



The 2018 Turkey Regress Report

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Summary: A massive deterioration of the rule of law in Turkey is making a political alliance with the EU impossible, but cooperation must continue. Supporting the country's resilient democrats is a major political task for Brussels.

The European Commission is due to publish its next progress report on Turkey in April 2018. This standard procedure is meant to outline how candidate countries have advanced in aligning with the EU's political and technical criteria for accession and to chart their paths forward. Yet, in Turkey's case, a massive deterioration of the rule of law makes it impossible to acknowledge any progress. Instead, the commission's forthcoming report is bound to illustrate a substantial regression.

In the past three and a half years, through a string of political decisions, two elections and a referendum, and repressive measures, Turkey has moved from a denial of liberal democracy to autocracy. Ankara has now clearly distanced itself from the EU principles of rule of law that it had subscribed to in 2004 when it won candidate status. In addition, Turkey's leaders blatantly interfered in European politics in 2017, inducing a defensive attitude in several EU countries while others still hope for improvements.

The European Council is tasked with deciding the next steps in the EU's relationship with Turkey; whatever its final decision is, Turkey's future ties with Europe will inevitably face new hurdles. Relations with Turkey will and should develop in several areas to safeguard European interests, but Turkey's accession to the EU as a structured political alliance is not in the cards anymore.

Brussels's Perspective on Turkey's Shattered Rule of Law

The degradation of Turkey's democratic architecture came in installments. The 2014 presidential election and the 2015 legislative election constituted a first critical phase, which can be best described—from an EU standpoint—as a denial of liberal democracy. After Recep Tayyip Erdoğan became the country's first-ever directly elected president in August 2014 with nearly 52 percent of the vote, the June 2015 legislative election was a rebalancing act typical of liberal democracies. The Justice and Development Party (AKP)—Turkey's sole ruling party since November 2002—came in first but lost its ability to form a single-party government. The

People's Democratic Party (HDP) came in third, a first ever occurrence for a Turkish political party with Kurdish roots.

In a liberal democratic environment, a coalition government would have followed. Coalition talks among the AKP and other parties were launched reluctantly, then suspended. In a drastic reversal, Ankara interrupted the peace process that Erdoğan himself had launched three years earlier with the Kurdish insurgency known as the Kurdistan Workers' Party (PKK), and violence flared up. Amid renewed violence, repeat elections were held in November 2015, and the AKP was able to form a single-party government once again. This outcome spared the president from governing with a coalition, but it also ushered in much harsher repression of Turkey's Kurdish insurgency and increased the suffering of Turkey's Kurds.

Soon after being directly elected as president in 2014, Erdoğan explained his majoritarian concept of democracy, based on the predominance of the executive branch and the overwhelming importance of the ballot box. He proclaimed, "One thing is now clear beyond any doubt: [the] ballot box is where all problems are resolved." It soon appeared that the underlying implication was that the Turkish constitution had to be adapted to the country's new political reality, reflecting the personal mandate the president thought his electoral victory had garnered. Prime Minister Binali Yıldırım formally launched the drive for a new constitution once he took office in May 2016.

After a violent military coup in July 2016 failed, a second critical phase started, marking a shift from majoritarianism to autocracy. A massive purge was launched well beyond any proportional corrective measure; a political alliance was formed between the AKP and the Nationalist Movement Party (MHP); and a referendum was organized in April 2017 to amend the constitution.

The government's strategy after the coup entailed purging the state of supporters of U.S.-based, self-exiled preacher Fethullah Gülen, whom Turkish leaders designated as the force behind the attempted coup. This effort drastically accelerated the degradation of Turkey's rule-of-law architecture. According to an opposition website, as of March 4, 2018, approximately 151,967 public-sector employees have been dismissed, including members of the military, police, judiciary, and academia. (By contrast, the Turkish government claims there have been 110,000 dismissals.) Around 64,998 other citizens are in jail, including journalists, intellectuals, human rights activists, and businesspeople. More than 3,000 schools and universities as well as 189 media organizations have been closed. Eight large business groups and 1,060 businesses have been seized, and assets worth some \$11 billion have been transferred to the state. The motives invoked to justify these massive arrests were often very weak. And in many cases, they were utterly incompatible with the rule of law. For example, some individuals were arrested for having tweeted so-called subliminal messages that supposedly carried orders from Gülen.

The envisaged constitutional changes represented a momentous transition from a parliamentary system to a presidential system. The European Commission for Democracy Through Law, or the Venice Commission, stated in a report on the draft constitution that "the substance of the proposed constitutional amendments represents a dangerous step backwards in the constitutional democratic tradition of Turkey" and stressed "the dangers of degeneration of the proposed system towards an authoritarian and personal regime."

