

The Turkish military exceptionalism and the 1924 Constitution

di Elisa Bertolini

Abstract: *The Turkish Military Exceptionalism and the 1924 Constitution.* - The paper discusses the Turkish military exceptionalism against the backdrop of the 1924 Constitution. The Constitution enshrines the regime change that followed the First World War, to whose establishment the military has significantly contributed, mainly through Mustafa Kemal Atatürk and İsmet İnönü. At the same time, the new regime favours a separation between the military and the civil sphere. Nevertheless, the prestige enjoyed by the military together with its own perception of being the guardian of the Kemalist legacy have made a clear-cut separation impossible. Indeed, the military has been involved in politics following the so-called guardian model. Moreover, as Kemal himself outlined, opposite to what generally happens, the Turkish military has been a progressive force, advocating development and modernisation. Furthermore, if we compare the Turkish experience with the ones of the other former Central Powers during the 1920s and 1930s, the distinctiveness of the Turkish military is even more striking. These distinctive traits make up the Turkish military exceptionalism.

3645

Keywords: military; Kemalism; separation; guardian; influence.

1. Premise

Whenever approaching a study of Türkiye, regardless of the discipline, it is impossible not to come across the military. In very few countries, military and politics are so strictly intertwined. Indeed, throughout centuries, the military has been the backbone of the Ottoman and now Turkish State and a major political and constitutional player.

In Ottoman and Turkish history, the reform of the military goes together with institutional reforms. The success/failure of the former causes the success/failure of the latter. Even more – at least, until the failed 2016 military coup – the agreement of the army has traditionally been a requirement for any attempt of reform or political change to succeed. The military has always been much more than a mere military force, rather, a core pillar of the national identity. Even during the Ottoman period, when the Porte was not a nation-State, the military was the highest pillar of the traditional social organisation.

Hence, it would not be convenient to analyse contemporary Turkish constitutional history without a proper analysis of the historic role of the military as a power of the State and of the role that the formal and informal

constitution award to the military. Indeed, it would not be suitable to separate the military from the political-institutional sphere.

Even though it is possible to trace the history of the Ottoman/Turkish military back for almost a thousand years, this paper will have a much restraint focus, which is the analysis of the military in the 1924 Constitution. This much narrower focus, however, demands a preliminary historical overview to discuss the origin of the 1924 text and of its content. The overview, analysing the role of the military within the State, will already prove the connection between military and institutional reform and will as well explain why and how the military could consolidate their *élite* position.

Moreover, even when discussing the 1924 constitution, the analysis must be structured from a multi-level perspective. First, there is the discussion of the role of the military in the constituent phase to have a better understanding of the extent of their influence on the constitutional provisions. This first level of analysis allows a first appraisal of the existing relationship between the military and the political, civil, power. When discussing this point, it must be underlined the very peculiar political and military situation, which leads to the 1924 Constitution: the War of Independence, the double peace treaties of Sèvres (1920) and of Lausanne (1923) and the major institutional reform of the abolition of the Sultanate and the subsequent establishment of the Republic (1923). Second, there is the formal analysis, i.e., the analysis of the constitutional provisions devoted to the military. How many they are, which aspects do they regulate and who they do entrust with the command of the military. Third, there is a more informal analysis, i.e., the analysis of the concrete enforcement of the Constitution upon the military and the kind of relationship between the military and the political sphere that results from the constitutional enforcement. This third level of analysis implies to examine whether further statutory provisions have been adopted to better regulate the participation of the military to the political and institutional life of the Turkish Republic. When discussing this latter point, it must be considered that the influence of the military over the branches of government more likely happens through informal channels, which are much more difficult to assess and to appraise to their real extent. Nevertheless, when looking back at Turkish history since 1960, the influence of the military over the institutions has taken the form of a military coup, successful in 1960, 1971¹ and 1980, and unsuccessful in 2016. The three successful coups represented three constituent moments. Following the 1960 coup, a new Constitution was passed in 1961 – which replaced the 1924 one –; in 1971, there was a major constitutional amendment, and finally in 1981 the present-day Constitution was adopted. All three Constitutions, 1924, 1961 and 1981, entrust the military with the key role of protecting the Turkish State against external and internal threats. It is as if each of these Constitutions founded the subsequent coup.

¹ It is convenient to specify that 1971 marks the second intervention of the military in Turkish politics. Nevertheless, it cannot be properly qualified as a coup, rather as a soft coup or the coup by *memorandum*. The reason is that the armed forces delivered a *memorandum*, which sounded as an *ultimatum*, *in lieu* of deploying the military forces.

Surely, this role of the military as protector of the core pillars, better arrows, of Kemalism – Republicanism, Populism, Nationalism, Laicism, Statism, and Reformism – is quite exceptional when considering the military coups in a comparative perspective. Even though it is not the purpose of the present paper to discuss military coups, the aim of the analysis is to try to explain this Turkish exceptionalism as it has been shaped by and in the 1924 Constitution.

Certainly, a good sign of the peculiar role of the military and of how it is perceived is the fact that Turks refer to themselves as an army nation (*asker millet*).²

Finally, one last point that deserves a discussion is the exceptionalism of the Turkish military in the aftermath of the 1924 Constitution when framed within the experiences of the former Central Powers. Despite the common defeat, the crumble of a multi-national empire, the abolition of the monarchy, the role of the Turkish military since the last months of war has paved the way to a different experience. It is the combination of the renegotiation of the peace treaty with the role of the military in the constituent phase that distinguish the Turkish from the German, the Austrian, the Hungarian and the Bulgarian experiences and that will avoid for Türkiye a totalitarian regime and the tragedy of the Second World War.

