

TURKEY'S FUTURE REFORMS AND THE EUROPEAN UNION

The European Union (EU) has played a critical role in Turkey's reform process since the end of the Cold War but over time it has become less central a factor in Turkey's internal transformation. The goals of "Europeanization" and "democratization" are no longer fully intertwined and the ruling elite seems to be focused on power consolidation just as much as on democratic consolidation. The ongoing discussion around the adoption of a new civilian Constitution provides a key test for Turkish political parties to prove their democratic credentials while offering the EU an opportunity to revamp its relationship with Turkey after the loss of credibility and influence suffered in recent years.

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As Turkey's political parties promise major changes to the Turkish Constitution after the general elections on 12 June 2011, it is worth taking a look at the role that the European Union has played in Turkey's reform process and discuss its future involvement. A quick glance at the major steps taken towards democratization since the end of the Cold War clearly reveals that the EU has been a critical factor of Turkey's political development. It also shows that the EU has become less central to Turkey's internal transformation in recent years and that it has actually put itself into a difficult position from which it is less able to play a decisive role in determining the pace and direction of future reforms.

The ever more uncertain prospect of Turkey's EU membership in the near future, however, should not necessarily be seen as a threat to the process of democratic consolidation. There is something parochial in the view, which is often heard in Brussels that if Turkey loses the "EU anchor", its democratic future will be automatically jeopardized. While it is true that Turkey's journey towards modernization and democratization has overlapped historically with the aspiration to become a member of the EU, the future of democracy in Turkey cannot be reduced to the issue of "Europeanization" and is not inextricably tied to the fate of the accession process. One can envisage a Turkey that becomes more democratic even if the accession process with the EU stalls. This is actually what has happened in the most recent past.

As we looking forward to the June elections, it could be argued that the success of future reforms will depend on the Turkish political parties' willingness to come together around a new democratic and civilian Constitution that enjoys broad consensus among Turkish citizens. Here lies the main challenge. The amendments to the Constitution passed in September 2010 went overall in the right direction in terms of further democratizing Turkey. However, they were promoted only by the ruling Justice and Development Party (AKP), exacerbating polarization in a country already divided along ideological and ethnic fault lines and raising doubts in some quarters that the AKP is selectively focused on those reforms that may help it consolidate its power. Even if the AKP were to win a large majority in the upcoming elections, it is imperative that it reaches out to other political parties, to the representatives of Turkey's ethnic and religious minorities, and to civil society organizations. Although one can envisage a fully democratic Turkey, which is not (yet) a member of the EU, it is much harder to envisage how a reform process led only by one party can thoroughly and irreversibly consolidate democracy in Turkey. Since the new Constitution has to become the "common house" of all the people of Turkey, its foundations have to be laid out by its various members, although specific relative contributions may vary. Reconciliation is as important to the future of democracy in Turkey as is reform.

The EU can support this outcome by trying to create a healthier dynamic between political parties while emphasizing that the reality of ethnic and religious minorities living within Turkish society has to be fully covered by a legal framework that protects their rights and upholds the principle of inclusion and “unity in diversity”. Ultimately, however, a new consensus on future reforms can only be found internally. While the EU keeps engaging Turkey on democratization, rightly seen in Brussels as consistent with securing an area of stability and freedom in and around the EU borders, it is entirely up to the Turkish people to decide what type of democracy and what degree of pluralism they want to see realized in their country.

