

# Turkey 2015



Total: 49.59

---

## Political Freedom

---

### Free and Fair Elections : 7.14

Turkey's *de facto* semi-presidential system has been strengthened by the election of Recep Tayyip Erdoğan as President in 2014. This was the first ever direct election for that post in the history of Turkey. Since 1950, elections are generally known to be free and fair, and there is no considerable evidence of a possible fraud. However, the 10% threshold introduced in the early 1980ies is still in effect to possibly keep Kurds and other minorities out of the parliament. Although a pro-Kurdish party was able to pass the threshold in June 7th Elections of 2015, the President and officials of the ruling party made worrying calls to prosecutors to investigate against the Kurdish MPs and drop their parliamentary immunity. The 10% threshold and the highly restrictive law on political parties remain the biggest obstacles for the development of the Turkish democracy. Since he took the office, President Erdoğan made calls for a system change, favouring a "Presidential System". He did not clarify the checks and balances within this new political system.

### Absence of Unconstitutional Veto Players : 5

As of October 2015, the portrait of Turkish society is marked by high levels of polarization and political rivalry. Especially with regard to the recent rhetoric of the ruling party, Turkish democracy is increasingly defined with reference to "the will of the nation" or "the ballot box". This is to imply that only elected bodies might have a say on everyday politics. Other constitutional but non-elected powers such as an independent judiciary and auditing institutions are by-passed. Using Guillermo O'Donnell's terminology, while we can talk about the government giving account to the citizens through the ballot box (i.e. "vertical accountability"), it is not possible to talk about the government being held accountable for its actions by the independent judiciary and audit institutions, (i.e. "horizontal accountability") in Turkey. Thus, Turkey can be considered as a "delegative democracy" rather than an institutionalized liberal democracy. On the bright side, the Turkish military, the former unconstitutional veto power, has been brought under civil control to a great extent.

In the last couple of years, it has been argued by government circles that there is a "parallel state" within the state establishment. Allegedly, this organization taking root within the internal security bureaucracy and the judiciary is formed by the members of the Gülen Movement, a religious order led by Fethullah Gülen, an Islamic cleric. It has been claimed that the members of this organization abuse their power in the state structures to harm the legitimate government. In fact, in response to the biggest corruption investigation in the history of the Republic, the government defended itself

by arguing that this investigation was nothing else than a coup d'état attempt by this "deep-state" organization in order to topple the government through judicial means. Eventually, the graft probe was prevented by the government and the case was dismissed without a thorough investigation and a fair trial.

## **Freedom of Press : 3.5**

The government pressure on media is most evident. Alleged "parallel state" accusations are used to justify government pressure on media and civil society. Major media outlets are raided either by police, audit officers or groups associated with the ruling party. It is now common to see police and audit officers regularly visit media in large groups, especially those who are critical of Mr. Erdogan. This is seen as an intimidation to the press. Only recently, an open critic of the government and Mr. Erdogan, Koza Ipek Media Group, its owner, his company and estates were raided by security forces with the allegation that they are part of the so-called "Fethullah Gülen Terror Organization".

One of the leading media outlets, Hürriyet, was raided and stoned by a group associated with the ruling Justice and Development Party's (AKP) youth branch on October, 6th. This group was led by a current MP at the same time being chairman of the party's youth branch. No comment was given or investigation held by the party administration. Within a month, one of the most renowned columnists of the same paper was ambushed and severely beaten by party members of AKP. More than 200 Turkish citizens, most of whom are journalists, are now being tried for insulting the president.

Some state-run companies are among the biggest advertisers in the media. Reports are provided that their ad-giving pattern is not based on the circulation numbers. Their ads go to relatively minor TV channels or newspapers affiliated with the government, while partly or entirely ignoring some of the mainstream media. Foreign journalists were deported for covering the recent conflict between the outlawed PKK and the security forces. Turkey's score cc. the freedom of the media has been lowered by almost all major "Freedom of the Press" indexes.