2. The military and the Sublime Porte

The origin of the Turkish exceptionalism is to be found in the history of the Sublime Porte (and even before, in the Seljuk period). Since 1299, the date of the formal inception of the Porte, the military had a major influential role on both politics and society. Moreover, the Porte has traditionally been a military State. Indeed, the military is the oldest social institution in Türkiye, and, in fact, it is the only organization surviving from the traditionalist era.³

Throughout the Seljuk and Ottoman periods, a reform of the military has corresponded to a reform of the structure of the political power.⁴ The first major reform, by Osman in the late 13th century, marked the foundation of the Sublime Porte. The steppe-nomadic cavalry force, which made up the ‘earliest military’, was centralised by Osman. Osman’s son and heir, Orhan I, further stabilised both the military and the political institutions. With respect to the former, he organised a standing army paid by salary rather than looting or fiefs, which was the nomadic custom. This new organisation of the military had a major impact on the composition of the army as well as on the future development of the Porte. Indeed, very few Turks were keen on accepting salaries in place of land; hence, the army began to be made up of non-Turks subjects of the Porte, mainly recruited in the Balkans.⁵ This

² O.O. Varol, *The Military as the Guardian of Constitutional Democracy*, in 51 *Colum. J. Transnat'l L.* 3, 547-625, 565 (2013) and *The Turkish “model” of civil-military relations*, in 11 *International Journal of Constitutional Law* 3, 727-750 (2013).

³ K.H. Karpat, *The Military and Politics in Turkey, 1960-64: A Socio-Cultural Analysis of a Revolution*, in 75 *Am. Historical Rev.* 6, 1654-1683, 1656 (1970).

⁴ J.-P. Roux, *Histoire des Turcs. Deux mille ans du Pacifique à la Méditerranée*, Paris, 1984.

⁵ The *devşirme* was an Ottoman practice consisting of a forcible recruitment of soldiers and bureaucrats from among the Christian children subjects in the Balkans. It was a

non-Turkish military force would become the most fearful corp, the Janissaries. During the reign of Mehmed II (1451-1481), the Janissaries could be considered as the first modern standing army. Following the one of Orhan's, Mehmet II's was the other major reform, which followed a major political reorganisation due to the conquest of Constantinople in 1453.

After Mehmet II, the Janissaries underwent only minor reforms, such as the recruitment of born Muslims (since 1571). However, being the Janissaries an *élite* corp, they progressively started to oppose any modernising reform, ending up being more a liability than an actual asset. Again, it is possible to draw a parallelism between the progressive decline of the Turkish military force and the one of the institutions.

The reign of Selim III (1789-1807) is particularly emblematic of the conservative force represented by the Janissaries. Since the mid-18th century, the Porte started to look at European countries to reform its institutions⁶ and Selim in particular aimed at setting up a new modern army, bound to replace the Janissaries and modelled after the French military. The military reform was just a small part of a bigger reform plan, *Nizam-ı Cedid* (New Order), launched by the Sultan.⁷ Selim's reforms upset the traditional political and military powers, especially the Janissaries, which in 1807 deposed the Sultan and had him murdered the year after. The decree of deposition – a proper *fetva* – related the accusation against Selim of failing to respect the religion of Islam and the tradition of the Ottomans; he was expressly accused of «introduce[ing] among the Muslims the manners of infidels and showing an intention to suppress the Janissaries.»⁸ Moreover, the Janissaries selected his successor, Mustafa IV, who had to pledge to refrain from any attempt to reform the military and its traditional privileges. Nevertheless, Mustafa himself was killed in 1808 and his half-brother Mahmud II ascended the throne (1808-1839).

The season of reform continued under Mahmud's reign, whose major target was the disbandment of the Janissaries, which took place on 15 June 1826, event that goes down in history as *Vaka-i Hayriye*, the Auspicious Incident. From this day, started a period of Ottoman military reform, which culminated in the reign of Abdul Hamid II (1876-1909), who secured German assistance.

It is worth noting that since the destruction of the Janissaries in 1826, it had become evident that reforms could not be limited to the military modernisation. Indeed, the first pillar of a long series of reforms (the *Tanzimat*, reorganization, 1839-1876) is the one of *Gülhane Hatt-ı Hümayunu* (rescript of Gülhane), proclaimed in 1839 by Abdulmejid I, Mehmet's son,

sort of blood tax that had to be paid every year. Nevertheless, this practice guaranteed a significant class mobility, allowing minorities to accede to prominent and powerful position in the Porte.

⁶ To the topic of the Porte meeting the West is devoted the five-year course at the Collège de France by Turkish historian Edhem Eldem. See E. Eldem, *L'Empire ottoman et la Turquie face à l'Occident*, Cour au Collège de France 2017-2022, available at <https://www.college-de-france.fr/chaire/edhem-eldem-histoire-turque-et-ottomane-chaire-internationale/events>.

⁷ The main pillar of the reform plan was the introduction of a new tax-collecting system.

⁸ P. Kinross, *The Ottoman Centuries: The Rise and Fall of the Turkish Empire*, London, 1977, 437.

and heir. A more concrete action towards reforms and the establishment of a proper Western regime was advocated by the Young Ottomans, a secret society composed by Western-educated bureaucrats founded in 1865, who had the support of the new military. The apex of the Young Ottomans' efforts is the proclamation of the 1876 Ottoman Constitution (*Kanun-i Esasi*)⁹.

The Constitution entrusts the Sultan with all powers connected to the military as part of his sovereign rights. More specifically, according to Article 7, the Sultan can sign international treaties, declare war, and make peace, command both land and sea forces, and direct military movements. Moreover, the Sultan appoints senators, and, under Article 62, the dignity of senator can be conferred on persons, which have exercised, among others, the functions commandant of *corps d'armée*, and general of division of armies by land or sea.

