



TURKISH CONSTITUTIONAL REFERENDUM: ALL YOU NEED TO KNOW

April 2017

The 16 April referendum on a package of some 18 amendments to the current Constitution is about the future of Turkish democracy. What is at stake is the replacement of the current parliamentary system by an all-powerful Presidency.

The ayes claim it will make the regime “more efficient, stream-lined and more responsive to popular will”. They assert that the President – now elected by direct suffrage – must have “commensurate authority”. They declare that the Presidential system is “the answer to all the problems and challenges the country is facing at home and abroad”.

The stark reality is quite to the contrary. A “yes” vote on 16 April will have the following consequences:



- It will mean the end of the separation of powers, of checks and balances because both the legislative and the judiciary branches of government will come under the control of the President.
- The President, not the elected Parliament, will be making laws by issuing executive orders.
- The President, not the elected Parliament, will prepare and execute the national budget - with no accountability.
- The President will be able to dissolve the Parliament – at will.
- The President will have the power to appoint judges to the Constitutional Court and other high judiciary bodies.
- The President retains political party identity, making the Presidency a partisan institution; this contravenes Article 101 of the present Constitution that is not affected by the proposed amendments and that calls for a bi-partisan President.
- The Vice-Presidents and Ministers appointed by the President will answer not to the Parliament or to the people, but only to the President.



In short, the referendum will be a choice between a parliamentary democracy and one-man rule, between saying goodbye to democracy in all its surviving manifestations and giving Turkey another chance to reclaim its secular democracy. A “yes” vote will mean Turkey’s further estrangement from the Euro-Atlantic community and the EU. A “no” vote would give the democratic, secular and liberal forces the opportunity again to turn Turkey into a progressive, forward-looking country. Whether “yes” or “no”, 16 April will be a turning point for Turkey. The people of Turkey will say “no” and choose to go forward.

Kader Sevinç

CHP Representative to the European Union
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Here are the details ⁽²⁾:

ARTICLE 9

Turkish Constitutional Referandum

Existing Article

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

Proposed Article

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

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ARTICLE 75

Turkish Constitutional Referandum

Existing Article

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

Proposed Article

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

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(1) This section is taken from the Unity for Democracy Movement’s report..

(2) We would like to thank Former CHP Deputy and Vice-President Faruk Loğoğlu and CHP EU Volunteer Team Member, European Union expert Mr Umur Akansel for their valuable contributions to this publication.

(3) Hürriyet Daily News, 14.04.17



ARTICLE 76

Turkish Constitutional Referandum

Existing Article

Every Turk over the age of **twenty-five** is eligible to be a deputy. Persons who have not completed primary education, [...] **who have not performed compulsory military service**, who are banned from public service, [...] shall not be elected as a deputy even if they have been granted amnesty.

Proposed Article

Every Turk over the age of **eighteen** is eligible to be a deputy. Persons who have not completed primary education, [...] **who still needs to perform compulsory military service**, who are banned from public service, [...] shall not be elected as a deputy, even if they have been granted amnesty.

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ARTICLE 77

Turkish Constitutional Referandum

Existing Article

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

The Assembly may decide to hold a new election before the termination of this period, or elections shall be renewed according to the decision taken by the President of the Republic, under the conditions set forth in the Constitution.

Proposed Article

Elections for the Grand National Assembly of Turkey **and Presidential elections** shall be held every five years **at the same date**.

For the election of the President, if no candidate attains the necessary majority during the first round, a second round shall be held in accordance with the procedure described at Article 101.

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(3) Hürriyet Daily News, 14.04.17



ARTICLE 87

Turkish Constitutional Referandum

Existing Article

The duties and powers of the Grand National Assembly of Turkey are to enact, amend, and repeal laws; to scrutinize the Council of Ministers and the ministers; **to authorize the Council of Ministers; to issue decrees having the force of law on certain matters;** to debate and adopt the budget bills and 41 final accounts bills; to decide to issue currency and declare war; to approve the ratification of international treaties, to decide with the majority of three-fifths of the Grand National Assembly of Turkey to proclaim amnesty and pardon; and to exercise the powers and carry out the duties envisaged in the other articles of the Constitution.

Proposed Article

The duties and powers of the Grand National Assembly of Turkey are to enact, amend, and repeal laws; to debate and adopt the budget bills and 41 final accounts bills; to decide to issue currency and declare war; to approve the ratification of international treaties, to decide with the majority of three-fifths of the Grand National Assembly of Turkey to proclaim amnesty and pardon; and to exercise the powers and carry out the duties envisaged in the other articles of the Constitution.

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ARTICLE 89 (3)

Turkish Constitutional Referandum

Existing Article

(3) If the Grand National Assembly of Turkey adopts the law sent back for reconsideration without any amendment, the law shall be promulgated by the President of the Republic; if the Assembly makes a new amendment to the law, the President of the Republic may send the amended law back for reconsideration.

Proposed Article

(3) If the Grand National Assembly of Turkey, **with a majority of its component members,** adopts the law sent back for reconsideration without any amendment, the law shall be promulgated by the President of the Republic; if the Assembly makes a new amendment to the law, the President of the Republic may send the amended law back for reconsideration.

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ARTICLE 93 (2)

Turkish Constitutional Referandum

Existing Article

(2) The Assembly may be in recess for a maximum of three months in a legislative year; during adjournment or recess it may be summoned by the President of the Republic **either** on his own initiative **or at the request of the Council of Ministers**.

Proposed Article

(2) The Assembly may be in recess for a maximum of three months in a legislative year; during adjournment or recess it may be summoned by the President of the Republic on his own initiative.

