

Turkey 2017



Total: 48.6

Political Freedom

Free and Fair Elections : 5.36

Political Freedom, as a subsection, has seen the sharpest declines, from 14.33 in 2016 to 10.26 this year, mostly due to the repercussions in the aftermath of the failed coup attempt (July 2016). The state of emergency - declared a week after the attempt - is still in effect as of October 2017.

As noted last year, the elections in Turkey are seen as compatible with international standards. However, the image of (more or less) free and fair elections has taken a serious hit after the presidential referendum, which changed the country's parliamentary system into a presidential democracy. After a tight race (51.4% Yes and 48.6% No), the Turkish people voted to change the government system, a decision, which was highly favoured by the governing Justice and Development Party (AKP) and Nationalist Movement Party (MHP).

A controversial decision by the High Election Board, whose primary task is to oversee the election process, came later on the election day, allowing to count the votes that are not stamped as "valid" despite the clear mandate of the constitution not to do so. This decision came through the end of the referendum and affected roughly 1.5 million votes, which were not stamped earlier but eventually counted as valid. The decision has been widely regarded by commentators and international observers as an electoral fraud and was taken to European Court of Human Rights by the main opposition party, CHP. The case is still ongoing. The OSCE reported that the election was flawed.

Political freedoms are further curbed through jailed politicians in Turkey. In a controversial parliamentary vote, the immunity of MPs has been suspended once (for the standing cases), and since then several opposition MPs have been jailed. Some even face lifelong sentences. Two co-chairs and the spokesperson of the pro-Kurdish HDP are in prison for some ten months. A total of 10 MPs from HDP and CHP are imprisoned at the moment.

Turkey's still standing 10% electoral threshold is the highest in Europe. A bi-partisan call from most MPs to reform the electoral system was made after the system change, but there hasn't been any substantial step taken towards reform on the parliament ground.

Absence of Unconstitutional Veto Players : 2.5

In terms of percentage points, Turkey received the hardest hit in this subsection, its percentage

points decreasing by 50% in one year, from 5.00 in 2016 to 2.50. The failed coup attempt in June 2016 demonstrated that the Turkish military still has considerable potential to interfere with the civilian politics, in spite of the reforms in the last decade. Almost half of the superior army commanders have been suspended or dismissed, roughly a third of them are accused of involvement in the coup attempt. The index figures were already rounded when the coup attempt took place in mid-summer 2016, so the impact of the coup is better reflected this year.

A second issue the coup attempt revealed was how deep an extra-legal structure had penetrated into the high halls of government and bureaucracy in Turkey. After the coup attempt, in addition to the stated number of military personnel, a total of 115.000 public officers were dismissed from duty. The Human Rights Foundation of Turkey declared in an October 2017 report that some 50.000 people were detained in the first year of the state of emergency.

Freedom of Press : 2.4

The ongoing decline in Turkey's freedom of the press score did not slow down this year, and reached an all-time low of 2.40, from 2.90 last year.

The current state of Freedom of Press in Turkey was best manifested during the referendum campaign for the constitutional amendment. The AKP Government proposed and fiercely advocated a series of constitutional amendments, which were most notorious for changing the government system of Turkey to a presidential regime.

The research of the Union for Democracy (UfD) suggests that the government-backed YES campaign has enjoyed ten times more coverage than the NO campaign in the mainstream media. Most civil society and opposition groups had to restrict their campaign to social media or fringe news channels since they couldn't get any broadcast time from mainstream media outlets.

Deterioration of Freedom of Press in Turkey is on par with other political freedoms. The number of journalists currently in prison reached an all-time high of 158. The government argues that those journalists are in jail because of alleged crimes irrelevant to their journalistic activities. The topic remains one of the top sources of criticism cc. democratic decline in the country.

In Freedom House's Freedom of the Press 2017 report, Turkey has seen the lowest rank in the last 13 years, as 166th out of 201 countries.