## **Rule of Law**

---

### **Independence of the Judiciary : 3.75**

Despite the constitutional guarantee of the independence of judiciary, serious problems are encountered in practice stemming from legal and administrative arrangements. First of all, government still controls the appointment of judges and financing of the judicial branch. Secondly, although the Constitution has established an autonomous body (the High Council of Judges and Prosecutors - HSYK) to carry out the administration of the judiciary and although it was reorganized by the 2010 constitutional amendments to better comply with the principles of independence and impartiality, following a legal amendment regarding the Council's work made in 2014 and the election of new members the Council largely came under the control of the executive (the ruling party and the president). The Minister of Justice and his undersecretary are members of the Council. The Council is chaired by the minister. The President appoints four members directly among lawyers and academicians. Other members are elected by judges and prosecutors by a majoritarian system. Following the elections of new members of the Council in 2014, the control of the ruling party and the President over the Council became more solid because a government-

supported list of candidates called “Platform on Unity in Judiciary” won most of the seats. The Council’s ability to act independently from the government was severely restricted.

The new Council has acted as an office of government rather than being an autonomous body. The judges and prosecutors, whose decisions had inconvenienced the executive, have faced sanctions as the removal from the case, being sent to another city, dismissal from the office or even arrest and trial. In this regard, the Venice Commission adopted a declaration on interference with judicial independence in Turkey on June 20th, 2015. Another concern for judicial independence is the paralysis of the supreme courts by increasing their number of members enormously. In 2014, 129 new memberships in the Court of Cassation and 39 new memberships in the Council of State were created by the Law No: 6572. Those members were appointed by the new HSYK in order to take control of those high courts. Moreover, some experienced members were shifted from their chambers. In the meantime, an amendment reduced the waiting period for lawyers to be appointed as judges from 5 to 3 years making it easier for the ruling party to fill positions in the judiciary with its own supporters.

## **Corruption : 0**

However political rights, democracy and pluralism in Ukraine had advanced due to the departure of President Yanukovich in early 2014 and subsequent changes, it has yet to affect the field of corruption. Ukraine is still the most corruption-struck European country. In the Transparency International’s Corruption Perception Index 2014, Ukraine, with just 26 points, was ranked 142 of 175 countries of the world (as compared to 2013 when it was listed as 144 of 177, with 25 points). In 2013, security and law enforcement institutions (e.g. judiciary, police) were the worst corrupted. Outbreak of the armed conflict in eastern Ukraine in spring 2014 revealed that parts of the army were also corrupt. Faced with an existential threat, the country and its new democratic authorities concentrated on fighting corruption and the adjacent foreign influence in the fields vital for defense, such as army and police. Some measures, such as the law on lustration as of autumn 2014 were carried so as to broaden that struggle, but their efficacy was questionable. The system creates plenty of room for corruption, with its 1800 state-owned enterprises, price controls, monopolies, red tape as a norm in administration and non-transparent financing of political parties. It needs the change from top to bottom. Parallel to lustration, creation of anti-corruption bodies and more corruption-sensitive legislation as well as getting rid of the still omnipresent Soviet-style corruption mentality and culture have all begun. Those tasks are enormous, prosecution of corruption in particular, while at the same time Ukraine - still torn apart by conflict and facing threat both from the neighbourhood and from the internal chaos – needs quick improvements.

## **Protection of Human Rights : 3.9**

Despite the relative improvement in the protection of human rights after the 2002 Elections, the situation started to deteriorate in the last couple of years. The introduction of the individual application to the Constitutional Court in 2012 was a major step towards individual rights and freedoms. Nevertheless, the Constitutional Court has been overburdened by workload in a very short period of time reaching the total number of nearly 50.000 applications. Nearly half of those applications are pending before the Court.

The basic fundamental rights of individuals are increasingly attacked by public officials in recent years. Discrimination against opponents of the ruling party is becoming widespread in every aspect of life. The right to property and the freedom of enterprise of opponents are limited by selective and arbitrary cancellation of permits and licences and the denial of the renewals thereof, by unnecessary and vindictive tax investigations and even by police raids into workplaces. Freedoms of speech and press of individuals and journalists have been restricted by the threat of libel actions and defamation accusations. Restrictions on social media also limit the freedom of expression of individuals. Violent interference of security forces into public demonstrations has become a routine since the Gezi Park events in June 2013.