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ARTICLE 98

Turkish Constitutional Referandum

Existing Article

The Grand National Assembly of Turkey shall exercise its supervisory power by means of questions, parliamentary inquiries, general debates, **cessures** and parliamentary investigations.

A question is a request for information addressed to **the Prime Minister or ministers to be answered orally or in writing on behalf of the Council of Ministers**.

A parliamentary inquiry is an examination conducted to obtain information on a specific subject.

A general debate is the consideration of a specific subject relating to the community and the activities of the State at the Plenary of the Grand National Assembly of Turkey.

The form of presentation, content, and scope of the motions concerning questions, parliamentary inquiry and general debate, and the procedures for **answering, debating** inquiring them, shall be regulated by the Rules of Procedure.

Proposed Article

The Grand National Assembly of Turkey shall exercise its **power to be informed and** supervisory powers by means of **written** questions, parliamentary inquiries, general debates and parliamentary investigations.

A **written** question is a **question from the deputies addressed in written form to the Vice-Presidents and Ministers to be answered in written form within fifteen days at the latest**.

A parliamentary inquiry is an examination conducted to obtain information on a specific subject.

A general debate is the consideration of a specific subject relating to the community and the activities of the State at the Plenary of the Grand National Assembly of Turkey.

A parliamentary investigation is an investigation concerning the Vice-Presidents and Ministers based on paragraphs 5, 6 and 7 of Article 106.

The form of presentation, content, and scope of the motions concerning **written** questions, parliamentary inquiry and general debate, and the procedure for inquiring them, shall be regulated by the Rules of Procedure.

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ARTICLE 101

Turkish Constitutional Referandum

Existing Article

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

The President of the Republic's term of office shall be five years. A person may be elected as President of the Republic for two terms at most. Nomination of a candidate for the Presidency **from among the members of the Grand National Assembly of Turkey or from outside of the Assembly shall require a written proposal of twenty deputies. Furthermore, political parties with more than ten percent of the valid votes in sum in the latest parliamentary elections may nominate a joint candidate.**

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

Proposed Article

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

The President of the Republic's term of office shall be five years. A person may be elected as President of the Republic for two terms at most. Nomination of a candidate for the Presidency shall require nomination by a political party group, **or nomination by political parties, which, by themselves or jointly received at least five per cent of valid votes in the latest general election, or nomination by at least hundred thousand voters.**

If the President-elect is a member of **the Grand National Assembly of Turkey**, his/her membership of the Grand National Assembly of Turkey shall cease. **In the election that will be held by a general vote, the candidate who gets the majority of valid votes is elected President of the Republic. If in the first round a majority is not attained by any candidate, a second round of voting is held on the second Sunday following the first round. Only the two candidates who received the highest number of votes in the first round can participate in the second round, and the candidate that receives the majority of valid votes in the second round is elected President of the Republic. If one of the candidates who obtained the right to stand in the second round cannot participate in the election for any reason, the second round of the election will be held by substituting his/her place with the next candidate according to the ranking of the candidates in the first round. If only a single candidate remains for the second round, the vote will be held in the form of a referendum. If this single candidate can get the majority of valid votes, he/she will be elected President of the Republic. If this candidate cannot get the majority of valid votes, the Presidential election is renewed. If the elections cannot be completed, the sitting President of the Republic remains in office until his/her successor takes office. Other procedures and principles concerning Presidential elections shall be regulated by law.**



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ARTICLE 104

Turkish Constitutional Referandum

Existing Article

The President of the Republic is the head of the State.

In this capacity, he/she shall represent the Republic of Turkey and the unity of the Turkish Nation; he/she shall ensure the implementation of the Constitution, and the regular and harmonious functioning of the organs of the State.

To this end, the duties he/she shall perform, and the powers he/ she shall exercise, in accordance with the conditions stipulated in the relevant articles of the Constitution are as follows:

a) Those relating to legislation:

To deliver, if he/she deems it necessary, the opening speech of the Grand National Assembly of Turkey on the first day of the legislative year,

To summon the Grand National Assembly of Turkey, when necessary,

To promulgate laws,

To send laws back to the Grand National Assembly of Turkey to be reconsidered,

To submit to referendum, if he/she deems it necessary, laws regarding amendment to the Constitution.

To appeal to the Constitutional Court for the annulment part of whole or certain provisions of laws, decrees having the force of law and the Rules of Procedure of the Grand National Assembly of Turkey on the grounds that they are unconstitutional in form or in content,

To decide to renew elections for the Grand National Assembly of Turkey.

b) Those relating the executive:

To appoint the Prime Minister and to accept his/her resignation,

To appoint and dismiss ministers on the proposal of the Prime Minister,

To preside over the Council of Ministers or to call the Council of Ministers to meet under his/her chairpersonship whenever he/she deems it necessary,

To accredit representatives of the Turkish State to foreign states and to receive the representatives of foreign states appointed to the Republic of Turkey,

To ratify and promulgate international treaties,

To represent the Office of Commander-in-Chief of the Turkish Armed Forces on behalf of the Grand National Assembly of Turkey,

To decide on the use of the Turkish Armed Forces,

To appoint the Chief of the General Staff,

To call the National Security Council to meet,

To preside over the National Security Council

To proclaim martial law or state of emergency, and to issue decrees having the force of law, by the decisions of the Council of Ministers under his/her chairpersonship,

To sign decrees,

To remit or commute the sentences imposed on certain individuals, on grounds of chronic illness, disability or old age,

To appoint the members and the chairperson of the State Supervisory Council,

To instruct the State Supervisory Council to carry out inquiries, investigations and inspections,

To appoint the members of the Council of Higher Education,

To appoint president of universities.

c) Those relating to the judiciary:

To appoint the members of the Constitutional Court, one-fourth of the members of the Council of State, the Chief Public Prosecutor and the Deputy Chief Public Prosecutor of the High Court of Appeals, the members of the High Military Court of Appeals, the members of High Military Administrative Court and the members of the High Council of Judges and Prosecutors.

