

[DOI: 10.20472/IAC.2015.016.017](https://doi.org/10.20472/IAC.2015.016.017)

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APPLICABILITY OF THE PRESIDENTIAL SYSTEM IN TURKEY

Abstract:

We need to mention about the presidential systems rather than a presidential system. As it is not possible to make a single definition of the presidential system, it is not possible to assess in the same category made the match a certain pattern of multiple presidential system. There are different state applications of the presidential system. So this system varies from country to country. For example, the US presidential system applied is different from the presidential system implemented in Latin America. In the presidential system applied in the US is strong in both the legislative and executive. In the US there is a strong legislature. The legislature is weak in Latin American countries such as Mexico and Venezuela. Presidents in these countries are extremely powerful. A common feature of these systems is that the president is elected by the people. So the president and parliament on all presidential systems is determined by different election. Therefore, there is two separate sources of legitimacy based on the election of the president and parliament in presidential systems.

Keywords:

PRESIDENTIAL SYSTEM, PARLIAMENT, ELECTION, TURKEY,

JEL Classification: K10

I. PRESIDENTIAL SYSTEMS IN GENERAL

We need to mention about the presidential systems rather than a presidential system. As it is not possible to make a single definition of the presidential system, it is not possible to assess in the same category made the match a certain pattern of multiple presidential system¹. There are different state applications of the presidential system. So this system varies from country to country. For example, the US presidential system applied is different from the presidential system implemented in Latin America. In the presidential system applied in the US is strong in both the legislative and executive. In the US there is a strong legislature. The legislature is weak in Latin American countries such as Mexico and Venezuela. Presidents in these countries are extremely powerful². A common feature of these systems is that the president is elected by the people. So the president and parliament on all presidential systems is determined by different election. Therefore, there is two separate sources of legitimacy based on the election of the president and parliament in presidential systems³.

Presidential system is a system that is applied after the principles are identified, have emerged as a result of strong executive needs. In other words, the presidential system is not a system formed spontaneously in history as a parliamentary system. This system has been put forward as a work of the human mind. This system is designed, it is a system that has been implemented as a philosophical mind. In this structure rests on the idea of separation of powers, good management is nonarbitrary power⁴.

II. HISTORICAL COURSE AND BASIC CHARACTERISTICS OF PRESIDENTIAL SYSTEM

A. HISTORICAL COURSE OF PRESIDENTIAL SYSTEM

Parliamentary system had emerged in England as a result of the fight against the King and spread across the Continental Europe and other parts of the world. Of course, the influence of England's very own social and political situation was great in the emergence of this system. Therefore, success of parliamentary system in countries that did not live the political evolution England went through depends on the compliance of cyclical situation and is changeable. Presidential system on the other hand is entirely a product of human mind. A new system under the name of presidential system was formed by the 1787 Philadelphia Constitutional Convention having reviewed the bitter experiences that Europe had gone through, views of intellectuals and the government systems that caused the emergence of oppressive regimes.

The founders of the American system had steered the conventional system they established on check and balance policies. According to the view, the essence of which

¹ ULUŞAHİN, Nur, Anayasal Bir Tercih Olarak Başkanlık Sistemi, Ankara 1999, p. 225.

² MUSİL, Pelin Ayan, "Hükümet Sistemleri: Başkanlık Sistemi ve Parlamenter Sistem", Karşılaştırmalı Siyaset, (Der: Sabri Sayarı- Hasret Dikici Bilgin), İstanbul 2013, , p. 194.

³ GÖNENÇ, Levent, "Türkiye'de Başkanlık Sistemi Tartışmaları", Güncel Hukuk, Haziran 2011, p.14, http://www.yasayanayasa.ankara.edu.tr/belgeler/makaleler/turkiyede_baskanlik_sistemi_tartismalari_2011.pdf, (E. T. 12.01.2015)

⁴ BUYUNSUZ, Şule Özsoy, "Başkanlık Sisteminin Anayasal, Kurumsal, Davranışsal Dinamikleri ve Türkiye İçin Başkanlık Sistemi Tercihi", Yeni Türkiye Başkanlık Sistemi Özel Sayısı, Mart- Nisan 2013, Yıl: 9, Sayı 51, p.419.

is formed by these principles is that, because if all the institutions were left alone this would bear the potential of corruption and abusing their increasing power, one should be supervised and counter balanced by one other. The president comes with an election, he is independent from legislation but has to obtain a majority in legislation through persuasion in order to pass a law. Neither the legislative power can unseat the president nor can the president dismiss the legislation and repeat the elections. The president can freely choose his own colleagues but has to receive the confirmation of the Senate for important assignments. Jurisdiction supervises the executive and legislative powers. If the execution fails to fulfil the tasks prescribed by the legislation, jurisdiction may even act by assuming that function. The members of the Constitutional Court stay in their position all through their lives, the governments can't relieve the judges of their duties⁵.

