any judicial authority to the decisions and orders he has signed by himself has made the President a strong but "unchecked" position in the face of legislation, executive and judiciary (Tanör 1992).

Although the rule of law was established in the theoretical plan with the 1921 and 1924 constitutions, the strong executive and strong State dynamics continued as the actual situation gained legal status with the 1982 Constitution. However, although the 1982 Constitution has been granted a special role to the President, the introduction of a counter-signature rule in terms of the President's procedures does not allow the President to do business at his own discretion.

As a result, all powers granted to the president by the Constitution must be used in partnership with the Council of Ministers. In this respect, the fact that the

1982 Constitution strengthened the presidential authority does not give it a status that can play a dominant role in the constitutional order and the execution in general, but it is stated that it has removed it from being politically ineffective at both levels. In the new constitution, the role of the President in the system is not much more than the function of arbitrators. The fact that the President is impartial and independent is a requirement of the refereeing function (Erdoğan 1993).

In the new system, the fact that the President becomes the “decision, executive and supervisory authority” as an authorized but irresponsible head of the Executive gives the opportunity to create constant contradictions and conflicts between himself and other political, public powers (Parliament, government, Prime Minister, opposition, public opinion). This position is contrary to its objective presidential principle. The fact that the execution in this way and in fact is two-sided deepening the separation between the ruling parties. “Two titles” turn into some kind of coalition administration and prepare the ground for the division, not for the strengthening of the Executive (Tanör 1992).

The 1982 Constitution was made after the military coup and in an environment envisaged by the President of the National Security Council. Due to this effect, the President has been granted many powers that are not in parliamentary regimes. Moreover, the fact that a significant portion of these powers can be used by the President alone makes deviation from the parliamentary system more obvious (Atar 2005).

The 1924 Constitution did not envisage a status that ensured the neutrality of the President. As the Turkish Grand National Assembly can choose the President for a simple majority of its own, the President is almost identical with the majority in the assembly because the President is parallel to the election period and the parliamentary period (Tanör, Yüzbaşıoğlu 2001).

The 1961 and 1982 constitutions, both in terms of qualifications and method of elections, provided for a status to ensure the impartiality of the President unlike the 1924 Constitution. In classical parliamentary regimes, the President has

symbolic powers and is not responsible. This situation requires the President to be politically neutral. For this reason, the President's election procedure and the term of office in terms of impartiality in a negative way should be avoided in order to avoid the Regulations (Atar 2005).

According to the 1982 Constitution, the provision that a person can be elected president only once will contribute to the impartiality of the president who has to work with different political majorities. The ban to be elected twice will prevent the President from cooperating with the majority parties in hopes of re-election (Atar 2005).

The fact that the Constitution requires the President to be elected at least by absolute majority is aimed at ensuring his impartiality. Impartiality and supranational identity are necessary in the parliamentary system in order for the President to fulfill his expected functions. This function is seen as the fact that the President acts as a balancing factor and a reconciler power in political life. The exercise of this function will have a greater impact on the President (Sabuncu 2001).

The fact that one of the first three presidents to come to this post after the 1982 Constitution was the military coup leader and the other two were the political party leader prevented them from acting within the limits set by the Constitution (Sabuncu 2001).

#### ***4.1.2.4.1 Duties and powers of the president***

The four hundredth article of the Constitution refers to the "representation and supervision duty" of the president. The President's authorities distinguish three groups as "those who are related to life", "those who are related to the execution" and "those who are related to the judgment". The President shall fulfill these duties and powers with the actions to be taken (Atar 2005).

The five hundredth article of the 1982 Constitution states that "all decisions of the President, except for the Constitution and other acts which may be made by

the Prime Minister and the relevant minister without the signature of the minister concerned, are signed by the prime minister and related party; the prime minister and the relevant minister are responsible for these decisions " However, there is no clear provision in the Constitution concerning the actions of the President alone (Gözler).

In exceptional periods, the President's authority to issue the Decree together with the Council of Ministers is one of the powers that do not correspond with the parliamentary system. During these periods, the presidents will participate in active policy and act as President of the government.

- a) *Termination Authorization*: In terms of the balance of the parliamentary regime, the President was granted the authority to dissolve the Parliament in the face of the political responsibility of the Council of Ministers. The mechanism of dissolution in the 1982 Constitution was not established as an element of the power balance that could be established between legislative and executive in the parliamentary system. This authority was intended as a measure to prevent obstruction in the formation of the government and the election of the President (Soysal).
- b) *The Right To Revoke The Law*: The veto, which represents the sovereign authority in the monarchian State Administration, has turned into a form of "repatriation" in parliamentary systems. In terms of constitutional law, veto is the President's authority not to approve a law. The 1982 Constitution gave the President the power to ratify and veto the laws and to "send back". If the law that was sent back is accepted, the President must publish it (Teziç).
- c) *Powers Of Government*: In the four hundredth article of the Constitution, the president has the authority to "appoint the prime minister and accept his resignation" and in the nine hundredth article, "The President shall be appointed among the members of the Grand National Assembly of Turkey." According to the Constitution, the