The President of the Republic shall also exercise powers of election and appointment, and perform the other duties conferred on him/her by the Constitution and laws.

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(3) Hürriyet Daily News, 14.04.17



Proposed Article

The President of the Republic is the head of the State. **Executive power belongs to the President of the Republic.**

In his/her capacity as the Head of State, he/she shall represent the Republic of Turkey and the unity of the Turkish Nation; he/she shall ensure the implementation of the Constitution, and the regular and harmonious functioning of the organs of the State.

If he/she deems it necessary, he/she delivers the opening speech of the Grand National Assembly of Turkey on the first day of the legislative year.

He/she provides guidance to the Grand National Assembly of Turkey on internal and external politics of the country.

He/she promulgates laws.

He/she sends laws back to the Grand National Assembly of Turkey to be reconsidered.

He/she submits to referendum, if he/she deems it necessary, laws regarding amendment to the Constitution.

He/she appeals to the Constitutional Court for the annulment part of whole or certain provisions of laws, decrees having the force of law and the Rules of Procedure of the Grand National Assembly of Turkey on the grounds that they are unconstitutional in form or in content.

He/she appoints Vice-Presidents and Ministers, and dismisses them.

He/she accredits representatives of the Turkish State to foreign states and to receive the representatives of foreign states appointed to the Republic of Turkey.

He/she ratifies and promulgates international treaties.

He represents the Office of Commander-in-Chief of the Turkish Armed Forces on behalf of the Grand National Assembly of Turkey.

He/she decides on the use of Turkish Armed Forces.

He defines national security policies and takes necessary precautions.

The President of the Republic can issue Presidential decrees on matters relating to his/her executive power. He/she cannot regulate, with a Presidential decree: fundamental rights, personal rights and duties defined under Part Two, Chapters One and Two, and political rights and duties defined under Part Two, Chapter Four of the Constitution. He/she cannot issue Presidential decrees on issues that are defined in the Constitution as to be regulated exclusively by laws. He/she cannot issue Presidential decrees on issues that are clearly defined by law. In the case of contradicting provisions between a Presidential decree and a law, the provisions of the law shall be implemented. If the Grand National Assembly of Turkey passes a law on the same topic, the Presidential decree shall be void.

The President of the Republic can, with the aim of implementing laws and with the condition of not contradicting with them, issue regulations.

Presidential decrees and regulations shall enter into force, unless a specific date is set for a further date, on the date that they have been published.

He/she remits or commutes the sentences imposed on certain individuals, on grounds of chronic illness, disability or old age.

He/she appoints high-ranking state officials, dismisses them and defines the procedures and principles concerning their appointments by Presidential decrees.

The President of the Republic shall also exercise powers of election and appointment, and perform the other duties conferred on him/her by the Constitution and laws.



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ARTICLE 105

Turkish Constitutional Referandum

Existing Article

All presidential decrees, except those which the President of the Republic is empowered to enact individually without the signatures of the Prime Minister and the minister concerned in accordance with the provisions of the Constitution and other laws, shall be signed by the Prime Minister and the ministers concerned; the Prime Minister and the minister concerned shall be accountable for these decrees. No appeal shall be made to any judicial authority, including the Constitutional Court, against the decisions and orders signed by the President of the Republic on his/her own initiative. The President of the Republic may be impeached for high treason on the proposal of at least one-third of the total number of members of the Grand National Assembly of Turkey, and by the decision of at least three-fourths of the total number of members.

Proposed Article

A least a majority of the deputies that compose the Grand National Assembly of Turkey can propose setting up an investigation concerning the President of the Republic with the claim that he/she has committed a crime. The Grand National Assembly of Turkey shall discuss the proposal within a month at the latest, and can decide, by secret ballot, to open an investigation by the decision of at least three fifths of the total number of its members. In the case that it is decided to open an investigation, an investigative Committee of fifteen members shall be set up by drawing separate names for each political party represented at the Assembly, from a pool of candidates numbering three times the sum of members each political party can send to the Committee based on their political weight in the Assembly. The Committee shall present its report that outlines the result of its investigation to the Presidency of the Grand National Assembly of Turkey within two months at the latest. If the investigation cannot be finalized during this period, the Committee shall be given a definitive one month extension.

The report shall be distributed within ten days of its presentation to the Presidency of the Grand National Assembly of Turkey and debated at the Plenary within ten days of its distribution. The Grand National Assembly of Turkey can decide, by secret ballot, with a two thirds majority, to refer the case to the Supreme Court. The trial at the Supreme Court shall be concluded within three months. If not completed by this time, this period can be extended for another three months, for one time only. If an investigation is opened on President of the Republic, he/she cannot decide to have new elections. The term of the President of the Republic shall cease if he/she is convicted of a crime by the Supreme Court that would make him impossible to be elected a deputy. After the President's term in office is over, the provisions of this Article shall continue to apply to the claims of crimes said to have been committed by the President of the Republic during his/her term in office.