The claim that the presidential system is only applied in the USA in success does not reflect the reality. There are successfully implementations of this system apart from the USA as well. As we have mentioned above, there isn't just one presidential system or one type of presidential system. There are various implementations of the presidential system. In the other words, there is one implementation of this system in the USA, one in Latin America or one in France. It is true that this system was designed in the USA nevertheless the opinion that this system carries the characteristics of the political system of the USA and that it can only be applied in the USA does not reflect the reality. Although the systems that were applied in Latin American countries in past had a monist executive structure, since the presidents were given excessive powers they are not considered as presidential systems and called "President-Favouring regimes"⁶. It is a fact that presidential government systems are not less common than the parliamentary systems today. The claim that this model does not have any successful examples other than America is not true. It is seen that the dictatorial regimes in Latin America are not based on the presidential government system, that the governmental system applied in these countries are different from the examples applied in the north in terms of authorities and operation mechanism. The president has a right to terminate the parliament, the executive power has a right to make a legislative proposal. Besides, in some countries the parliament operates for shorter time and its legislative rights are limited. In such countries, although there is a balanced separation of powers juristically, there is no such thing in practice. The other factors that trigger the dictatorial regime in these countries is that the democratic culture have not established well, the lack of education in terms of political participation awareness and political behaviour and the fact that they still have the characteristics of colonies⁷. Besides, application of governmental systems may be different in each country. This difference is based on historical, political, sociological and cultural characteristics of countries. The important thing here is to preserve the basic characteristics of the governmental systems such as the presidential or parliamentary systems. As long as the basic characteristics of the

5 TURAN, İlter, "Başkanlık Sistemi Sevdası: Zayıf Temelli Bir Özlem", TBBD, 2005, p.117.

6 TEZİÇ, Erdoğan, Anayasa Hukuku, İstanbul 2014, s.508; KUZU, Burhan, Her Yönü İle Başkanlık Sistemi, İstanbul 2012, p.37-38.

7 TUNÇ, Hasan- YAVUZ, Bülent, "Avantaj ve Dezavantajlarıyla Başkanlık Sistemi", TBBD, S.81, 2009, s.49.

presidential system are preserved, there will certainly be different implementations in terms of the circumstances of the countries.

B. BASIC CHARACTERISTICS OF THE PRESIDENTIAL SYSTEM

The principle of separation of powers is applied in the presidential system in the strictest form. There is no separation of head of the state and head of the government in the presidential system like in the parliamentary system. The president which is found at the top of the executive power does not require the vote of confidence from the parliament neither in the election nor in carrying his tasks and can't be dismissed from his position as a result of failing to receive the vote of confidence from the parliament. Therefore the president (apart from very exceptional cases) will stay as the head of execution during the time of his elected period unless he himself resigns. On the other side, the president can't terminate the legislative power or shorten the period of their duty.

Legislative and executive organs are separated from each other in presidential system, some important authorities are shared mutually. Having made legislative and executive organs dependent on one other brings the necessity of conciliation with it. The president who has a very strong position in the American Presidential system cannot use any authority if he can't get along well with the congress. Because the president is depended upon the congress because of two important authorizations such as legislative power and budget. A check and balance mechanism which would supervise and restrain the president is developed in this system. According to this, in exchange of the use of authorisations by the president to send messages to legislative organ, make regulations and directives and to veto enactments; legislative organ's duties such as accepting the budget, having authorisations of confirming the assignment of the ministers and high ranking public employees force both executive and legislative powers to act in a controlled manner. In this way, staying within the boundaries of the constitution for an organ is possible through the supervision of one other⁸.

III. SUITABILITY OF PRESIDENTIAL SYSTEM FOR TURKEY

There are reasons on the demand for a change in the governmental system in our country that are caused by the political history of Turkey and the problems in political practice. The first reason is the troubles experienced within the country during the terms of coalitions and the need for stable administrations. The second reason is the breakdown of separation of powers in the parliamentary system, or legislative power that has become dependent upon executive power. The third reason is inability to supervise the government effectively⁹.

It is possible to say that the negative aspects of the parliamentary system overshadows its positive aspects in Turkey. During the 10 year period between 1970 and 1980, 13 governments came to power. The majority of these governments were coalition or minority governments. The governments could not act rapidly or decisively. The governments mostly constituted of coalitions and while there had been coalitions of two

8 TUNÇ-YAVUZ, p.47.

9 KUZU, Burhan, "Anayasa Yapım Süreci ve Neden Başkanlık Sistemi?", Yeni Türkiye, January-February, Year: 9, Vol. 50, 2013, p. 70.

parties until April 1999, the coalition government could only be established with the union of three parties after the elections in April 1999. The governments were short-lived. There is a common governmental instability. The governments are often dismissed on the vote of no-confidence by the parliament or resign themselves. General elections are generally made without the normal period running out on a decision to hold an early election. The parliamentary system in Turkey has led to entirely ineffective, instable, unsuccessful governments¹⁰.

When a political party holds the majority at the parliament, it holds all of the governmental power too, and therefore a very strong link is established between legislation and execution. In this case, an effective legislative supervision cannot be conducted on legislative power.

If we are to take the party system in our country into the consideration, it is obvious that the control of the congress will be harder during the terms when a party is at power on its own. In our political system where democracy within parties is scarce, the legislative organ became dependant on executive power as a result of the influence and the authority that the heads of the parties have on the members of legislation.