The suspension of the Constitution from 1877 until 1908 did not affect neither the organization nor the role of the military. However, the Young Turks Revolution of 1908 is a key moment in the relationship between low-ranking military, and the old military *élite* and their respective influence on Ottoman institutions. The 1908 Revolution, which led to the so-called Second Constitutional Era, was an *élite* revolution led by the Committee of Union and Progress (CUP), an organization of the Young Turks movement, a heterodox group of secular liberal intellectuals, revolutionaries, and low-ranking military.¹⁰

The decade 1908-1918, dominated by the Young Turks, is particularly interesting because of the progressive influence, mostly informal, of the military on Ottoman institutions. Indeed, at least until 1911, the Young Turks exercised an informal control of Parliament, whilst the government was still controlled by the old civilian and military *élite*.¹¹ The latter did not object to the Young Turks as far as they did not cause prejudice to the army's interests. However, the CUP proposed in Parliament an important military reform, a law on military service, imposing the obligation for any subject of the Porte, regardless of their religion, to serve in the army. It is also worth mentioning the changes within the administration, especially concerning the armed forces, coordinated by Enver Paşa. In 1914, the officer corps were reduced and reorganised, leading to an early retirement and a degradation of some soldiers. Despite the old *élite* were not dispossessed of their power, it is convenient to recall that this period, in particular since 1913, goes under the name of the dictatorship of the Three Paşa (Cemal, Enver and Talaat), which marks the importance that the new army had secured within the administration of power. The Three Paşa followed up Abdul Hamid II in securing German assistance: the German military mission under the command of General Liman von Sanders was involved in reforming the

⁹ H. Korkut, *Critical Analysis of the Ottoman Constitution (1876)*, in 9 *Epiphany: Journal of Transdisciplinary Studies* 1, 114-123 (2016). See also A. Ubicini, *La constitution ottomane du 7 zilhidjé 1293 (23 décembre 1876) Expliquée et Annotée par A. Ubicini*, Paris, 1877.

¹⁰ M.S. Hanioğlu, *Preparation for a Revolution: The Young Turks, 1902-1908*, Oxford, 2001 and *The Young Turks in Opposition*, Oxford, 1995.

¹¹ G.W. Swanson, *Mahmud Şevket Paşa and the Defense of the Ottoman Empire: A Study of War and Revolution during the Young Turk Period*, Ann Arbor, 1970.

army's structure and functioning.¹² Members of this mission were appointed to commanding positions, and their influence was strong, especially during the First World War, and in the decision to enter war on the side of the Central Powers, as advocated by the Three Paşa.

3. 1919-1923: the Military as the Founding Fathers of the Turkish Republic?

Despite the military, in particular low-ranking officers, had a major influence in the Young Turks era and in the promotion of some key military reforms, the importance of the military in Turkish politics has been greatly accentuated following the Porte's defeat in 1918.

The role that the military progressively takes on since 1918 as the major player in the handling of the immediate post-war period and in the regime change is hardly comparable to anything in the previous centuries.

The fact that the military was the leading force in the years 1919-1923 is due mainly to the civilian bureaucracy being far more loyal to the Sultan and less inclined to take any pro-nationalistic action that may have been perceived as treason. This reaffirms the strong connection between the military and political/institutional reforms that had characterised the Ottoman era.

As it has been briefly discussed in the previous paragraph, the military was no stranger to the Porte's institutions, and it had traditionally been one of the pillars of Ottoman identity. Nevertheless, 1918 is a turning point, paving the way for a new relationship between the military and the newly born Turkish constitutional legal order.

The period 1919-1923 is of paramount importance in Turkish history, because it founds contemporary Türkiye and further explains the Turkish military exceptionalism. Four are the key dates: 1920, 1921, 1923 and then 1924. 1920 and 1923 mark the signature of the Sèvres Peace Treaty and of the Lausanne Peace Treaty, the latter replacing the former. The fact that Türkiye had been able to renegotiate with the Entente States the peace treaty was rather exceptional; none of the Central Powers succeeded, even though they tried. It is the renegotiation that will make of the military the pillar of new regime, rather than its enemy as it happened in the other former Central Powers. 1921 and 1924 are the years when two Constitutions were passed.

The purpose of this paragraph is to try to understand the causes that made possible for the military to properly become the founding pillar of the Turkish Republic and her most progressive force.¹³ To do so, the starting point is to outline that for Türkiye war did not end in 1918. Indeed, from 1919 until 1923, Türkiye fought a War of Independence (*Türk Kurtuluş Savaşı*). Without entering a complex historical in-depth analysis, some key

¹² L. von Sanders, *Five Years in Turkey*, Annapolis, 1972.

¹³ For an historical and political account of the role of the army in the state building process in the aftermath of the war and its relationship with the civil bureaucracy, see D.A. Rustow, *The Army and the Founding of the Turkish Republic*, in 11 *World Politics* 4, 513-552 (1959).

events are to be recalled, because they were both the cause and the effect of key institutional/constitutional changes, which led eventually to the Lausanne Peace Treaty and the 1924 Constitution. The War of Independence consists of a series of campaigns waged by the Turkish National Movement,¹⁴ under the leadership of Mustafa Kemal,¹⁵ after parts of the Porte's territory had been occupied and partitioned by the Entente States, following the terms of the Armistice of Mudros,¹⁶ and aimed at establishing a Turkish Türkiye.¹⁷ These campaigns were mainly against the Greeks in Western Anatolia, and against Ottoman troops in Constantinople. Furthermore, whilst the Sultan Mehmed VI accepted the Treaty of Sèvres, Mustafa Kemal in Ankara did not.