With the powers that would be enshrined in these constitutional reforms—described by the Center for American Progress and the Brookings Institution—the president would lead his party (a measure implemented in May 2017) and appoint cabinet members, who would be accountable only to him and not to the parliament. He would have the power to appoint one or more vice presidents, who would not report to lawmakers. Furthermore, the president would appoint all senior civil servants; select directly and indirectly almost all judges serving in the high judicial bodies, including the constitutional court; and have the authority to police civil society through the reformed presidential State Supervisory Council.

The constitutional amendments were approved by referendum on April 16, 2017. The results were contested by those who were against the amendments, but to no avail. The referendum itself was observed by the Organization for Security and Cooperation in Europe (OSCE) and its Office for Democratic Institutions and Human Rights, which wrote that

the campaign was characterized by the absence of a level playing field. The significantly more visible ‘Yes’ campaign, led by the governing AKP and to some extent the MHP, was supported by several leading national and many lower-level public officials, including the prime minister and the president.

This OSCE office further criticized the counting of unstamped ballots as “decisions [that] undermined an important safeguard against fraud and contradicted the law that explicitly states that such ballots should be considered invalid.” Subsequently, the Parliamentary Assembly of the Council of Europe put Turkey back on monitoring status, meaning it will review in 2018 what progress Turkey has made toward its recommendations.

Conservative Undercurrents of One-Man Rule

Behind the Turkish government’s post-coup corrective measures and the envisioned one-man-rule system lies the AKP’s ambition to impose conservative norms on a society that remains equally split between secularists and religious conservatives. The goal of a religiously conservative society had been common to the AKP leadership and the Gülen movement, its ally until December 2013, but this goal was not achieved during the nearly twelve years between when the first AKP government took office (November 2002) and Erdoğan’s direct election as president (August 2014). This goal remains on the leadership’s agenda. It concerns to a large extent the educational system: scrubbing school curricula of matters deemed to be anti-Islamic (for example, teaching about Darwinism), introducing compulsory Sunni religious courses, building mosques in public universities, increasing funding for schools to train imams, and creating bridges between those schools and universities or military academies. The state has also sent highly symbolic signals concerning the dress code for women, the sale and public consumption of alcohol, and the number of children women should have. This pattern amounts to substituting the strictly secular societal codes that Kemal Atatürk introduced in 1923 with those of a religiously conservative society. Generally speaking, Erdoğan has regularly deepened the divide between so-called White Turks (urban liberals) and Black Turks (conservative Anatolians), in particular during the 2014 presidential campaign.

The post-coup purge that the government launched in July 2016 and the constitutional reforms approved by referendum were used to accelerate the imposition of this conservative model. This development is a tectonic shift in Turkey’s modern history, a trend that is in complete contradiction with EU standards for rule of law, which focus on tolerance in a diverse society. Overall, Ankara’s policies have failed to converge with EU positions—a requirement of the EU accession process; meanwhile, the country’s foreign policy has begun to diverge from Western alliance fundamentals, largely for domestic reasons.

Foreign Policy as a Domestic Political Tool

In May 2009, a policy called Zero Problems With Neighbors became the predominant guideline for Turkey’s foreign affairs, illustrating the country’s willingness to assert itself as a regional power. In parallel, Turkey continued to have strong relations with both the EU and the United States for a time. Problems started cropping up when the state and its supporters attempted to blame the spring 2013 Gezi Park protests against Turkish government policies that Erdoğan attributed to “outside forces” and a “systematic project to tarnish Turkey’s image.” The situation became more complex with the proclaimed formation of the so-called caliphate of the Islamic State in June 2014, which prompted large numbers of European jihadists to head to Syria and Iraq via Turkey. This development ushered in a protracted period of counterterrorism cooperation between the EU and Turkey. In the summer of 2015, a humanitarian crisis erupted, as hundreds of thousands of refugees fled the war in Syria and traveled to the EU through Turkey. Beyond Turkey’s truly commendable efforts to support refugees, this disaster quickly

turned into a tough negotiation between Turkish and EU leaders, which added a new twist to the relationship. The two forged an agreement on a financial facility for refugee support in Turkey in March 2016.