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(3) Hürriyet Daily News, 14.04.17



ARTICLE 106

Turkish Constitutional Referandum

Existing Article

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

Proposed Article

The President of the Republic can appoint one or more Vice-Presidents. In the event the Presidency being vacant for any reasons, a new Presidential election shall be held within forty-five days. Until a new President of the Republic is elected, the Vice-President will substitute for the President and can use Presidential powers. If, at this moment, the general election was to be held in less than a year, the elections for the Grand National Assembly of Turkey are moved forward to be held at the same time as Presidential elections. However, if the general election was to be held more than a year later, the newly elected President of the Republic holds office until the term of the Grand National Assembly of Turkey is due. This period from his/her election until the end of the Assembly's term is not counted as one of the terms for the newly elected President of the Republic. When the Assembly's term is due, the two elections are held together. In the event of a temporary absence of the President of the Republic on account of illness, travel abroad or similar circumstances, the Vice-President substitutes for the President and can use Presidential powers. Vice-Presidents and Ministers can be appointed and dismissed, by the President, from among people that are eligible to be elected deputy. Vice-Presidents and Ministers swear oaths in front of the Turkish Grand National Assembly as defined by Article 81. If a member of the Grand National Assembly of Turkey is appointed Vice-President or Minister, his/her membership of the Grand National Assembly of Turkey shall cease. Vice-Presidents and Ministers are responsible to the President of the Republic. A least a majority of the deputies that compose the Grand National Assembly of Turkey can propose setting up an investigation concerning a Vice-President or a Minister with the claim that he/she has committed a crime. The Grand National Assembly of Turkey shall discuss the proposal within a month at the latest, and can decide, by secret ballot, to open an investigation by the decision of at least three fifths of the total number of its members. In the case that it is decided to open an investigation, an investigative Committee of fifteen members shall be set up by drawing separate names for each political party represented at the Assembly, from a pool of candidates numbering three times the sum of members each political party can send to the Committee based on their political weight in the Assembly. The Committee shall present its report that outlines the result of its investigation to the Presidency of the Grand National Assembly of Turkey within two months at the latest. If the investigation cannot be finalized during this period, the Committee shall be given a definitive one month extension. The report shall be distributed within ten days of its presentation to the Presidency of the Grand National Assembly of Turkey and debated at the Plenary within ten days of its distribution. The Grand National Assembly of Turkey can decide, by secret ballot, with a two thirds majority, to refer the case to the Supreme Court. The trial at the Supreme Court shall be concluded within three months. If not completed by this time, this period can be extended for another three months, for one time only. After the Vice-Presidents' and Ministers' terms in office is over, the provisions of this Article shall continue to apply to the claims of crimes said to have been committed by them during their terms in office. The term of the Vice-President or Minister shall cease if he/she is convicted of a crime by the Supreme Court that would make him impossible to be elected a deputy. The Vice-Presidents and Ministers shall enjoy legislative immunity also on crimes not related to their tasks. The setting-up, abolishing, tasks, powers and organizational structure of ministries and the setting up of their central and provincial organizations shall be regulated by Presidential decrees.

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- (3) Hürriyet Daily News, 14.04.17



ARTICLE 116

Turkish Constitutional Referandum

Existing Article

In cases where the Council of Ministers fails to receive a vote of confidence under Article 110 or falls by a vote of no confidence under Article 99 or 111, if a new Council of Ministers cannot be formed within forty-five days or fails to receive a vote of confidence, the President of the Republic, in consultation with the Speaker of the Grand National Assembly of Turkey, may decide to renew the elections. If a new Council of Ministers cannot be formed within forty-five days of the resignation of the Prime Minister without being defeated by a vote of no-confidence or also within forty-five days of elections for the Bureau of the newly elected Grand National Assembly of Turkey, the President of the Republic may likewise in consultation with the Speaker of the Grand National Assembly of Turkey, decide to renew the elections. The decision on the renewal of elections shall be published in the Official Gazette and the election shall be held.

Proposed Article

The Grand National Assembly of Turkey can, with three fifths of its members, decide to renew elections. In this event, the elections for the Grand National Assembly of Turkey and for the President of the Republic shall be held together. If the President of the Republic decides to renew the elections, the elections for the Grand National Assembly of Turkey and for the President of the Republic shall be held together. If, during the second term of the President of the Republic, the Assembly decides to renew the elections, the President of the Republic can stand for another term. If renewed elections are to take place for both the Grand National Assembly of Turkey and the President of the Republic, both stay in office until a new Assembly and a new President take up their duties. An Assembly and a President that are elected at these renewed elections also serve for a five-year term.

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ARTICLE 119

Turkish Constitutional Referandum

Existing Article

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

Proposed Article

In the events of war, a situation that requires war, mobilization, a revolt, a forceful and active attempt on the homeland or the Republic, widespread violent actions that jeopardize the indivisibility of the country and nation from within and from the outside, the appearance of violence movements that aim to the thwart constitutional order and fundamental rights and freedoms, a serious disruption of public order due to acts of violence, natural disasters, dangerous epidemic diseases or a serious economic crisis, **the President of the Republic** may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.