Meanwhile, important institutional reforms were carried out to strengthen and support the military effort and the predominant position of Mustafa Kemal. The first move of the Nationalists was the organic law of 23 April 1920, by which the Turkish Grand National Assembly (TGNA), elected in April 1920 on Mustafa Kemal's proposal, declared itself to be the sole representative of the nation, exercising sovereign powers of legislation and administration, thus replacing the Sultan's Constantinople government.

A few days later, on 3 May 1920, at Kemal's behest, the TGNA passed the law no. 3/1920, which, opposite to Ottoman practice, provided that the post of Chief of the General Staff be a regular Cabinet position. In doing so, the Chief of General Staff, İsmet İnönü, the actual commander of the armed forces, become a full-fledged member of the government, whilst in the Ottoman practice would have been subordinated to the Minister of War. The relationship between the military and the Minister of National Defence is key to appraise the influence of the military on the civil government. The two offices were meant to remain separate; however, the difference was blurred in this period of the War of Independence, when the two offices were held by the same person.¹⁸ Because of the war, no effort was made to sufficiently separate civil and military affairs. Moreover, military officers were members of the Cabinet, of the TGNA, and of the bureaucracy. However, in particular with respect to the TGNA, in the years 1920-1923, it was composed by a large number of higher officers, who being on active duty, were fully occupied at the front or at the military headquarters.

It is worth noting that the active participation of the military in the institutional reforms does not imply an everlasting honeymoon between military and political activity. Rather, as it will be better discussed *infra*, a rift started between Kemal and his earliest political and military associates,

¹⁴ E.J. Zürcher, *Contextualizing the ideology of the Turkish national resistance movement*, in 57 *Middle Eastern Studies*, 2, 265-278 (2021).

¹⁵ P. Kinross, *Atatürk: The Rebirth of a Nation*. London, 2003.

¹⁶ Partition confirmed also by the subsequent Treaty of Sèvres.

¹⁷ Indeed, Kemal's revolt against the Entente States was not, like the shifty manoeuvres of Abdul Hamid or the precipitate acts of the Young Turks, designed to maintain Turkish hegemony in non-Turkish territory; it was primarily concerned with preserving a Turkish homeland against Pan-Hellenistic expansion and Allied imperialism. See E.M. Earle, *The New Constitution of Turkey*, in 40 *Political Science Quarterly* 1, 73-100, 73-74 (1925).

¹⁸ G.S. Harris, *The Role of the Military in Turkish Politics. Part 1*, in 19 *Middle East Journal* 1, 54-66, 55 (1965).

which led to a proper divorce. Indeed, shortly after the proclamation of the Republic in 1923, Kemal, fearing a coup against him by some of his former associates, had the TGNA pass a law that made membership in the TGNA incompatible with active military service.¹⁹ Hence, military officers had to choose between civil and military service. Anti-Kemalist, who retained their legislative seats either resigned, or were removed, from their army position.

3.1 The Treaties of Sèvres and Lausanne

Although the Treaty of Sèvres was superseded by the one of Lausanne in 1923, it is convenient to briefly discuss its Part V (Articles 152-207), devoted to the military, naval, and air clauses. As it will be even clearer, when considering the analogous treaties imposed by the Entente States on the former Central Powers, the military clauses are all identical. There is one model replicated in all the Paris Treaties.

One important difference, though, exists with the Treaty of Neuilly signed with Bulgaria (Türkiye and Bulgaria were the only Central Powers having maintained the monarchy): only the Sultan was allowed a bodyguard consisting of a staff and infantry and cavalry units, not exceed 700 officers and men (Article 154), which were excluded from the cap of 50,000 men, including staffs, officers, training personnel and depot troops provided at Article 155.

Another specular clause is the one at Article 165, reading that armed forces would have been constituted and recruited by voluntary enlistment only.

The Treaty being negotiated by the Ottomans, it was rejected by the Nationalists. Furthermore, the Armistice of Mudania, and the regime change (abolition of the Sultanate) in 1922, demanded a new negotiation, which ended in a treaty much more favourable to Türkiye that the one of Sèvres.

Indeed, the Treaty of Lausanne (24 July 1923) did not provide for any explicit section devoted to military clauses, the major focuses being the Turkish borders, the protection of minorities, the exchange of population, and the regime of the Straits. Indeed, outside the Zone of the Straits, no limitation was imposed on the Turkish military establishment.

The Treaty was undoubtedly a success for the new government and strengthened further the bond between the military and the newly born Turkish Republic. It was the military success of the Nationalists led by Mustafa Kemal, which paved the way to the Conference of Lausanne. This explains why the military has been a support to the Kemalist regime and ideology.

Indeed, the Treaty allowed the Kemalist regime to stabilise and to start a constituent phase, which would lead to the 1924 Constitution.

3.2 The 1921 Constitution

¹⁹ D.A. Rustow, *The Army and the Founding of the Turkish Republic*, cit., 547.

Some words must be spent on the 1921 Constitution (*Teşkilât-ı Esasiye Kanunu*) for two reasons. First, because it was the fundamental law of Türkiye, even though for a brief period, from 1921 to 1924. Second, because it consisted of only 23 short articles, dealing with the powers of the TGNA, the administration and the local government. Hence, no provision is devoted neither to the military nor to the relationship between the military and the executive/legislative powers, both entrusted with the TGNA. To be more precise, according to Article 7, the concluding of treaties and peace, and the promulgation of the defence of the fatherland (i.e., the declaration of war) belong to the TGNA. This Article 7 seems to replicate the 1876 Constitution's Article 7, but for the lack of any reference to the commander in chief. Whilst the Ottoman Constitution made the Sultan commander in chief, the 1921 Constitution is completely silent.

