

THE WAY AHEAD AFTER TURKEY'S CONSTITUTIONAL REFERENDUM

Didem Akyel

International Crisis Group, Istanbul, Turkey

Turkey's staunch secularists and its main opposition parties are still reeling from the results of last month's nationwide referendum in which 58 per cent of Turkish voters supported a constitutional reform package put forward by the religious-conservative Justice and Development Party (AKP) government. This unprecedented level of support for the government has positive implications for Turkey's economic stability and domestic reform, possibly including a totally new civilian constitution. AKP leaders may even see the referendum result as a vote of confidence to make braver policy moves in deadlocked areas such as the Kurdish issue and Cyprus, thus giving new impetus to its stalled European Union accession process.

On 12 September, or the 30th anniversary of the 1980 military coup, 77 per cent of the Turkish electorate turned out to vote on a package of 26 proposals to amend the country's constitution, already altered sixteen times since it was adopted under military rule in 1982. Even though the AKP is no stranger to sweeping electoral successes (it has won two parliamentary elections, two municipal elections and two referendums since coming to power in 2002), the referendum victory further reinforced expectations that it will stay ahead in the parliamentary elections in June 2011. It may well encourage Prime Minister Erdoğan to stand for president in Turkey's first popularly elected presidential election in 2012 (or 2014, as the domestic debate about when incumbent President Gül will step down continues).

The referendum demonstrated geographically-based political divisions similar to the 2009 local elections. The "no" votes were concentrated in Turkey's more progressive, secular and prosperous western provinces and southern coastal areas. These regions sent a clear message to the AKP that they are skeptical of the government's intentions and fear that its main aim is to undermine the country's secular foundations.

A divisive pre-referendum campaign focused on items of the package concerning the makeup of Turkey's top judicial institutions. The package increases the number of Constitutional Court judges and gives parliament more authority in their appointment, as well as in appointing members of the Supreme Council of Judges and Prosecutors, an independent body whose duties include electing members of the Supreme Court of Appeals, the Council of State and handling disciplinary matters concerning judges and public prosecutors.

AKP defends the constitutional changes as a move towards democratization. In terms of military reform, the amendments restrict the powers of military courts to crimes of military personnel related to military service and duties and give civilian courts authority to try them in all other cases; remove an article in the constitution that prohibited the prosecution of those responsible for the 1980 coup; and allow the army chief and other top officers to be tried by the

Supreme Court. As a prerequisite of EU accession, the reforms also provide the legal basis for establishing an ombudsman. The package includes other small changes concerning data protection, extending rights of trade unions and civil servants, and positive discrimination for special groups such as women and children.

But its opponents have significant reservations. They argue that after undermining the military's power through several coup-plot cases, the government is now trying to gain control over the judiciary. Pointing out that the party ran into problems with the judiciary in the past – most recently in 2008 when it narrowly escaped a closure case by the Constitutional Court – the “no” camp sees the main aim of constitutional changes as removing checks and balances in order to increase the government’s authority. Critics also lament the fact that as AKP prepared the constitutional reforms, it failed to reach a consensus with other parliamentary parties and civil society institutions.

Turkey’s mostly Kurdish south-east also dissented, with low turnout levels. In one province, Hakkari, only seven per cent cast a ballot. The main Kurdish political group, Peace and Democracy Party (BDP), had called for a boycott because the proposals did not take into consideration Kurdish demands such as lowering the ten per cent national vote threshold needed for any political party to enter parliament. The high level of Kurdish compliance with the boycott demonstrated that AKP has to take BDP seriously and continued deep divisions about the Kurdish issue in the country.

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Will the referendum’s outcome deepen existing splits in Turkish society or present an opportunity for a new period of reform? So far, commentators have recognized the government’s victory, but with caution, especially concerning the implementation of judicial reforms and freedom of expression. Increasingly, commentators criticize Prime Minister Erdoan for brow-beating editors and opening court cases that they say aim to silence dissenting opinions in mass media and civil society organizations.

Western partners mainly applauded Turkey for strengthening its democracy through the referendum. EU Commissioner for Enlargement, Stefan Füle, said on 13 September that the reforms were a “step in the right direction”. But he also underlined the need to follow-up with “other much-needed reforms to address the remaining priorities in the area of fundamental rights, such as freedom of expression and freedom of religion”. German Foreign Minister Guido Westerwelle, whose country opposes Turkey’s full membership to the EU, welcomed AKP’s success in the referendum and said it was “another important step on the road towards Europe.” Spain’s Foreign Minister Miguel Angel Moratinos, whose government supports Turkey’s EU bid, said the referendum sent a “clear signal of Turkey’s European vocation.” US President Obama telephoned Erdoan on the night of the referendum and praised the high turnout as pointing to the “vibrancy of Turkish democracy”.

For Turkey's partners and neighbours, the referendum results also bode well for stability in the near future, given that Erdoan and his government look likely to remain in power for the near to medium term. They underline the Europeanizing trend that has forced the once-dominant military to take a back seat. Turkey's economy has also proved to be resilient, performing above expectations during the global financial crisis. Economic growth has exceeded ten per cent year-on-year in the first two quarters of 2010. The Secretary General of the Organization for Economic Cooperation and Development (OECD) described Turkey the "strongest country" in the organization in terms of growth and an "exception" in an environment where growth in many countries fell short of expectations.

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Looking forward, AKP will want to keep the momentum going until the 2011 general elections, most importantly by starting work on a totally new civilian constitution to be completed after the elections in 2011. In a conciliatory speech after the referendum, Prime Minister Erdoan said his party will seek consensus with other parties in preparing this new constitution. Despite the fact that half of its negotiating chapters are blocked by Cyprus and France, it is nevertheless crucial for AKP to focus on accelerating the pace of reform to underline its commitment to achieving EU membership. This not only ensures that Turkey will be well prepared when the blocks are eventually lifted, but it also strengthens the hand of Turkey's supporters inside the EU. Even though Turkey's membership is a decade or more away, the continuation of the process is critical for both Turkey and the EU.

The strength with which the government emerged from the referendum gives hope that it will experiment with new and more creative approaches to some of Turkey's deep-rooted problems. For instance, to achieve continued convergence with the EU, AKP urgently needs a breakthrough in the Cyprus dispute, the main technical reason for the stalling of Turkey's EU negotiations. AKP is standing behind its 2003 decision to back a compromise settlement since talks restarted in 2008 on a bizonal, bicommunal federation to reunify the divided island, but it would benefit from doing more to win the trust of Greek Cypriots. Indeed, in the deep-rooted Kurdish problem, AKP took promising steps immediately after the referendum towards addressing Kurdish grievances and to extend a cease-fire announced by Kurdish insurgents. State institutions began to openly engage in dialogue with Kurdish representatives as well as the jailed leader of the insurgency – a move that would have previously been considered taboo.

Winning the referendum was a relatively small step compared to the tasks ahead. The bigger challenge now facing the prime minister and his AKP government may well be the need to show true leadership in using this victory to advance Turkey's EU convergence while at the same time building bridges over the persistent faultlines that still divide Turkish society.