The declaration of state of emergency shall be published in the Official Journal and shall be presented for approval to the Grand National Assembly of Turkey within the day of its decision. If the Assembly is in recess, it shall be immediately summoned; it may, if it so requires, make the duration of the state of emergency shorter, longer, or may abolish it altogether. At the request of the President, the Assembly may extend the state of emergency, with each extension not surpassing four months. In the event of war, this four-months limit shall not be imposed on extensions. The provisions to implement and the procedures to apply on money, goods and work obligations for citizens and limits or temporary halts on fundamental rights and freedoms based on the principles outlined in Article 15, during the state of emergency, shall be regulated by law. In the event of the state of emergency, on issues deemed necessary by the state of emergency, the President of the Republic may issue Presidential decrees without the limits imposed by Article 104, paragraph 17. These decrees, holding the same weight as law, shall be published in the Official Journal and be submitted to the Assembly for approval the same day. Except for times that the Grand National Assembly of Turkey cannot convene due to war or a similar compelling reason, Presidential decrees issued during the state of emergency shall be debated and decided on at the Assembly. In the contrary case, the Presidential decree issued during a state of emergency would automatically cease to apply.

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- (3) Hürriyet Daily News, 14.04.17



ARTICLE 142

Turkish Constitutional Referandum

Existing Article

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

Proposed Article

The formation, duties and powers, functioning and trial procedures of the courts shall be regulated by law. **Except for disciplinary courts, military courts shall not be set up. However, if tasked to judge cases concerning crimes committed by soldiers during war time, such military courts may be set up.**

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ARTICLE 146

Turkish Constitutional Referandum

Existing Article

The Constitutional Court shall be composed of **seventeen** members. The Grand National Assembly of Turkey shall elect, by secret ballot, two members from among three candidates to be nominated by and from among the president and members of the Court of Accounts, for each vacant position, and one member from among three candidates nominated by the heads of the bar associations from among self-employed lawyers. In this election to be held in the Grand National Assembly of Turkey, for each vacant position, two thirds majority of the total number of members shall be required for the first ballot, and absolute majority of total number of members shall be required for the second ballot. If an absolute majority cannot be obtained in the second ballot, a third ballot shall be held between the two candidates who have received the greatest number of votes in the second ballot; the member who receives the greatest number of votes in the third ballot shall be elected. The President of the Republic shall appoint three members from High Court of Appeals, two members from Council of State, **one member from the High Military Court of Appeals, and one member from the High Military Administrative Court** from among three candidates to be nominated, for each vacant position, by their respective general assemblies, from among their presidents and members; three members, at least two of whom being law graduates, from among three candidates to be nominated for each vacant position by the Council of Higher Education from among members of the teaching staff who are not members of the Council, in the fields of law, economics and political sciences; four members from among high level executives, self-employed lawyers, first category judges and public prosecutors or rapporteurs of the Constitutional Court. In the elections to be held in the respective general assemblies of the High Court of Appeals, Council of State, **High Military Court of Appeals High Military Administrative Court**, the Court of Accounts and the Council of Higher Education for nominating candidates for membership of the Constitutional Court, three persons obtaining the greatest number of votes shall be considered to be nominated for each vacant position.

Proposed Article

The Constitutional Court shall be composed of **fifteen** members. The Grand National Assembly of Turkey shall elect, by secret ballot, two members from among three candidates to be nominated by and from among the president and members of the Court of Accounts, for each vacant position, and one member from among three candidates nominated by the heads of the bar associations from among self-employed lawyers. In this election to be held in the Grand National Assembly of Turkey, for each vacant position, two thirds majority of the total number of members shall be required for the first ballot, and absolute majority of total number of members shall be required for the second ballot. If an absolute majority cannot be obtained in the second ballot, a third ballot shall be held between the two candidates who have received the greatest number of votes in the second ballot; the member who receives the greatest number of votes in the third ballot shall be elected.

The President of the Republic shall appoint three members from High Court of Appeals, two members from Council of State from among three candidates to be nominated, for each vacant position, by their respective general assemblies, from among their presidents and members; three members, at least two of whom being law graduates, from among three candidates to be nominated for each vacant position by the Council of Higher Education from among members of the teaching staff who are not members of the Council, in the fields of law, economics and political sciences; four members from among high level executives, self-employed lawyers, first category judges and public prosecutors or rapporteurs of the Constitutional Court.

In the elections to be held in the respective general assemblies of the High Court of Appeals, Council of State, the Court of Accounts and the Council of Higher Education for nominating candidates for membership of the Constitutional Court, three persons obtaining the greatest number of votes shall be considered to be nominated for each vacant position.

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- (3) Hürriyet Daily News, 14.04.17



ARTICLE 159

Turkish Constitutional Referandum

Existing Article

The **High** Council of Judges and Prosecutors shall be established and shall exercise its functions in accordance with the principles of the independence of the courts and the security of the tenure of judges. The High Council of Judges and Prosecutors shall be composed of **twenty-two regular and twelve substitute** members; shall comprise **three** chambers.

The President of the Council is the Minister of Justice The Undersecretary to the Ministry of Justice shall be an ex-officio member of the Council For a term of four years, four **regular** members of the Council, **the qualities of whom are defined by law**, shall be appointed by the President of the Republic from among **members of the teaching staff in the field of law, and lawyers**; **three regular and three substitute members shall be appointed by the General Assembly of the High Court of Appeals from among members of the High Court of Appeals**; **two regular and two substitute members shall be appointed by the General Assembly of the Council of State from among members of the Council of State**; **one regular and one substitute member shall be appointed by the General Assembly of the Justice Academy of Turkey from among its members**; **seven regular and four substitute members shall be elected by civil judges and public prosecutors from among those who are first category judges and who have not lost the qualifications required for being a first category judge**; **three regular and two substitute members shall be elected by administrative judges and public prosecutors from among those who are first category judges and who have not lost the qualifications required for being a first category judge.**

They may be re-elected at the end of their term of office. Election of members to the Council shall be held within **sixty** days before the expiry of the term of office of the members. In case of vacancies for members **appointed to the Council by the President of the Republic** prior to the expiry of the term of office, new members shall be appointed within **sixty** days following the vacancy.