President has the authority to appoint Ministers upon the proposal of the prime minister and to put an end to his duties.

d) *The Powers Of The Council Of Ministers To Sign Decrees:* In parliamentary government systems, presidents do not usually have executive powers. Although the 1982 Constitution adopted the president's irresponsibility, it has equipped it with considerable powers. One of the powers of the President stated in the Constitution is "to sign the resolutions." It is important that the President has the authority to sign and not to sign each decision (Sonat).

e) *Assignment Powers:* The 1982 Constitution authorises the President to appoint the President for the executive and judicial field. The President has been given the authority to appoint a number of high-level bureaucracies within the political system, from senior judicial members to YÖK members. The 1982 Constitution left the President's monopoly on the election of the members of the Constitutional Court (Tuncel).

Although the 1982 Constitution theoretically holds broad powers to the President, it actually depends on the President's personality and understanding (Turgut 1993). Regulations on the election of the president of the 1982 Constitution are lifting the elongation and congestion in the elections, which was seen in the 1961 Constitution. Because of the difficulties experienced in the past since the proclamation of the Republic, and especially because the election process has been so prolonged, the 1982 Constitution has attached the election process to a calendar, and at the end of the process has envisaged a method that carries the solution to the nation (Tanor , Yüzbaşıoğlu 2001).

The 1982 Constitution envisages the election of the president by parliament, as in the other constitutions of the Republican era. While the 1924, 1961 and 1982 Constitutions were being made, the president used his choice in this direction despite the recommendation of the people to be elected. It had put forward a vision towards the President elected by the people from time to time in Turkey.



Along with the broad authority given to the president in the 1982 Constitution, the parliamentary system will turn into a "semi-presidential system".

According to the 1982 Constitution, the conditions for electing the President are to be a citizen of the Republic of Turkey, to be over 40 years of age, to have higher education, and to be elected as a deputy and can have ability to choose a deputy. (Tanör, Yüzbaşıođlu 2001).



## 5. CONCLUSION

In Turkey, which has experienced a parliamentary system since 1909, the presidential elections, which reflect a standard process in classical parliamentary systems, play a decisive role in the “President's understanding” determined by constitutional, political, cultural and historical elements.

It can be said that the constitutional order of presidential elections in Turkey is simple and problematic until 1960. Until 1950, it was a serious controversy that the presidents should be both party leaders and not cut off their relations with the parties. But in this period, the domination of one political party, the conditions of the time and the historical personalities of the presidents prevented the elections from having problems.

In 1961 Constitution, the President of the Republic was symbolically arranged in accordance with the classical parliamentary system. Despite this, the Constitution has been the subject of the struggle for power of civilian and military power. The Turkish political culture and the military factor play an active role in the presidential struggle during this period, rather than the powers granted to the President. After the 1960 military coup, the military, seeking its place in the political world by looking for ways to hold the key positions of the regime, struggles to hold the presidency in its hands (Akşin 2000). The TSK considers itself to be the real owner of the country and is going to identify this feeling with the presidency.<sup>132</sup> The most important event that strikes this milestone is the introduction of coup d'état to become president. Every presidential election process is shaped by coup rumors.

The presidential elections, held behind each coup, further strained the political environment. Illegal practices have emerged. After the 1961 Constitution, the presidency was seen as the highest authority for the armed forces and the institution providing the security of the revolutionaries. As a result, Cemal

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<sup>132</sup> Öymen, Ö., 1986. “Bir İhtilal Daha Var”, Milliyet.

Gürsel, Cevdet Sunay and Fahri Korutürk, who were elected president in 1961, 1966 and 1973, were of military origin. The point of view of soldiers and civilians to Çankaya was always different. This difference has helped to create crises. From the very beginning, the military has demanded that a person who is in line with his own view of the regime be president.

In the presidential elections held during the 1982 Constitutional period, besides the influence of the army, there is also the stamp of the civilians. The Constitution was adopted by referendum and Kenan Evren became president. Özal, who was then elected president through the majority of the parliament, intensified debates on legitimacy and neutrality during the presidency. During the presidency of Demirel, who was elected president with the support of other political parties in the parliament on the death of Özal, there were also discussions of neutrality. This has led party leaders to come up with the issue of presidency.

As a matter of fact, after Demirel's departure from the presidency, Ahmet Necdet Sezer has been nominated from outside the parliament for the candidate's search for "basic principle of neutrality" due to the experience of Özal and Demirel in the presidency. During both Özal and Demirel's presidency, the President actively participated in politics. This situation has created conflicts between the President and the government in power changes.

Both in the 1961 constitution and in the 1982 Constitution, in the presidential elections, the non-parliamentary powers intervened in the electoral process. The coalition governments, which were formed by the fragmented structure of the Parliament, had weaknesses and uncompromising attitudes. The crisis was inevitable when civilian authority was compromised and the vacuum of authority was filled with other power focus. Uncertain political life and the inaugurated parliament have shaken the confidence of politics and led to a more effective search for a president.