When we suppose that the presidential system is a suitable system for Turkey, the measure on which the preference of this system would be based on must be determined. Both the presidential and parliamentary systems are systems that are based on liberal and pluralistic democracy. During the preference of systems, a structure that meets the minimum requirements primarily according to the separation of powers and the modern measures of a democratic law state has to be established¹¹. In the other words, parliamentary system, presidential system and semi-presidential system are all democratic alternatives. The preference has to be made by taking the special circumstances, historical traditions and the characteristics of political culture of each country into the consideration¹². Turkey needs a strong and effective executive organ. Besides, the presidential system can be considered as an alternative for institutionalisation of democracy and consistence of a state of law with all these components. Yet, it is inevitable to go for a set of changes in the American type presidential system. In the other words, a presidential model within the frame of common governmental system models applied today or a new presidential model can be proposed. Because other combinations to share the power within the State can also be possible and therefore a new governmental system model can be designed. As a matter of fact, a governmental system called "semi-presidential system" was not known until 1980 when Maurice Duverger called this to the 5th Republican regime of France. The regime that was established by the 1958 Constitution and reinforced by election of the president by general ballot in 1962 in France was called as "limping parliamentarism" by many writers of the time¹³.

10 GÖZLER, Kemal, "Türkiye'de Hükümetlere Nasıl İstikrar ve Etkinlik Kazandırılabilir? (Başkanlık Sistemi ve Rasyonelleştirilmiş Parlamentarizm Üzerine Bir Deneme)", Türkiye Günlüğü, S. 62, Y.2000, pp.25-47

11 TURHAN, Mehmet, Anayasal Devlet, Ankara 2004, p. 110.

12 ÖZBUDUN, Ergun, Türkiye'nin Anayasa Krizi, Ankara 2009, p. 59.

13 ERDOĞAN, p. 542.

Besides, some structural changes are also needed to be made in case of preferring the presidential system. Political scientist Express that significant costs are required by system changes. There will be system costs when the presidential system is preferred. These costs can be summed under the following titles¹⁴: 1) Juridical and technical problems that may be caused by the change, 2) Problems related to learning the new system, 3) Responses to the changes in the system coming from the other countries or foreign associations, 4) The effects of the change on the process of the reinforcement of democracy.

It is known that every system has its own advantages and disadvantages according to the conditions of the place it will be implemented in. And we should all accept this. The important thing is about which side tips the scales. There can be some defects in a more suitable system. The application of the Presidential System in our country will also have some advantages and disadvantages. If a new system will be tried, we should be informed well about the pros and cons of that system for our country¹⁵. Because governmental systems rest upon some equalisations. Governmental systems require the operation of some basic and some subsidiary constitutional organs and political institutions together¹⁶.

One must accept that this system would have some advantages and some disadvantages for our country. Anyways, no system that operates perfectly has been invented in the world so far.

CONCLUSION

Presidential system is a system which is a successfully implemented in many countries and product of the human mind. It is clear that the system has a great importance to meet the need for a strong executive branch. Through the elements of checks and balance in this systems are prevented potential problems will be come out. The president is the head of the executive, can choose ministers freely, has significant authority in executive, implements essential actions required by the country's leadership in time and effectively, but is not possible cancel legislature. Whether legislature has significant powers such as legislate, to approve the appointment of ministers and some senior managers, it balances the powers of the president. President and legislature has fields which is need a balanced and each task / authority, so it is guarantee of quality work consistent with each other. Thanks to this check and balance system and compatible operating structure, the development of the country will of course be much easier. In Turkey this debate has been remained on the agenda for many years. The reason to place on the agenda of these discussions is that problems and intense fighting caused by the implementation of parliamentary system's some negativity. Coalition-term and short-term in too many changes of government, and as a result also the failure to ensure management stability, has made the expected economic growth always headed to occur at a low level system always wonder and desirable. Of course, the presidential system should be such as in the US, but the experience brought the history of Turkey's

14 GÖNENÇ, Levent, "Türkiye'de Hükümet Tartışmaları: Olanaklar ve Olasılıklar Üzerine Bir Çalışma Notu", TBBD, 2005, pp. 8-11.

15 YANIK, Murat, Başkanlık Sistemi Ve Türkiye'de Uygulanabilirliği, İstanbul 2013, p. 147

16 YANIK, p. 143.

democracy is also needed to be integrated into the system. In this way, a presidential system with new elements can also occur very well. However, that should be considered, elections will ensure the legitimacy of the president and the legislature which is self-constituting of presidential system, is clause performed in an indisputable way of ensuring the maximum extent of the necessary legal regulations and thus the separation of powers to balance and control each other. It would be possible issues of change of such a system. It shows the utmost care in the design phase of the system, to inform the public about it and the outside world be overcome by introducing clearly the features of the system. In the implementation of this system in our country will need to accept some of the drawbacks and benefits. There was no system on earth already exist perfectly functioning.

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http://www.yasayananayasa.ankara.edu.tr/belgeler/makaleler/turkiyede_baskanlik_sistemi_tartismalari_2011.pdf, (E. T. 12.01.2015)¹
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