



A Brief Overview of Turkey's Proposed Constitutional Changes

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On April 16, Turkish citizens will go to the polls for a referendum to decide on a set of proposed changes to Turkey's current constitution, which was adopted in 1982 via referendum following the 1980 coup d'état.

An 18-article package adopted by the Turkish Parliament in January proposes considerable changes to the constitution aimed at transitioning Turkey from a parliamentary system to an executive presidency. The following is a brief overview of the major changes included in the package.

The Executive Branch

Any political party that has won at least 5% of the vote or at least 100,000 votes in the previous election will be able to field a candidate for the presidency. **(Article 7)**

Under **Article 7** of the proposed changes, the clause requiring that the president cut any existing ties to a political party will be removed from Article 101 of the current constitution.

The president will be the head of state. The office of the prime minister will be abolished, and the president will subsume that office's executive responsibilities. **(Article 8)**

The president will have the power to issue executive "decrees" on various – but limited – issues. These issues will not include chapters one, two, and four of the second part of the constitution, which cover fundamental rights, human rights and duties, and political rights and duties, respectively. **(Article 8)**

The president will have the power to appoint and remove his or her vice presidents, ministers, and other "high-level" public officials. The legal rules and basis of the appointment and removal of high-level officials will be decided by executive decree. **(Article 8)**

The president will have the power to declare a state of emergency, which may be reduced, extended, or lifted by the parliament. **(Article 12)**

The Legislative Branch

The number of members of parliament (MPs) will increase from 550 to 600. **(Article 2)**

The minimum age for MPs will be lowered from 25 to 18. Completion of service in the military will no longer be a requirement for MP eligibility. Additionally, an MP must not still have relations with military services. **(Article 3)**

Under **Article 5** of the proposed changes, the wording that requires the parliament to scrutinize the executive branch will be removed from Article 87 of the current constitution.



Censure will no longer be available to the parliament as a method to scrutinize the executive. The methods of scrutiny that will be retained are parliamentary inquiry, general debate, parliamentary investigation, and questions. Regarding questions, they may be presented only in written form to the vice presidents or ministers, but not to the president. (**Article 6**)

In order to open a criminal investigation against the president, the parliament must pass a motion to open an investigation through an absolute majority. Within the month, the parliament must achieve a three-fifths majority through a secret ballot in order to open the investigation. An appointed commission then has two months – with a possible extension of one additional month – to investigate the alleged crime(s) and present a report to the president of the parliament. The parliament can then decide with a two-thirds majority (by secret ballot) to send the investigation to the Supreme Court, which will make the final decision on whether to convict and impeach the president. (**Article 9**)

The Judicial Branch

Article 1 of the proposed changes will add the words “and impartial” to Article 9 of the current constitution, which concerns the judiciary. The current article already describes the judiciary as “independent.”

The High Council of Judges and Prosecutors – known by its Turkish initials, HSYK – will be reduced from 22 members to 13 members. The Justice Minister will serve as the president of the council, and the Undersecretary of the Ministry of Justice will have a permanent seat on the council. Of the remaining 11 members, four will be appointed by the president, and the final seven will be appointed by the parliament. (**Article 14**)

All military courts without purviews solely covering internal military discipline will be abolished. There will no longer be two military judges on the Constitutional Court. (**Article 13** and **Article 17**)

Elections

Parliamentary and presidential elections will be held every 5 years, and they will be held on the same day. (**Article 4**)

Both the president and the parliament will have the authority to call for new parliamentary and presidential elections. The president can do so unilaterally, but the parliament must achieve a three-fifths majority. New parliamentary elections automatically trigger new presidential elections to be held on the same day. (**Article 11**)

Sources

Turkiye Cumhuriyeti anayasasi [Constitution of the Republic of Turkey]. (Law no. 2709). Adopted: November 7, 1982. Retrieved from https://www.tbmm.gov.tr/anayasa/anayasa_2011.pdf

Turkish Grand National Assembly Report No. 447 (Legislative Season 26, Legislative Year 2). Retrieved from <https://www.tbmm.gov.tr/sirasayi/donem26/yil01/ss447.pdf>