The briefness of the document raises a major question with respect to the “usual” constitutional content, which was not dealt with, such as the judiciary, and rights and freedoms. Indeed, the question is whether this silence must be interpreted in favour of the validity of some articles of the 1876 Constitution. Most Turkish constitutional scholars have explained the relationship between the two Constitutions in favour of a “double constitution” theory,²⁰ citing some provisions of the 1876 Constitution that remained in use during the 1921 Constitution period; and this despite no provision in the latter referred to the former for its validity.

However, even if we would go for the “double constitution”, this theory would not be helpful with respect to the commanding of the military. Considering the Sultan as the commander in chief of the military under the 1921 Constitution would be problematic. Three reasons can be put forward. The first is that the Constitution was passed by the TGNA in opposition to the government of the Sultan in Constantinople.²¹ The second is that the Constitution entrusts the TGNA with both the legislative and the executive power, thus substantially replacing the Sultan. The third is that since November 1922, the Sultanate is abolished.

It is then possible to conclude that the temporary nature of the 1921 Constitution, which clearly emerges from its briefness and the concentration of powers in the hands of the TGNA, and the ongoing war advised against a codification of the chain of command that could have been detrimental to the war effort. Furthermore, there was already in force the law no. 3/1920, which made the Chief of General Staff a member of the Cabinet. Therefore, it is not unlikely that the TGNA opted for keeping silent on the commandment of the army.

4. The 1924 Constitution

²⁰ On the “double constitution” see N. Arat, A. Topukcu, *The Turkish Constitution of 1921: An Assessment of the “Double Constitution Period”*, in *IACL-AIDC Blog*, 9-3-2021, available at <https://blog-iaclaidc.org/centenary-of-the-turkish-constitution/2021/3/9/the-turkish-constitution-of-1921-an-assessment-of-the-doubleconstitution-period>.

²¹ Even though the name İstanbul was already in use, the name was officially changed in 1930.

The constitution of 1924 remained in force for 36 years from 1924 until 1961. The military took over in May 1960 and had a new constitution adopted the following year.

The years 1923-1924 were key for Turkish constitutional history and development. One of the core points was indeed the role of the military in politics and the relationship with the three branches of government. The latter point is mainly dealt with by the Constitution, while the former is both a matter of a more general relationship between the civil and military sphere and hence the role of the military in the constitutional drafting process.

As previously outlined, a significant number of Young Turks were military officers and even before that period the Janissaries used to influence the political power. In the aftermath of the war, Mustafa Kemal, a former Young Turk, emerged as the leading figure in the nationalistic movement against both the Entente States and the Sultan. Kemal's belonging to the military did not make his personal domination easily accepted neither by the military nor by the political *élite* in Ankara. In particular, fellow military officers, who were fighting as fiercely as he to restore Türkiye's sovereignty, were fully-fledged political competitors.

The competition for the political power within the military explains the steps of the TGNA towards a progressive exclusion of professionally active officers from political activities in the future.²² The exclusion followed two lines. First, in December 1923, the TGNA passed the law no. 385, requiring all soldiers and officers to retire before being elected MPs, while military officers already members of the TGNA were deprived of the right to vote until they resigned from service. Kemal himself personally forced some of his military allies either to resign from the military commission or to renounce their parliamentary seat. Second, on 3 March 1924, a few days after the abolition of the Caliphate and a month before the voting of the Constitution, the Chief of the General Staff had been deprived of his position in the government and was thus responsible before the President. More precisely, he became head of a General Directorate attached to the President's office. The aim of this reform was double: first, to bypass the Minister of National Defence; second, to strengthen Kemal's grip on both the armed forces and the government.

It is worth noting that both Kemal Atatürk and İsmet İnönü chose to administer the country as civilian rather than as military officers, though they both never renounced the honorific military title of *paşa*.

Indeed, Article 23 expressly provides that none can hold simultaneously the office of deputy and any other public office. Clearly, the active military service matches a public office. This constitutional provision, coupled with the previously mentioned statutory legislation, realised the exclusion of the military from the legislative process. Subsequent legislation (see *infra*) will make the relationship between military and politics more coherent; nevertheless, the guiding principle of a clear-cut separation was already set up in the Constitution. What must be discussed is whether these reforms attained their target, i.e., whether civilians could successfully control the military, and, more generally, the defence policy of the country. Furthermore, it is to be understood whether Atatürk really meant to have

²² D.A. Rustow, *The Army and the Founding of the Turkish Republic*, cit., 546-550.

the military outside of politics or, opposite, he still envisaged a specific role for the armed forces.

Before doing so, it is convenient to examine the other constitutional provisions dealing with the military.

The power to declare war is confirmed under Article 26 in the hands of the TGNA, on lines of the 1921 Constitution. Opposite to the 1921 text, the 1924 one fills the gap of the command of the army. According to Article 40, the supreme command of the army is vested in the TGNA, represented by the President of the Republic. Interestingly enough, the Article makes a distinction between war and peace times, providing that in the latter the command shall be entrusted, according to a special law, to the Chief of Staff, whilst in the former time to the person designated by the President of the Republic, with the advice of the Cabinet and the approval of the TGNA.