Turkey's Democratization and Europeanization: An Evolving Link

The “golden age” of Turkey’s Europeanization was 1999-2005, which corresponds to the relatively short span of time between when Turkey was finally granted candidate status as a prospective EU member (Ankara had applied in 1987) and when the accession negotiations started, with Turkey having met the necessary benchmarks. The latter included the standards of democracy, human rights, and the rule of law that are part of what in Brussels jargon goes under the name of the “Copenhagen criteria”. During that period, the goal of democratization and Europeanization were seen as vitally linked by a large majority among Turkish elites. The general public seemed to be of similar views. Over 70 percent of the Turkish people looked favorably at full integration into the EU. The aspiration to become an EU member, moreover, was inseparable from the expectation of greater material prosperity, enhanced international status, as well as democratization. Nine “constitutional packages” were passed between 2001 and 2004 to amend the Turkish Constitution written under the military rule in 1982 and to align Turkey’s legal system with that of established democracies in the EU. Changes ranged from protection of the freedom of expression to the abolition of the death penalty in 2004. A big piece of the restructuring focused on rebalancing civil-military relations to restrict the traditionally prominent role of the Turkish Military in state as well as political affairs. The Civil and Penal Codes were also changed to uphold principles such as gender equality in marriage, persecution of common crimes such as domestic violence on women and “honor crimes”, and banning of practices such as torture.

There is a general consensus, however, that this phase of rapid and deep transformation slowed down after 2005. In any case, since 2005 Europeanization and democratic reforms have failed to proceed on a single track even though they have remained linked in important ways. The reasons for this development are multiple. The first one has undoubtedly to do with the loss of credibility, which the EU has suffered in Turkey. Even though the European Commission (EC) has remained focused on the accession process after 2005 as part of its larger mandate

on the policy of EU enlargement (the EC has been traditionally both the manager and the main promoter of EU enlargement), not all European governments have kept faith to the commitment made in 1999 and reaffirmed in 2005 on Turkey's future accession. Some, in particular the French Republic under the presidency of Nicholas Sarkozy, have questioned Turkey's very "belonging" to "European civilization", and have expressed opposition to the prospect of Turkey's EU membership, proposing instead a vaguely defined "special" or "privileged partnership" between Brussels and Ankara. European hesitations and prejudices have created resentment among the Turkish people (which now have much less favorable views of the EU) and have significantly reduced the incentives for Turkish leaders to invest political capital in further EU-oriented reforms.¹

A second factor is that the EU has become more ambivalent about the accession process exactly at a time when reformers in Turkey needed, if anything, an even greater push and support because, as all such transformations, reform started producing winners but also losers who had a clear interest in organizing to mount a coordinated resistance to change. This was particularly evident not only at the level of state bureaucracies, but also in areas such as the reform of the labor market, where the supporters of Turkish economy internationalization were not equally keen on adopting EU norms for the protection of their own labor rights.

A third, and arguably more important reason, however, has an even clearer domestic dimension. The processes of democratization and Europeanization were not only intertwined in the early 2000s but they were also inseparable from what looks in retrospect a dramatic shift in the balance of power among old and new elites in Turkey. The AKP party –founded in 2001 as the transformation of former Islamist parties such as the Virtue Party– cleverly understood that the only way for the new rising Anatolian middle classes, which it represented, to gain political power in Turkey was to break with Islamist movements, adopt a clear pro-market orientation, and fully embrace the goal of democratization and Europeanization as a way to attain legitimization, safeguard its existence, and make space for itself in the emerging domestic order. AKP leaders rightly evaluated that the EU could indirectly act as their ally in the struggle for power in Turkey. In the context of the accession process, the interference of military elites in politics would not have been tolerated and the closure of political parties, starting with the AKP itself, would have drawn international condemnation, and it would have most likely backfired politically.

¹ On the shift in Turkish public opinion's views of the EU see, among others, GMFUS-Compagnia di San Paolo, *Transatlantic Trends Survey* (2003-2011), http://trends.gmfus.org/?page_id=2891

This is not to say that the pro-European, pro-democracy choice of the AKP was fundamentally opportunistic. Many within the new elites saw European integration and democratization as necessary steps towards modernization – a goal shared by the Kemalist and post-Kemalist elites alike. In this sense, the revolutionary change represented by the shift in the social basis of power in Turkey produced an evolution, not a disruption, of Turkey's foreign policy orientation. Moreover, many within the liberal front joined or supported the AKP since it was seen as the more dynamic force in Turkish politics. What happened was that while democratization helped the new elites make room for themselves in state institutions, the relationship with the EU provided the same rising class with a powerful tool to safeguard their political survival and with the necessary international political capital to pursue a strategy of ascendancy.