Two political classes emerged as natural and inevitable consequences of the peculiar structure of the Turkish modernization project; "State power" and

"political power". In all Constitutional systems, state power and party power are different. The aim is to ensure that the party's support from the people can be used without undermining the values of state power. The role of the presidency within the political system is important at this point. Because the role of the system to the President is that he is the Guardian of the ideological state.<sup>133</sup>

The presidency is perceived as the representative office of the state-axis political life. However, it acts as a balance against the power of the elected ones. State power is an autonomous and inviolable power field independent of the People's will. Tensions are increasing in the presidential election as a result of bureaucratic forces trying not to lose power despite the public. As a matter of fact, even if there is a struggle for bureaucracy and politics in every presidential election, even the Presidents from politics have been aligned with the state power.

All the Turkish States established in history were governed by strong and guiding charismatic personalities such as Kaans and Sultans. The tradition of gathering the strong leader of the Turks was well established during the Seljuk and Ottoman periods. There was no separation of powers in the Ottoman Empire and the administration was based on the absolute power of the ruler. The representation of the state authority by one person is reflected in the establishment of the Turkish state and in the Republic.

Since the establishment of the new Turkish state, 1924-1938 Atatürk period, 1940-1950 İnönü period, 1950-1960 Menderes period, 1960 years Demirel period, 1980 years are known as Özal period. This shows that Turkish society is gathering around the leader in every period.<sup>134</sup>

It determines the location of the army in the foundation of the Republic. In this sense, the army is the founder of the nation state and Republic. In the following period, army started to see itself as the real owner of the state and the country.

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<sup>133</sup>Erdem, F. H., 2005. Türkiye’de ideolojik Devlet Gölgesinde Yargı ve Bağımsızlığı, *Demokrasi Platformu*, Yıl:1, Sayı:2, pp. 52-57

<sup>134</sup>Kalkan, S., 1998. Türk Toplumunu İçin Parlamenter Sistem Doğru Tespit Edilmiş midir, *Türk Hukuk Dergisi*, Yıl:3, Sayı: 33, Ağustos, pp.16

In the face of the instability seen in civilian political life, there were coup d'états in order to protect and protect the Republic. In order to maintain the established order, army has reserved the presidency as a kind of control and oversight authority (Özdemir). Increasing the legislative, executive and judicial powers recognized by the 1982 Constitution brought with it the discussions of the government system. The strengthening of the President in this way has been evaluated as “deviation” from the system (Atar).

The reason for looking for a high majority in the election of the presidents with the reputation of the constitutional order in the Constitution is to ensure that the president is chosen not only of a certain political party, but also of a great majority as a person who has earned respect and trust.

The current electoral system and the political party system are emerging as indirect causes of debate over the presidency. Representative election of parliament limited by electoral thresholds leads to debate on legitimacy of the president. There is a leader-oriented structure in the political party system. In the event that political party leaders become president, it brings with it the discussions of neutrality and the government-President. In this case, the President's attitude will be decisive for the development of political stability and democracy.

Democratization continues to be a problem despite its close history. One of the basic reasons for this is that the democratization process has been tried to be developed by the elite group, not by the people.

In the relations between the state and the people, state always dominates and society has always been dominated by the state. Political structure and all levels of state power are shaped by the struggle between the elite, not the participation of the people. Presidential elections are an example of this struggle. Politics in Turkey, has continued freedom-oriented, not as a freedom-oriented. This situation has caused the political elite, the actors of this field, to have to deal with a crisis of legitimacy.

Another aspect of the presidential elections is the intensification of political system debates. Some views have been expressed as a remedy for the crisis of the regime; the presidential, semi-presidential system, the strengthened presidency or the direct election of the president by the people. Turkey's politics has not been able to produce stable governments because of fragmented parliaments. The presidency institution, which is continually opposed to the governments which change frequently, is taking its importance continuously in the political system. This situation causes the two institutions, the presidency and the army, to stand out against the political institutions.

In the present constitution, the authorities of the president are mentioned in a long list of legislative, judicial and executive. The president, who has been turned into an alternative government, has been promoted to an even more important political position than the president of the government. The president plays a decisive role in creating a balance between state institutions, political power and opposition. In order for the presidential government system to be successful in Turkey, it is necessary to implement the system by establishing the “check and balance” system between the legislative and executive bodies, especially within the structure of a unitary state. In addition, it is necessary to switch to a narrow regional electoral system, to have non-disciplined parties, to have intra-party democracy in the Parties and to switch to a bipartisan system. It is thought that if the presidential government system is implemented as stated and the necessary arrangements are made in certain areas, it will be possible to have strong, stable governments and live in a democratic society where freedoms are protected.

What should be done in this case is to make the presidency “symbolic” as required by the parliamentary system in the regimes in which the parliamentary system continues. It is sufficient for a president who is not a strong President but a representative. Even if there is a presidential system in the current order and Constitution, the crisis of the government will not come to an end and the solution will not be reached.

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