The last relevant constitutional provision is Article 86, dealing with situations of danger, and/or imminence of war, and/or internal sedition or conspiracy against the nation or the Republic. When the Council of Commissioners takes cognizance of such situations, it may decree martial law, not exceeding one month, in all or part of the national territory. The measure shall nevertheless be submitted to the TGNA as soon as possible for approval. It is then up to the Legislature to decide whether to terminate, to shorten or to prolong the duration of martial law. If the TGNA is not in session, it has to be convened in a special session in the shortest delay. The article then discusses further the implication of martial law on rights and freedoms. Martial law is defined as the suspension or temporary restriction of the inviolability of the person, the home, and freedom of the press, correspondence, association and incorporation. When coming how the suspension or restriction of such freedoms operates, the provision leaves the detail to a special law. The same goes for the determination of the territory to put under martial law and for all the provisions that are to be applied and the procedures to be followed.

Article 86 provides a minimum standard of guarantees of personal freedoms, leaving the matter to the Parliament and not to the executive power. Nevertheless, opposite to contemporary constitutions, no intervention of the judiciary is expressly required as a further guarantee.

5. And its aftermath

Once the Constitution was adopted, the following step is to discuss the actual relationship between the military and the political sphere, to understand to what extent the military could have influenced the institutions. To do so, it is helpful to analyse statutory provisions expressly devoted to the military and its active role in the institutional life of the Republic. To that end, it is convenient to bear in mind the “personal” relationship existing between Atatürk and the military.

As mentioned above, the 1923 statutory provision and the Constitution set the guiding lines with respect to the relationship between the military and the institutions, excluding the former from the legislative process. This basic pattern is then structured in a more coherent way. Here, two main lines must be discussed: how the separation between the two

spheres has been progressively strengthened on the one hand and which was the informal role that Atatürk had envisaged for the military on the other hand. The two lines are obviously interconnected. The starting point is Kemal's idea of Türkiye and of the military. Examining one of Atatürk's main speeches, the one delivered in Konya in 1931, the role of the military is crystal-clear. The military had to be the base of the new regime, the guardian of its ideas.²³ From a more practical side, this meant for the military to be supportive of all Kemal's reforms, always being a progressive force within the State. Hence, according to Kemal, the military was much more than the defender of the country from external threats; internal threats may indeed be much more dangerous, whatever an internal threat is.

The main consequence of Kemal's plan for the military is that the armed forces ties with politics could not be entirely severed. Having this in mind, the Constitution and all the connected statutory provisions regulating the relationship between the military and the branches of government should be interpreted differently. The key point is indeed not having the military out of politics, rather, to secure its loyalty towards Atatürk and, more generally, towards the new, progressive, regime. Indeed, the Chief of Staff, though no longer part of the Cabinet, attended nonetheless the Cabinet meetings. Therefore, Atatürk had a twofold aim: to push out of politics mainly military dissidents, and to isolate the military from what he considered any pernicious political influence. This explains the legislation of December 1923, which was a proper purge of dissidents as it was an amendment to the Treason Law, to repress any form of agitation or action in favour of the restoration of the Sultanate.

Additionally, the ban for the military to participate to active political life was strengthened in 1930, under Article 148 of the Military Criminal Code. According to this Article, any military officer who «assemble together for political objectives, join political parties, participate in political demonstrations, meetings, or elections, or in any manner whatsoever make oral suggestions with these objectives, or write political articles or make speeches to this effect, shall be prisoned for up to five years.»

Moreover, the role of guardian of both the regime and the *acquis* of the Kemalist Revolution is confirmed by Article 35 of the 1935 Internal Military Service Act, where it is expressly stated that the duty of the army is to protect and defend the Turkish homeland and the Republic of Türkiye, as stated in the Constitution.

This provision has become in the following decades the legal basis for any military intervention in active political life. Each coup has been qualified as an intervention to protect/restore the democratic constitutional order, which was threatened by internal enemies, such as political parties or Kurdish separatists.

At a regional level, the government of provinces, mainly at the national borders, continued to follow the Ottoman tradition, with military commanders also being provincial governors. Moreover, once retired or dismissed, officers used to be recruited to serve as MPs, as Cabinet ministers or high officials. However, it is convenient to note that the former military

²³ Parts of the speech are in Harris, *The Role of the Military in Turkish Politics. Part 1*, cit., 56.

participation in active political life has progressively diminished since the establishment of the new regime. To be more precise, the ratio of former army officers in the TGNA, which was about 1/6 in 1920, still stood at about 1/8 in 1943, decreased to 1/20 after the democratic landslide of 1950.²⁴

6. A Comparative Glimpse: the Military in the Former Central Powers

The previous paragraphs have underlined the Turkish military exceptionalism and its historical roots. A further way to better remark the distinctiveness of the Turkish experience is to frame it within the experiences of the former Central Powers, i.e., Austria, Bulgaria, Germany, and Hungary, where the military played a completely different role in the post war period.

All the 1919 Paris Treaties²⁵ signed with the Central Powers²⁶ were specular in their military clauses. The similarity is easily explained: the purpose was the same, i.e., to downsize their military power, especially the German one. The provisions took into account the different size both territorially and demographically. Hence, Germany's personnel strength was limited to a professional army of 100 thousand men, while the Hungarian was set at 35 thousand, the Austrian at 30 thousand, and the Bulgarian at 20 thousand. Furthermore, the clauses were highly detailed with respect to the matters regulated, such as the calibre of the weapons, the term of service, the supervisory by an Inter-Allied Commission (until 1927 for Germany), the prohibition of a build-up of reservists, the voluntary character of the army, the functions (boarding patrolling and maintenance of public order and tranquillity).

There is no need to discuss further the content of the Treaties. Nevertheless, what is relevant to the present analysis is the perception of the Treaties by the political and the military sphere as a *vulnus* to national sovereignty and a *Diktat*. Hence the will to renegotiate those Treaties, which was frustrated by the Entente States. Indeed, all Parliaments were reluctant to ratify the Peace Treaties. Türkiye was the only Central Power that was successful in renegotiating the peace treaty, with the Treaty of Lausanne replacing the one of Sèvres.