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With the double victory in the general elections of 2002 and 2007, the new elites have now held political power in Turkey for almost ten years. From an “underdog”, the AKP has become a hegemonic force – in fact, the main driving force behind the emergence of what is now widely referred to as the “new Turkey”.² Concomitantly, the process of European integration has slowed down and the EU has become less central to Turkey's domestic developments. Does this evolution mean that the democratization process has lost steam because it is no longer seen as vital by the Turkish elite? The response to this question seems to be no, even though it comes with important qualifications and specifications.

The Current Context of Reform

The amendments promoted by the Turkish government and approved by a large majority of 58 percent in the popular referendum of 12 September 2010 testify, among other previous initiatives, to the continuing vitality of the reform agenda in Turkey.³ There are several reasons why democratization has not stopped, at least not in all areas. A plain but still significant reason is that the Turkish people want

² Doğu Ergil, “Constitutional Referendum: Farewell to the ‘Old Turkey’”, *Insight Turkey*, Vol. 12 No.4, pp. 15-22.

³ On the positive elements of Turkey's recent constitutional reform, see Hatem Ete, Nuh Yılmaz, Kadir Üstün, “Turkey's Constitutional Referendum of 2010 and Insights for the General Elections of 2011”, *SETA Policy Report* no.5, February 2011, http://setadc.org/pdfs/SETA_Policy_Report_05_Constitutional_Referendum_H_Ete_N_Yilmaz_K_Ustun.pdf

it, even if one may continue to discuss what democracy concretely means to the average Turk. One of the key outcomes of Turkey's transformation after the Cold War has been a growing influence of Turkish public opinion in shaping the political agenda, both in domestic and foreign policy. It is not at all surprising, therefore, that in order to respond to popular demands, the Constitutional amendments approved in September included new provisions that provide Turkish citizens with more rights. Amendments have further expanded women rights, introduced the principle of positive discrimination for children, the disabled, the elderly, established the institution of the Ombudsman and granted greater protection to Turkish workers. Restrictions on the right to collective bargaining and the right to strike have been removed.

Another important reason why democratization is still central to the agenda of the ruling elite is that the shift in the balance of power in the country is not yet complete.

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Even though the prerogatives of the military have been significantly reduced in the past ten years, civil-military relations have not been fully balanced. An important amendment in the recent Constitutional package, therefore, allowed for high army officers to be tried in civilian courts, further limiting the privileges of the military caste.

While the latter are undoubtedly important achievements, there are also concerns. International observers as well as Turkish liberals have lamented the fact that democratization has proceeded only slowly and selectively in the past years, and it has not thoroughly addressed the issue of minorities. There is a growing frustration, for instance, over the way initiatives addressing the Kurdish issue, such as the “democratic opening” launched in 2009, not being fully followed up. It is recognized by many, moreover, that democratization has remained hostage to a struggle between old and rising elites. And this fact has not become any less crude as power has started shifting from the traditional centers of power to the new ones. In fact, the risk is not at all negligible that the Turkish state could in the end just “change hands” from one elite group to the other with only a limited impact on the country's overall evolution towards a more democratic and liberal type of society.

It is no accident that the real bone of contention in the last referendum campaign was not the above-mentioned amendments expanding freedoms, but the reform

of the judiciary. The latter was seen by all Turkish parties as entailing a critical battle on the future of the Turkish state itself. International observers, including the Venice Commission (an advisory entity on constitutional matters of the Council of Europe) have overall endorsed the recent restructuring of the Turkish judiciary as a step in the right direction. Essentially, what the reform has done is to expand the membership of the higher echelons of the judiciary, such as the Higher Council of Judges and Prosecutors (HSYK) and the Constitutional Court (the organ that is responsible for the decisions on party closures), while giving greater power to the Parliament and the President in the selection of senior judges. The Venice Commission as well as the EU have supported the new provisions because they are seen as broadly in line with European ones and aimed at reforming an institution renowned for being inefficient, ossified, and non democratic.