Increased terror attacks and the high number of deadly casualties indicate that security forces failed in taking necessary security precautions in public demonstrations against government policies. This security gap threatens the right to life of individuals. Newly created “Peace Courts” control all criminal investigations and they decide all security measures like detention, search, etc. There is a widespread belief that these courts are under the control of the executive. Detention is being used as an instrument of oppression and punishment by those courts. The duration of detention pre-trial and pending trial is excessive in most cases. Lengthy trials violate the right to fair trial of individuals. Widespread wiretapping and surveillances violate privacy rights. Freedom of religion of especially minority beliefs is limited. Conscientious objection is not recognized. Human rights protection mechanisms like the Ombudsman and the Human Rights Board have proven to be ineffective.

## Economic Freedom

---

### Security of Property Rights : 5.45

Property rights are not adequately protected in Turkey. This is mainly due to the problems in the judicial system. Because of legal and administrative control of the government over the judiciary, the level of independence from the executive power and effectiveness of the judicial system is low and courts are not impartial. For similar cases, courts might decide differently, giving advantage to those who are close to the political power and the government. Legal investigations and lawsuits are used arbitrarily against media and capital groups which support the opposition, especially in banking, private education and TV broadcasting. In addition, court procedures involving enforcement of contracts are lengthy and costly, which increases the riskiness of doing business and reduces the number of potential entrepreneurs. Although declining and much less than in the past, the military interference in law and politics is still high compared to other European countries, which pulls the *Security of Property Rights* score of Turkey down. Another problem is the low reliability of the police force.

### Size of Government: Expenditures, Taxes, and Enterprises : 6.69

In this indicator Turkey performs better than the European average. In 2014, total government expenditures were about 39.8 % of GDP while total government revenues stood at 39.1 % of GDP.

The difference, which was less than 1 % of GDP, was financed by borrowing measures. The central government's internal and external debt stocks as percent of GDP were also quite low, about 23.7 and 11.3%, respectively. Most of the total tax revenue, around 65-70% of it, comes from indirect taxes; direct taxes make up less than 30% of the total tax revenue. For most products, the Value Added Tax is 18%, for others it is either 8 or 1 %. While the corporate tax rate is 20%, income tax rate starts at 15% and goes up to 35% for the highest income group. The level of transfer expenditures, which was around 45% of total government expenditures in 2014, continues to remain high.

## **Regulation of Credit, Labour, and Business : 5.71**

Although business regulation is not unfavourable towards conducting business activities, administrative requirements, bureaucratic costs and market regulations hinder entrepreneurial activities. Too many administrative requirements and high bureaucracy costs necessarily lead to corruption and favoritism among state officials. Although there are some licensing restrictions they are not widespread, and tax compliance costs are not necessarily very expensive. Starting a business and registration is easy and do not cost much. However, some labour market regulations can be regarded as unfavourable to business. Because of these regulations hiring and firing employees might be costly for businesses. One of such rules is the high severance pay connected to the employee's tenure, which makes firing senior employees quite costly and therefore renders them unattractive in the labour market. The high level of the minimum wage, which is about 40% of the mean wage and 70% of the median wage, is one of the main causes of unregistered economic activities and unemployment, especially among young and unskilled workers. Although reduced to 12 months (6 months for university graduates), military conscription is still compulsory and therefore continues to keep millions of young men out of the labour market for at least a year.

## **Freedom to Trade Internationally : 8.45**

Given the fact that Turkey signed a customs union with the European Union and became a member of the World Trade Organization in 1995, the relatively high score of freedom to trade internationally should not be a surprise. The benefits of the customs union with the EU are reflected in low tariff rates and low prices of import goods in Turkey. Nevertheless, for some agricultural products tariff rates may be quite high since the agricultural sector is not covered by the customs union with the EU. A typical example of this situation is observed in beef imports. Tariff rates for beef imports normally are very high and these rates are only lowered when beef prices become exorbitantly high. At other times, prohibitive tariff rates such as 225% may be imposed. In addition, certain restrictions on free movement of capital and people hinder further international trade. For foreigners obtaining residence permits might involve complicated and long procedures.