In parallel, Turkey's decisions complicated its relationship with its anti-Islamic State coalition partners. Turkey trained and armed Syrian rebel factions outside the coalition framework. It took one year for Turkey to grant the United States permission to use Incirlik Air Base for operations against jihadi groups in Syria. The German Air Force had to leave Incirlik after Turkish objections to its legal requirements. Turkey's official news agency, Anadolu, revealed the positions of U.S. special forces in northern Syria. The United States and Turkey failed to reach an agreement on the former's use of the Syrian-Kurdish forces of the People's Protection Units (YPG) against the Islamic State. In 2018, Turkey has conducted operations against the YPG forces in Afrin and threatened to push its offensive into areas where U.S. forces are present.

In fact, since 2016, Turkey has coordinated with Russian forces supporting the regime of Syrian President Bashar al-Assad. Turkey is still formally a member of the U.S.-led alliance against the Islamic State, but thirty months into Russia's military intervention in Syria, Ankara acts in far closer coordination with Moscow than with its traditional Western allies. However, this does not mean that Turkey and Russia are on the same page on the Syrian crisis. They differ, for example, in their views about the future of Bashar al-Assad and the Syrian-Kurdish autonomy envisaged by Moscow in a postwar settlement. Simply put, for Turkey's leaders, a few serious differences with Moscow are manageable, while amplifying fundamental divergences with the United States and the EU brings domestic benefits. As a result, Turkey's strategic value for the West has been substantially eroded.

Resurgent Hostile Narratives and Political Interference

In the last two years, anti-Western narratives and conspiracy theories have made a comeback as political instruments in Turkey. These narratives embody the country's fears of being dismantled by Western powers and are rooted in the country's Sèvres syndrome—the legacy of the never-ratified Sèvres Treaty of 1920 that would have partitioned Turkey after the end of World War I and the fall of the Ottoman Empire. The Turkish foreign minister and pro-government media often promote conspiracy theories, especially against the United States, with headlines such as “US Is the Enemy for Turkey.” On occasion, such echo chamber discourse produces information about Turkey's commitments to the EU that contradicts the facts. In one example, it was claimed that Turkey has fulfilled all the conditions for EU accession, that rule-of-law standards are “artificial obstacles,” and that the country has an independent judiciary. This information divide contributes greatly to the current disconnect between Turkey and the EU.

Moreover, Turkey directly interfered in European politics in 2017, severely damaging its relationship with the EU. Ahead of the April 2017 constitutional referendum, Turkish ministers wanted to launch campaigns to convince Turks living in Europe (mostly in Germany and the Netherlands) to vote yes, while political parties campaigning against the referendum in Turkey faced limitations on their public meetings, and public media heavily favored the government. Berlin and The Hague rejected the Turkish government's requests and, as a result, they faced extremely harsh criticism, such as statements calling them “Nazis” or “Nazi remnants” and claiming that “they would re-ignite the gas chambers.” Similarly, during Germany's legislative election campaign in the summer of 2017, such statements resurfaced. The Turkish president specifically advised Turks in Germany not to vote for who he deemed to be “the enemies of Turkey”—namely the Christian Democratic Union and Christian Social Union as well as the Social Democratic, Free Democratic, and Green parties.

Whether these conspiracy theories and hostile words are rooted in Ankara's perennial fear of being dismantled, encirclement syndrome, or rhetoric divorced from facts, these words had devastating effects—especially as they touched on the Holocaust—and illustrated Turkey's decoupling from Western and EU norms.

Turkey's Image in the EU Has Plummeted

Turkey's deteriorating rule of law and interference in domestic EU politics resulted in drastic changes in Europe's political mood, which led to clear statements against Turkey's accession from the Netherlands (October 2017); Austria (December 2017); and Belgium, France, and Germany (January 2018). Most recently, the Netherlands downgraded diplomatic relations with Turkey to *chargé d'affaires* level.

France's and Germany's requests that Turkey free prisoners pending trial have led to a few releases, but many requests have been challenged in the Turkish judiciary system. The government refused to implement an order from Turkey's constitutional court calling for the release of imprisoned journalists, prompting EU criticism at the European Court of Human Rights. Later on, the same defendants were condemned to aggravated life sentences. Moreover, the safety of those freed pending trial could be at risk, given Turkey's December 2017 immunity decree, which de facto gave recently created private militias a blank check to attack opponents of the government with impunity. Taking state hostages seems to have become Turkish state policy. These are examples of the drastically eroded rule of law in Turkey.

The EU-Turkey agreement on refugees is another example of this erosion. On the one hand, a 3-billion-euro (around \$3.7 billion) humanitarian scheme agreed to in March 2016 to support Syrian refugees in Turkey and their host communities is working quickly and efficiently to the satisfaction of the Turkish public entities involved. Moreover, talks are set to begin for the implementation of a second 3-billion-euro tranche, a welcome prospect at a time when tensions are rising in Turkey between Syrian refugees and host communities. Yet, on the other hand, at the highest political level, Turkey's narrative has consistently been critical of EU contributions, mainly for domestic political consumption. EU politicians have difficulty grasping this dual attitude.