Proposed Article

The Council of Judges and Prosecutors shall be established and shall exercise its functions in accordance with the principles of the independence of the courts and the security of the tenure of judges. The High Council of Judges and Prosecutors shall be composed of **thirteen** members; shall comprise **two** chambers.

The President of the Council is the Minister of Justice. The Undersecretary to the Ministry of Justice shall be an ex-officio member of the Council. For a term of four years, four members of the Council, **three of which shall be among those who are first category civil judges and public prosecutors and who have not lost the qualifications required for being a first category judge and public prosecutor, and one of which shall be among those who are first category administrative judges and public prosecutors and who have not lost the qualifications required for being a first category judge and public prosecutor shall be appointed by the President of the Republic**; the remaining seven members, of which three should be elected among members of the High Court of Appeals, one among members of the Council of State and three among members of the teaching staff in the field of law, and lawyers, shall be elected by the Grand National Assembly of Turkey Among the members elected by teaching staff and lawyers, at least one of them shall be among teaching staff and at least one of them among lawyers. Applications to be considered for the election of the Council members by the Grand National Assembly of Turkey shall be made to the Presidency of the Assembly. The Presidency shall send the applications to the Joint Committee composed of the members of Constitutional and Justice Committees. The Joint Committee elects three candidates for every membership with a two-thirds of its constituent members. If, during the first voting, the candidates are not set, the second voting shall be decided by three fifths of the Joint Committee's constituent members. If still no candidates are set, for every candidacy lots shall be drawn among the two candidates who have received the most votes. They may be re-elected at the end of their term of office. The Plenary of the Grand National Assembly of Turkey shall then vote on the candidates for every single member with a secret ballot. In the first vote, a two-thirds majority of its constituent members shall be sought. If, during the first voting, the candidates are not set, the second voting shall be decided by three fifths majority of the Assembly's constituent members. If still no candidates are set, for every candidacy lots shall be drawn among the two candidates who have received the most votes. Election of members to the Council shall be held within **thirty** days before the expiry of the term of office of the members. In case of vacancies for members elected to the Council by the President of the Republic prior to the expiry of the term of office, new members shall be appointed within thirty days following the vacancy.



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ARTICLE 161 Turkish Constitutional Referandum

Existing Article

The expenditure of **the State** and of public corporations, other than state economic enterprises, shall be determined by annual budgets. The beginning of the fiscal year and the preparation, implementation, and control of the central government budget shall be defined by law. **The law may prescribe special periods and procedures for investments relating to development plans, or for business and services expected to last more than one year.** No provisions other than those pertaining to the budget shall be included in the Budget Act.

Proposed Article

The expenditure of **public administrations** and of public corporations, other than state economic enterprises, shall be determined by annual budgets. The beginning of the fiscal year and the preparation, implementation, control of the central government budget **and investments or special durations and procedures for works and services to last for more than a year** of shall be defined by law. No provisions other than those pertaining to the budget shall be included in the Budget Act.

The President of the Republic shall present a proposal for a budget law to the Grand National Assembly of Turkey at least seventy-five days before the fiscal new year. The budget proposal shall be discussed at the Budget Committee. The text to be adopted by the Budget Committee within fifty-five days shall be debated at the Plenary and decided upon until the fiscal new year. In the case of the Budget law not being put in place, a temporary budget shall be drawn up. If a temporary budget can also not be drawn up, the previous year's budget shall be applied with an increase based on the revaluation percentage, until the new budget law is agreed upon. Members of the Grand National Assembly of Turkey may express their views on the public administration budget during discussions on every budget, but may not make proposals to increase expenditures or lower incomes. In the Plenary, public administration budgets and amendments are read without further discussion and voted on. The grants from the central administration shows the limit of the possible sum to spend. The budget law cannot be amended by a Presidential decree to allow for this limit to be surpassed. Amendments that foresee grant increases in the current year and amendments that foresee fiscal burdens in the current and following years shall include a fiscal source. The final account proposal for the central administration shall be presented to the Assembly by the President. The Court of Accounts notifies its general accord within seventy-five days of the relevant final account proposal. That the final account proposal and the general accord have been given to the Assembly shall not preclude the Court of Accounts' not yet finalized audit and calculation judgements and does not mean that these are decided. The final account proposal shall be discussed and decided upon with the new year's budget law proposal.

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“NO” not visible on Turkish TV screens

The Unity for Democracy movement ⁽¹⁾ has published striking findings regarding the peoples' right of access to information, based on TV broadcasts in Turkey on the eve of the referendum. The researchers monitoring 17 different nationwide TV channels, including the public channel TRT1, CNN and Fox TV, have found that the “NO” alternative in the upcoming referendum is effectively rendered invisible on TV screens.

The public channel, TRT1, is obliged under the constitution and under its charter, to provide unbiased and equitable public service. Nevertheless it sets aside three hours per day for the President, his advisors and the Justice and Development Party (Adalet ve Kalkınma Partisi, abbreviated AKP) as a whole, while the opposition is simply pushed aside. The public channel, run out of the tax payers' pocket, is turned into the government's voice.