The renegotiation was a turning point in the institutional evolution and in the development of a specific role for the military within the new constitutional architecture, as already discussed. The fact that the other four Central Powers failed where Türkiye succeeded explains the different evolution in the relationship between the military and the civil government, which significantly affected political instability and the involution of the institutions towards totalitarianism and authoritarianism since the 1920s.

²⁴ D.A. Rustow, *The Army and the Founding of the Turkish Republic*, cit., 550.

²⁵ The Treaty of Versailles was signed with Germany (Articles 159-213), the Treaty of Saint-Germain with Austria (Articles 118-159), the Treaty of Trianon with Hungary (Articles 102-143) and the Treaty of Neuilly with Bulgaria (Articles 64-104).

²⁶ A. Suppan, *The Imperialist Peace Order in Central Europe: Saint-Germain and Trianon, 1919-1920*, Wien, 2019.

The military, the paramilitary corps,²⁷ and the veterans were all generally hostile to the new regimes, mainly in Germany and Austria, where the regime change was much more significant.

Bulgaria was the only Central Power preserving the monarchy and thus the continuity of the 1879 Tŭrnovo Constitution, which vests in the king the supreme military command (Article 11).²⁸

Hungary was a sort of in-between, in the sense that formally maintained the monarchy, though without a king; hence the fiction of admiral's Horthy regency.²⁹

Opposite, both Austria and Germany become republics, though short-lived.

The 1920 Austrian Constitution devotes some provisions to the military and its functions.³⁰ First, the Federal President is the commander-in-chief (Article 80). With respect to recruitment and functions, the Constitution obviously follows the Treaty of Saint-Germain. Hence, the recruitment is on a voluntary basis and the military is entitled with national defence, maintenance of order, protection of the institutions, and assistance in case of natural catastrophe (Article 79). An unrestricted exercise of political rights is granted to the members of the military under Article 7 and, opposite to Türkiye, there is no incompatibility between membership to Parliament and to the army (Article 59). More precisely, members of the military (like any other public employees) do not require leave of absence to hold a seat in Parliament; furthermore, if they seek a seat in Parliament, they shall be granted the requisite free time.

In Germany, the role of the army was much more complex, in the sense that the relationship with the Weimar regime was ambivalent.³¹ Indeed, the *Reichswehr* sometimes supported the Weimar democratic government, as it did in the Ebert-Groener Pact,³² and sometimes backed anti-democratic forces, mainly through the Black *Reichswehr*.³³ Despite the Pact, most

²⁷ Such as the *Freikorps* in Germany or the Agrarian National Guard (Земеделска народна гвардия, *Zemedelska narodna gvardiya*) in Bulgaria.

²⁸ See R.J. Crampton, *Bulgaria*, Oxford, 2008; in particular the chapters on the Tŭrnovo Constitution at 96-132 and on the interwar period at 220-257.

²⁹ P. Takács, *On Stateform of Hungary between 1920 and 1944: Applicability of the Term „Monarchy without a King”*, in 10 *Journal on European History of Law* 2, 139-148 (2019); T. Révész, *A National Army Under the Red Banner? The Mobilisation of the Hungarian Red Army in 1919*, in 31 *Contemporary European History*, 71-84 (2022).

³⁰ A.V. Ștefănescu, *The military potential of small countries: Austria before World War II*, in 11 *Annales d'Université "Valahia" Târgoviște. Section d'Archéologie et d'Histoire* 2, 163-167 (2009).

³¹ W. Mulligan, *Civil-Military Relations in the Early Weimar Republic*, in 45 *The Historical Journal* 4, 819-841 (2002).

³² The pact or deal was an agreement between the SPD leader and Chancellor Ebert and Wilhelm Groener, Quartermaster General of the German Army, on 10 November 1918. The *Reichswehr* pledged its loyalty to the Republic. In return, Ebert promised that the government would take prompt action against leftist uprisings, that military command would remain with the professional officers' corps, and that the military would retain its traditional "state within the state" status. The main problem with the pact was the fact its success depended the goodwill or lack thereof of the two leaders and their successors.

³³ *Schwarze Reichswehr*, dissolved in 1923 upon the failed Kŭstrin Putsch.

military leading officers refused to accept the legitimacy of the Weimar Republic. In particular, under the leadership of Hans von Seeckt, the military operated largely outside of the control of the *Reich*, as its refusal to obey the government during the 1920 Kapp Putsch proves. Moreover, in 1928, under Kurt von Schleicher, the *Reichswehr* even created the *Ministeramt* (Office of Ministerial Affairs), expressly to lobby politicians. The Weimar constitutional provisions have influenced the Austrian one. Hence, Article 39 has almost the same content as the Austrian Article 59; the same goes for the Federal President being the commander-in-chief (Article 47). Interestingly enough, according to Article 140, necessary free time shall be accorded to the members of the armed forces for the fulfillment of their religious duties. The Weimar Constitution is nonetheless much more detailed, even in military matters. Declaration of war and conclusion of peace shall be made by national law (Article 45); all orders and decrees of the President of the Reich, even those concerning the armed forces, require for their validity the counter-signature of the Chancellor or of the competent national minister (Article 50). However, opposite to Austrian Article 7, Article 133 does not exclude that certain fundamental rights may be denied to members of the armed forces in order to assure the performance of their duties and the maintenance of discipline, as it shall be determined by the law. One last provision worth mentioning is Article 176, which demands that all public officials and members of the armed forces take oath to support the Constitution.