Although waged under the banner of “reform”, the struggle over the future of the judiciary was clearly political. What each party had in mind was broader considerations about not just the balance among separate powers of the state, but the balance of power among traditional and new elites and their respective parties of reference. For the proponents of reform, the goal of making the Judiciary more efficient and accountable was hardly separable from the goal of containing its influence. For the opposition parties, in particular the Republican People’s Party (CHP), the reform of the judiciary clearly betrayed the plan of the AKP to control yet another piece of the Turkish state, thus neutralizing the last bulwark against what is seen as a clear drift towards a new type of populist authoritarianism with an Islamic flavor.

As already mentioned, the EU has welcomed the new reforms as a step in the right direction. It is worth pointing out, however, that the EU and the goal of European integration were not central to the messages of any political party during the campaign preceding the constitutional referendum, with the exception of negative messages. Moreover, it is worth noting that while expressing a technical opinion on the new amendments, the European Commission has expressed in its “Progress Report” published in November 2010 serious concerns about democratic consolidation in the context of persistent polarization and political conflict.⁴ The European Parliament, for its part, has adopted a resolution in March further expanding on the European Commission’s long list of concerns regarding the precarious state of the rule of law, the uncertain (in some cases negative) trends in fields such as gender equality and women empowerment, and the preservation of a system of checks and balances as the guarantee for

⁴ European Commission, “Turkey 2010 Progress Report”, 9 November 2010, http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/tr_rapport_2010_en.pdf

true democratic development in Turkey.⁵ It is highly significant that an institution of the EU that is inherently more political in its assessments (because it is made of representatives of the European peoples as opposed to of bureaucrats) has taken such a firm stance on the risks of democratic regression.

What Role for the EU?

The dynamic interaction between different EU branches highlights the still existing vitality of the EU in Turkey, despite the stalling accession process. Used to having the EU bureaucrats as their allies (at least in comparison to European national leaders), the representatives of the Turkish government have noted with a mix of preoccupation and irritation the messages coming from Brussels. Moreover, they have not failed to notice the difference in language between the European Commission and the European Parliament. Resentful reactions contending that the EU has become “biased” and is “uninformed” about the domestic situation in Turkey testify both to the growing difficulties and estrangement in this relationship and to the remaining influence of the EU on Turkish internal affairs.⁶

Unable to keep its full commitment to enlargement, the EU has lost not only credibility but also power in Turkey. Because it represents twenty-seven countries with which Turkey has long-standing ties, the EU is bound to remain a factor in Turkey’s development, including its reform process. The critical assessment of the European Parliament seems to have brought back the EU in the public debate in Turkey. In order to achieve results, however, this act has to be followed by others in the next months. A more active engagement of the European parties with their counterparts in Turkey –some of which have established channels of dialogue and formal or informal links with Brussels– is also necessary. The growing influence within the EP of parties with an anti-EU orientation or a xenophobic attitude does not bode well for an inter-parliamentary dialogue involving Turkey. What EP members should appreciate fully, however, is the fact that whether or not Turkey will one day become a member of the EU, EU members have a clear stake in the completion of Turkey’s transition to a mature democracy and in the full stabilization of its political system. In fact, the stalemate in the accession process makes EU’s engagement on Turkey’s democratization on other levels and through other channels more compelling and urgent.