According to the information provided by the Radio and Television Supreme Council (Radyo Televizyon Üst Kurulu, RTÜK), the Peoples' Democratic Party (Halkların Demokratik Partisi, HDP), the third largest party in the parliament, and second largest opposition party, is totally left out of the

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broadcasts of TRT and all other nationwide TV channels. While highlights of the party caucuses in the parliament are routinely broadcast, **not even one second has been devoted to HDP.**

The survey was conducted during March 2017, over two periods of 10 and 20 days respectively, by continuously viewing the broadcasts of 17 different TV channels. The time slots allotted to the parties in the parliament (AKP, CHP, HDP and MHP), to the President and to his advisors in news reports, live broadcasts, interviews and guest programs, were monitored.

According to the survey results,

Within the period of 1-10 March 2017: On the news related to the referendum, reports on demonstrations and speeches, **53.5 hours were devoted to the Presidency, 83 hours to the AKP, 14.5 hours to the MHP, 17 hours were allotted to the CHP (the second largest party) and only 33 minutes to the HDP.**

Within the period of 1-20 March 2017: While the **President was invited to 3 live broadcasts, his advisors to 17, the Prime Minister to 2 and other government representatives, AKP representatives and mayors altogether to 113, the chairman of CHP was invited to only one, CHP representatives to 19, MHP to 7. The HDP was not invited to any live broadcast.**

Within the period of 1-20 March 2017 on live broadcasts, **169 hours were allotted to the Presidency, 301.5 hours to the AKP, 15.5 hours to the MHP. To the CHP who have declared they would vote “NO” in the referendum, 45 hours were allotted. No time was allotted to the HDP.**

The opposition never appears on TRT, the Public Channel

We should expect impartial broadcasting policies from the Public Channel, TRT, financed from the taxpayers' money, for a well informed and independent public debate to emerge. TRT should not take sides, nor should it serve a particular political party, interest group, religion, belief or opinion.

Nevertheless, on the TRT News channel, the President, Presidential advisors, representatives of the government and AKP party caucus have appeared in 6 live broadcasts, besides 15 programs in which AKP Ministers and other officials have participated, totaling 3.35 hours for the Presidency and 9.4 hours for the AKP.

Between 1-20 March, if all live broadcasts, interviews, guest programs, parliamentary caucuses and party demonstrations are counted in, a total of 20.8 hours were allotted to the President and his advisors, and 42 hours to the AKP. **Thus, within these 20 days, 42.8 hours were allotted to the President and the AKP, while 48 minutes were allotted to the MHP, 3.2 hours to the CHP. No time was allotted to the HDP.**

Supreme Election Council barred by recent Statutory Decree from punishing inequity

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Article 149-A of the law regulating the elections has been annulled by a Statutory Decree No. 687, issued in February 2017. Therefore, the Supreme Election Council (Yüksek Seçim Kurulu, YSK), who executes the administration and supervision of elections, and up to now, was empowered to stop the broadcasts of private TV and radio channels and to levy fines in case of “broadcasts in violation of the rules, which include the principle of equality,” is no longer able fulfill this function.

We, as the Unity for Democracy movement, are submitting the findings of this survey, which demonstrates the extent of the bias and inequality in the broadcasts, to the attention of the public. We reiterate our demand that the State of Emergency should be lifted, and that the referendum regarding the constitutional amendment which concerns our future should be conducted under equal and just conditions free of coercion, so that the citizens can form their independent opinions.

DETAILED REPORT

TV COVERAGE ON THE EVE OF THE 16 APRIL REFERENDUM (As of 4 April 2017)

COVERAGE IN NEWS PROGRAMS: (17 nationwide channels surveyed within the period 1-10 March)

Within the period of 1-10 March, breakdown of the coverage of statements and speeches in the name of the presidency, government and party caucuses:

1-10 March 2017 News Program Coverage (17 nationwide channels)				
Presidency	AKP	CHP	HDP	MHP
3.210 min (53,5 hrs)	4.992 min (83 hrs)	1025 min (17 hrs)	33 min	880 min (14,5 hrs)

Within the period of 1-10 March, breakdown of the coverage of statements and speeches regarding the referendum, in the name of the presidency, government and party caucuses:

News program coverage (min)					
Channels	Presidency	AKP	CHP	HDP	MHP
A Haber	441,5	540,5	108,5		121
ATV	82	78	22,5	1	12
CNN Türk	173	301,5	142,5	7	153,5
Fox	29	50,5	24	6	31,5
Habertürk	200,5	270,5	160,5	1	88,5

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Kanal 24	448	690	57	0	56
Kanal A	228	418,5	87	0	71
Kanal 7	85	109	26,5	0	18
Kanal D	33,5	52	23,5	8,5	21
NTV	265	410,5	122,5	3,5	77
Star	42,5	44,5	18	4	21
Show	18	25	6	0	15
TGRT	222	397	36,5	1	42
TRT Haber	375	693	52	1	49,5
TRT 1	19	43	10	0	9,5
TV Net	204	354,5	0	0	53,5
Ülke Tv	344	514	128	0	40
Total	3210	4992	1025	33	880

LIVE BROADCASTS: (outside of news programs)

The President participated in 3 live broadcasts, his advisors in 17, the Prime Minister 2 and other government representatives, AKP representatives and mayors altogether 113, the CHP Chairman 1, CHP representatives 19 and MHP representatives in 7.

Within the period 1-20 March 2017, **the number** of live broadcasts of speeches at demonstrations and talk shows of party leaders, ministers, speakers for different parties in the parliament, party representatives, members of parliament, presidential advisors and mayors, in the 17 channels surveyed.

Distribution in numbers of verbal broadcasts				
Presidency*	AKP	CHP	HDP	MHP
20	115	20	0	7

*Includes appearances of Presidential advisors besides the President

Within the period 1-20 March 2017, **the total duration** of live broadcasts of speeches at demonstrations and talk shows of party leaders, ministers, speakers for different parties in the parliament, party representatives, members of parliament, presidential advisors and mayors, in the 17 channels surveyed.