7. Conclusion

A conclusion to this article would be improper, because the 1924 Constitution has been in force only until 1961, and because the military played an even more predominant role in influencing Türkiye's politics and institutions since the 1960 coup, even though since 2002 the AKP government has progressively downsized the importance and the influence of the military. Hence, it would be more proper to look at the 1924 Constitution as the founding moment of the military as the guardian of Kemalism and of the Turkish Republic. Indeed, in all the contemporary Constitutions – 1924, 1961 and 1982³⁴ – the military is entrusted with the key role of protecting the Turkish state against external and internal threats. In some circumstances, the military had even been a major obstacle in terms of domestic and foreign policy,³⁵ due to the unique model of civil-

³⁴ F. Tachau, M. Heper, *The State, Politics, and the Military in Turkey*, in 16 *Comparative Politics* 1, 17-33 (1983). See also G. Dorronsoro, B. Gourisse, *L'armée turque en politique: autonomie institutionnelle, formation de coalitions sociales et production des crises*, in 65 *Revue Française de Science Politique* 4, 609-631 (2015).

³⁵ Z. Sarigil, *Europeanization as Institutional Change: The Case of the Turkish Military*, in 12 *Mediterranean Politics* 1, 39-57 (2007).

military relations.³⁶ Nevertheless, the military has traditionally been very popular within the civil society.³⁷

Indeed, the army has represented throughout Turkish history the strongest revolutionary power. Already in both 1876 and 1908, the military had turned into a determinant political player for the Porte's future. Since the second half of the 19th century, the Turkish military emerged as the most fervent supporter of modernisation³⁸. Hence, the military was ideally suited to lead the transition from the Sultanate to the Republic,³⁹ because it valued the Ottomans past, while seeking modernisation and democratisation. Indeed, Kemal himself, when discussing the role and influence of the military within the Turkish context, always stated that even though generally the military stood in opposition to development and progress, it was not the case of Türkiye.

According Nordlinger classification of the military's involvement into politics, the Turkish experience fits the guardian model;⁴⁰ following other scholars, we can also consider that the Turkish military ruled without governing.⁴¹ This position resulted in that the military did not serve the state, but the other way round.⁴² Nevertheless, it may seem odd to state that this role of guardians of the Kemalist legacy took quite some time to emerge. As Harris points out, «the overthrow of the Turkish government on May 27, 1960, ended more than three decades of ostensible military disengagement from politics in Turkey.»⁴³

With the entry into force of the 1924 Constitution, the relationship between the military and the civil government on the one hand and the role for the military in the new regime on the other hand starts to be more coherent and with a solid legal base. What is more difficult to grasp is the informal relationship between the military and the civil government and to what extent the latter could exercise some sort of scrutiny over the former. Retrospectively, considering the several military coups that have characterised Turkish history, we can hardly claim that the civil government could exercise control over the military.⁴⁴ Indeed, the separation of military

³⁶ P. Stępniewska-Szydłowska, *The origin of the Turkish Armed Forces: Kemalism and the proclamation of the Turkish Republic*, in XLVI *Bezpieczeństwo. Teoria i Praktyka* 1, 172-187, 185 (2022). See also N.S. Satana, *Transformation of the Turkish Military and the Path to Democracy*, in 34 *Armed Forces & Society* 3, 357-388 (2008).

³⁷ See Z. Sargil, *Deconstructing the Turkish Military's Popularity*, in 35 *Armed Forces & Society* 4, 709-727 (2009).

³⁸ M. Heper, A. Güney, *The Military and Democracy in the Third Turkish Republic*, in 22 *Armed Forces & Society*, 619-, 619 (1996).

³⁹ K.H. Karpat, *The Military and Politics in Turkey, 1960-64: A Socio-Cultural Analysis of a Revolution*, cit., 1658.

⁴⁰ E.A. Nordlinger, *Soldiers in Politics: Military Coups and Governments*, Prentice-Hall, 1977, 22-23. The other two being the moderator and the ruling one.

⁴¹ S.A. Cook, *Ruling but not Governing. The military and political development in Egypt, Algeria and Turkey*, Baltimore, 2007.

⁴² P. Stępniewska-Szydłowska, *The origin of the Turkish Armed Forces: Kemalism and the proclamation of the Turkish Republic*, cit., 185.

⁴³ G.S. Harris, *The Role of the Military in Turkish Politics. Part 1*, cit., 54.

⁴⁴ A. Kutay, *Civilian and Military Relations in Turkey: A Historical Survey*, CMI Working paper (2016), available at <https://www.cmi.no/publications/file/6028-civilian-and-military-relations-in-turkey.pdf>.

and civilian spheres has never been complete as this paper tried to prove. As Rustow remarks: «Kemal's and İnönü military prestige was the best guarantee that the armed forces would be content with the non-political role these leaders assigned to them.»⁴⁵ However, Kemal's death in 1937, the Second World War (where Türkiye was neutral), İnönü's retirement and a shift in the regime caused the military to put an end to its political disengagement.

The 1924 Constitution was a watershed moment, because it sanctioned the exceptionalism of the Turkish military and of its position with respect to the State. An unofficial political player, a progressive force, at the margin during Kemal's and İnönü's leadership, turned into a regime-changer (mainly in the decades 1960-1980)⁴⁶ until the new Sultan, Recep Tayyip Erdoğan, progressively abandoned Kemlism and put an end to the military tutelage.

Elisa Bertolini
Università Bocconi
Dipartimento di Studi Giuridici
Via Guglielmo Röntgen, 1
20135 Milano
elisa.bertolini@unibocconi.it

⁴⁵ D.A. Rustow, *The Army and the Founding of the Turkish Republic*, cit., 549.

⁴⁶ G.S. Harris, *Military Coups and Turkish Democracy, 1960-1980*, in 12 *Turkish Studies*2, 203-213(2011).