⁵ European Parliament, “Resolution of 9 March 2011 on Turkey’s 2010 Progress Report”, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0090+0+DOC+XML+V0//EN>

⁶ Egemen Bağış, “European Parliament Report on Turkey: Criticizing Itself with Its Own Words”, *Today’s Zaman*, 23 March 2011, http://www.todayszaman.com/news-238950-european-parliament-report-on-turkey-criticizing-itself-with-its-own-words-by-egemen-bagis*.html

While remaining vigilant on the process of Turkey's reform, EU parliamentarians could favor what looks like a transition of the main Turkish opposition party to a more EU-oriented force. The recent change of leadership in the CHP seems to have been accompanied by an attempt –which remains however incomplete– to adopt a more open approach towards the EU, often criticized in the past (including in the context of the recent Constitutional amendments) for having helped the AKP in its fight against Kemalist Turkey. The CHP might be exploring this path because it wants to exploit to its advantage the ever more frequent tensions between the Turkish government and Turkey's traditional Western allies. On the contrary, what should persuade the CHP that a new course is needed is the realization that the old elites will never be able to come back to power unless they accept the realities of the “new Turkey”. The best way to come to terms with these new realities is to shift priorities from the safeguard of privileges and prerogatives that have been irremediably eroded already to competition with the AKP on the level of reform and democratization.

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A further reason why the reform process has slowed down in the past years is that the pressure of the opposition parties on the government has been minimal, thus removing one of the main sources for change. The sooner the opposition understands (as the AKP did in the early 2000s) that greater democracy may ultimately mean greater chances of political success, the better it will be for the Kemalists and for Turkey as a whole.

Ultimately, external pressures can only go thus far in bringing about change. The EU has played a critical role in Turkey's transformation in the past fifteen years but its sources have to do with structural shifts in the international system –in particular the “unlocking” effect of the end of the Cold War– and with profound changes in the internal structure of Turkey – starting with the gradual liberalization and opening up of the Turkish economy in the 1980s. The domestic drives for further democratization are still strong but the risk is high for Turkey to develop as a populist-nationalist state as opposed as to a pluralistic-liberal society. The question is not only the relationship between old and new elites and their respective constituencies but also the role of the minorities. The self-confidence displayed by the current Turkish ruling elite looks even less justifiable when one notes that many millions of Turkish citizens remain invisible to the Turkish state as ethnic Kurds. Recent demonstrations and episodes of violence following the decision of

the Supreme Election Board (YSK) to ban from the general elections campaign several candidates of the Kurdish parties are a bitter reminder that the Kurdish issue may return to be a primarily security issue if it is not addressed with boldness and farsightedness.

Recent calls by both the AKP and CHP for further revisions of the definition of citizenship are encouraging. Both parties have promised a more inclusive definition in which ethnic elements are no longer the preponderant ones. These orientations should be confirmed by practical proposals and supported by broader effort to establish the individual, with its rights and its obligations, at the center of the Turkish constitution. In this context, the AKP's promise that new civilian Constitution of Turkey will put the citizen at the center and will aim to defend the people from the state and not the state from the people has to be verified after the elections. Another critical step towards greater pluralism would be the lowering of the threshold for representation in the Grand National Assembly, which is now at 10 percent (an unenviable record among Western democratic systems). Such high threshold forces the leaders representing Turkish minorities to be elected as independent candidates, thus creating a clear obstacle to the development of a party system fully reflective of the diversity of the Turkish society. To its credit, the CHP has hinted at the possibility that it will support a reduction of the threshold to five percent if conditions for a reform of the Turkish Constitution will be met after the general elections.

At this stage, nobody can say for sure whether in the post-election period the conditions will be there for a new era of reforms to effectively open. What is certain, however, is that Turkey's process of democratization will hardly reach the expected results if Turkey remains internally divided and only partly pacified with the reality of its internal diversity. Turkey has made great progress since the Cold War towards achieving political and economic development. The next step after the elections is to provide a more solid basis for this development by building a large consensus on the laws and norms which Turkish citizens of different orientations and origins should recognize as their own. Only with a new civilian democratic Constitution based on broad consensus the much-advertised "new Turkey" will become an undisputed reality.