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1-20 March, 2017 Live Broadcasts, total (17 nationwide channels surveyed)				
Presidency	AKP	CHP	HDP	MHP
10.141 min (169 hrs)	18.093 min (301,5 hrs)	2.737 min (45,5 hrs)	0 saniye	935 min (15,5 hrs)

Distribution of the duration of live broadcasts (interview-special program-guest) and the TV channel

Live broadcasts of verbal programs (min)					
Channels	Presidency*	AKP	CHP	HDP	MHP
A Haber	166	481			153
ATV	101	121			
CNN Türk	100	449	574		8
Fox			4		
Habertürk	20	711	635		
Kanal 24	135	805			30
Kanal A		293	51		27
Kanal 7		143			
Kanal D					
NTV	49	253			22
Star			45		
Show					
TGRT	19	921	123		
TRT Haber	321	568			
TRT 1					
TV Net	164	348			8

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Ülke Tv	129	622			
TOTAL	1204	5715	1432	0	248

*Includes appearances of Presidential advisors besides the President

Verbal broadcasts together with broadcasts including all speeches at demonstrations, at caucuses or other live programs

Live Broadcasts – distribution according to parties and channels (minutes)					
Channels	Presidency	AKP	CHP	HDP	MHP
A Haber	1112	1634			227
ATV	101	75			
CNN Türk	1010	1553	871		84
Fox			4		
Habertürk	853	2001	1200		89
Kanal 24	1141	1730			96
Kanal A	812	1310	51		82
Kanal 7		143			
Kanal D					
NTV	885	1550	372		86
Star					
Show			45		
TGRT	886	2116			74
TRT Haber	1249	2522	194		48
TRT 1					
TV Net	1085	1566			69
Ülke Tv	1007	1893			80
Total	10141	18093	2737	0	935

The situation at TRT

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1-20 March period, TRT News number of verbal programs,				
Presidency	AKP	CHP	HDP	MHP
6	15	0	0	0

1-20 March period, duration (in minutes) of live verbal broadcasts on TRT News

Channel	Presidency	AKP	CHP	HDP	MHP
TRT Haber	321	568	0	0	0

1-20 March period, duration in minutes of verbal and other live broadcasts on TRT News

Channel	Presidency	AKP	CHP	HDP	MHP
TRT Haber	1249	2522	194	0	48

Main Opposition Leader Kılıçdaroğlu: I am calling out our citizens, let's protect the republic



The AKP has failed to provide sufficient answers to the question of why the proposed constitutional amendments are necessary, main opposition Republican People's Party, CHP leader Kemal Kılıçdaroğlu has said, calling on citizens to say "no" in the April 16 referendum "in order to protect the republic."

"We have not been provided with an answer to the question why this constitutional amendment is being made. The answer to this question was avoided by insults. Since our questions are left unanswered, we will give a strong answer altogether. We will write an epic of democracy by saying 'no' altogether. I believe that," Kılıçdaroğlu said in Istanbul on April 14, two days before the referendum on the constitutional amendment which could usher in an executive presidency.

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“I am calling out our citizens, let’s protect the republic. Let’s not waste the equality of opportunities and equality before the law in with a single vote” he said.

“My citizens who are affiliated with the AKP, MHP [Nationalist Movement Party], HDP [Peoples’ Democratic Party], Saadet Partisi [Felicity Party], let’s protect our republic. If a new dynasty is needed in this country, let’s ask all together why,” he said, listing the articles of constitutional amendment charter.

“With Articles 7 and 8, a leader of a political party will be the head of the Turkish Armed Forces, which should be neutral. Why? [with the same articles] a leader of a political party, which will also be president, will be given authority to determine national security policy. Why?” he asked.

“With Article 8, the president, who will be a leader of a political party, will determine all the appointment criteria [of state officials] by himself. Why? The president will be given the authority to issue decrees on all subjects related to economic and social issues. Why?” he added.

“With Articles 7 and 12, the president who will be a leader of a political party, will be given the authority to declare a state of emergency and rule the country by himself with the state of emergency decrees that he will issue. With this authority, the safety of life and property of 80 million people is entrusted to a single person,” he said.

“While 276 votes was enough to refer corrupted ministers to the Supreme Court in the current constitution, with Article 9 of the amendment, a requirement for 400 votes will be implemented. Why this insuperable shield?” he added.

“With Articles 7 and 14, the authority to appoint judges, and the opportunity to bring the judiciary under control, will be given to the leader of a political party who will appoint 12 members of the 15-member Constitutional Court, one of four members of the Council of State and half of the Supreme Board of Judges and Prosecutors. Why?” he asked. (3)

CHP leader Kemal Kılıçdaroğlu said according to a recent opinion poll, the rate of naysayers is at about **53 percent**; the government is trying to discourage undecided voters from voting by presenting higher rates for the “yes” vote through pro-AKP media. Kılıçdaroğlu called on people to cast their ballots. “The more people who vote, the more the ‘no’ votes will lead against the ‘yes’ votes.”

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Women shout slogans and hold placards against the upcoming referendum on a new constitution in Ankara, Turkey
Photograph: Tumay Berkin/EPA



CHP's No campaign

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[Watch CHP's No campaign video](#)



Members of the Youth Union of Turkey shout slogans during a 'No' rally on 26 February (AFP)

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CHP's NO Campaign "Vote No for my future"



Photo: Tumay Berkin /EPA

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