Policymakers in some EU capitals have given counterterrorism cooperation mixed reviews. Arrangements with some EU governments work, while others do not. More damaging is the politicization of this cooperation, especially through Turkey's requests for extraditions from EU countries without the required amount of evidence and assurances of fair trials. In addition, jihadists that are in Turkey after spending time in Syria are seemingly treated as migrants and therefore not appropriately tracked as terrorists, a priority for EU governments.

From a European standpoint, Ankara's political choices at home and on the international stage amount to a near-total dismantlement of the rule of law and the use of the judiciary as an instrument of political power. Turkey's foreign policy is more attuned to domestic political necessities than to Western alliance objectives. And the country's public diplomacy consists of verbal aggression, attempts at electoral interference, and the propagation of doctored news.

For these reasons, EU leaders' and citizens' perceptions of Turkey have plummeted. The hardened language from Turkey's leaders has created serious doubts about their commitment to move closer to EU-style democracy, compared with the period from 2005 to 2012 when hopes were still high about Turkey's economic and political reforms. In addition, public opinion in the EU about Turkey has turned negative.

Despite so many challenges, mutual economic interests have been a strong reason for several EU governments to continue cooperating with Ankara, at least bilaterally. For example, European manufacturing facilities in Turkey boast a high competitiveness. Moreover, there are prospects for aerospace and arms sales and the development of civilian nuclear energy, while

retail trade and services are among the sectors of mutual interest due to the size of the Turkish market.

The Path Forward

EU leaders will have to make tough decisions this year. As a result of Ankara's political choices and the subsequent reactions of European governments, EU options for intensifying its relationship with Turkey have shrunk. The prospect of a political alliance with Turkey through accession has entirely vanished under Erdoğan. But that does not mean that the EU should do nothing.

Even in the most cynical version of *realpolitik*, European politicians no longer have the option of entertaining the (purported) accession ambitions of Turkey. EU publics would not stand for it, nor could Turkey with the rule of law in its present state function inside the EU's economic and political structures.

Ankara will argue that it never had a chance to negotiate with the EU in earnest. This is partly true, in the sense that in the past decade some EU leaders have not been prepared to seriously entertain the idea of Turkish membership. In parallel, Turkey's own accession ambitions were tainted by ambiguity, especially after the Turkish leadership—with EU help—managed to strip the armed forces of any political role, which in retrospect several European capitals and Turkish opposition politicians consider the real goal behind the accession request.

But by now, the EU has realized that the political system chosen by Erdoğan, who has been the unchallenged leader of Turkey for fifteen years, is entirely incompatible with EU standards. Turkey has drifted so far apart from EU political and technical standards that preparations for accession negotiations cannot occur. In EU lingo, no chapters will be opened or closed, and no preparation work will be undertaken—meaning that the EU does not even have to declare the accession process suspended or halted. The EU's requirement of unanimity on accession issues precludes any progress.

For similar reasons, there is a deadlock on visa liberalization negotiations—a process with seventy-two strict benchmarks—for which Turkey's current antiterrorism law remains an obstacle for the EU. This issue seems unlikely to be resolved soon, despite Turkey's recent efforts to introduce what it called fresh proposals. In the current security context, it is unlikely that Ankara will amend its antiterrorism law because it believes the policy has yielded good results.

Yet a full-fledged estrangement between Europe and Turkey is not advisable. This situation should not push the EU toward isolating Turkey. An EU attitude of benign neglect of Turkish affairs would deprive Turkey's liberal-minded citizens of a critical democratic anchor and a reference point for the future, even if one takes the view that this future is a decade away or so. There is a long-term EU interest at stake here.

Instead, the EU should actively pursue a series of actions. These include customs union modernization (involving EU trade policy); counterterrorism cooperation (EU policy dialogue and bilateral actions); dialogues in sectors of mutual interest, such as the economy, energy, transportation, and research (EU actions) and regarding foreign policy (EU and bilateral levels); continued humanitarian assistance to Syrian refugees in Turkey (EU actions, for the most part); and active support to Turkey's democrats (EU actions).

Customs union modernization is the most economically significant but also the most politically sensitive issue on both sides, albeit for different reasons. There are pros and cons for moving modernization negotiations forward. The arguments in favor are based on the economic and political conditionality associated with a customs union, especially when it comes to guaranteeing a level economic playing field between European and Turkish actors. Proponents of this approach argue that this conditionality could be the only remaining field in which the EU retains real leverage over rule of law in Turkey. Those against moving negotiations forward

argue that restraining EU conditionality to the economic field would liberate Ankara from any constraints on the rule of law. In addition, Turkey's unwillingness to recognize the Republic of Cyprus and recent incidents at sea around Cyprus's gas drilling operations complicate matters immensely. Since the general political mood in Europe is clearly negative, conditionality on the customs union modernization will be high, both technically and politically.

Counterterrorism cooperation should be actively pursued in the interest of both sides. Such cooperation faces two distinct kinds of hurdles. First, counterterrorism cooperation with Turkey is primarily rooted in bilateral actions by EU governments, with a perennial reticence to coordinate at the EU level. Second, Turkey's cooperation tends to be conditioned on reciprocity, that is to say asking EU governments to take action according to Ankara's own definition of terrorism. Yet cooperation continues to be a necessity for EU governments and institutions because jihadists returning from Syria and Iraq represent a threat to both Turkey and a number of European countries.

Similarly, dialogues held in 2017 on transportation, the economy, and foreign policy could be expanded to other fields. This is perhaps the easiest of all areas of cooperation because such sector-based dialogues have general benefits—keeping lines of communication open—without involving hard decisions about policy. These dialogues also avoid the notion that requirements are being imposed from abroad, as is the case in the legislative alignment process inherent to EU accession negotiations. This is indeed Ankara's preferred path.

An agreement on the second tranche of EU assistance to Syrian refugees in Turkey is technically ready to proceed, provided parties come to a clear understanding about the objectives and modalities. A number of modifications will be needed on the basis of accumulated experience, especially in a number of critical areas: the education of children, including in Arabic; job training and procedures governing the opening of small- and micro-businesses by Syrian refugees; and equity of refugees' and host communities' access to social facilities.

Supporting the segments of Turkish society that still look to the EU as an anchor of democracy and rule of law is the major political task for Brussels. The EU should autonomously fund and implement scholarships, residency grants, visits, and exchange programs in favor of academic, research, media, cultural, and civil society circles. In particular, support for the activities of Erasmus+, the European Endowment for Democracy, and other civil society programs should be massively increased as an investment in the future. These programs should be accompanied by a tailor-made visa facilitation scheme.

Amid current conspiracy theories, such an initiative might be treated harshly by Ankara's leaders. But the EU must remain firm on the principles for which it stands and must keep defending Turkey's democrats and promoting human rights with a long-term view. This effort should be accompanied by strong public diplomacy aimed at the Turkish public to push back against the doctored information that the Turkish government spreads about EU policies and actions.

The five aforementioned areas of cooperation constitute the best available package of options at this stage. There is no doubt that Ankara will fiercely object to the continued blockage of accession negotiations. However, Turkey's rule-of-law situation combined with a deteriorated mood in the EU will at best allow only these five options to proceed. The European Parliament has taken a position on post-coup measures, the rule of law, and the liberation of prisoners pending trial in a resolution adopted on February 8, which the Turkish government immediately considered "null and void." The margin for progress is undoubtedly very narrow.

If substance is a thorny issue, form is no lesser headache. Turkey has a long-standing request that its president should attend the European Council meetings of heads of state and government. Turkish requests for visits and summits have now intensified as part of a diplomatic strategy to limit the damages incurred in 2017. The potential benefits for Ankara are obvious. Since real progress toward EU political or technical standards would be incompatible

with Erdoğan's brand of democracy and politics, photo opportunities are the best substitute. Summits help in that they show (literally, more than substantially) that a top-level dialogue is taking place without any conditionality, thus getting rid of what Ankara now calls "artificial obstacles." In addition, such meetings have often given Turkey opportunities to lambast the EU and score points on the nationalist front at home.

Summits would not help restore the rule of law in Turkey, but they would inevitably involve condoning massive human rights infringements and bitterly displeasing EU citizens. Bulgarian Prime Minister Boyko Borisov, who is scheduled to host Erdoğan as well as European Council President Donald Tusk and European Commission President Jean-Claude Juncker on March 26, 2018, faces significant political risks and very improbable gains. All will depend on how much tough talk—private as well as public—there will be aside from the televised handshakes.

Between unworkable solutions at both ends of the spectrum—a complete estrangement of Turkey versus a structured political alliance—EU leaders face tough choices this year. Under the appropriate conditions, the policy mix proposed above can help safeguard EU interests by keeping a dialogue open on key subjects, giving hope to Turkey's resilient democrats, and protecting European democracy by keeping at bay Ankara's unwanted interference in EU politics.

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