Rule of Law

Independence of the Judiciary : 4.59

Turkey's score increased from 3.75 to 4.59 in this area in 2017. Nevertheless, this does not correspond to the real development in independence of judiciary in Turkey. Although more than 4.000 judges and prosecutors were dismissed from office on the basis of their alleged link to the Gülenist structures, it is not possible to say that their dismissal was based on fair procedures. The administrative body of the judiciary, the High Council of the Judges and Prosecutors (HSYK), was and is under the control of the executive. Although it does not have the authority to control judicial

decisions of the courts or judges, the HSYK monitors the decisions of judges and prosecutors and intervenes if they decide against the wishes of the executive. A recent constitutional amendment increased the executive control over the judiciary. The constitutional amendment adopted by public referendum on April 16, 2017, changed the parliamentary governmental system into a presidential one. It accumulated all executive powers on the President without establishing any counter balancing power. The President will continue to be member of a political party. This means that the President will have control over parliament through the party discipline if his political party gets the majority in the parliament.

The mentioned constitutional amendment changed also the name and structure of the High Council of the Judges and Prosecutors (HSYK), the administrative body of judiciary. The name of the body has become “the Council of Judges and Prosecutors (HSK)”. It will be composed of 13 members, seven of which elected by the parliament while six appointed by the President directly. Judges and prosecutors cannot elect any member to the council. A provisional article in the constitutional amendment law terminated the tenure of the existing members of the incumbent HSYK. The new members of the HSK have been elected in Parliament by the ruling party majority in an election process that was far from being transparent.

The impact of the executive over the judicial process in many criminal cases is apparent. For example, three judges and a prosecutor who decided to release some detained journalists in Istanbul have been suspended from office by HSK following a pro-government media campaign. Judges and prosecutors, who are members of opposing associations, were appointed to small cities.

Corruption : 4.1

Turkey's score in the area of corruption declined from 4.20 to 4.10 in 2017. Investigation of corruption allegations against government officials or local authorities who belong to the ruling party is virtually impossible in Turkey. There is no effective control of the governmental expenditure neither in parliament nor by the judiciary. Since independent media are very weak, media scrutiny over administrative expenditure and public procurement is ineffective. There is a widespread belief across society that all the public contracts are distributed to the supporters of the ruling party and of the President. Party reference plays a crucial role in public recruitments.

Last year, a new law was adopted to allocate discretionary funds to the President. The Prime Minister already has a discretionary fund, misuse of which is quite possible. According to the Transparency International's Corruption Perceptions Index 2016, Turkey shares the 75th place with Bulgaria, Kuwait and Tunisia, with a score of 41 out of 100.

Protection of Human Rights : 3.99

Turkey's score in the area of protection of human rights decreased from 5.15 to 5.10. The state of emergency, which was issued following the failed coup attempt of July, 15th, 2016, was extended for the fifth time for three months and it will apparently not be lifted in near future. This means that derogation from human rights obligations will continue and government will continue to issue emergency decrees which are not subject to constitutionality control by the Constitutional Court. It also means that dismissal of civil servants from public office on the suspicion of ties with the Gülen movement or other terrorist organizations will continue. The number of the dismissed civil servants already reached the figure of 115.000. A review body (The Commission for the State of

Emergency Affairs) for those dismissals has been established and started to receive applications almost one year after the first dismissals, but there are serious doubts about the independence and impartiality of the Commission.

The maximum period of police custody is 14 days during the state of emergency, which increases the risk of abuse and ill treatment. There are more than 60.000 people who were detained pre-trial. Most of the prisons are overcrowded. More than 150 journalists are detained facing serious punishments such as three times life imprisonment. Too many lawyers and human rights defenders are arrested and detained on the charges of alleged link with terrorist organizations. This has made the process of monitoring human rights violations by human rights organizations and activists very difficult. Most of the human rights protection mechanisms are controlled by the executive and ineffective. Human Rights Watch recently published a report on the allegations of torture and abduction.

Economic Freedom

Security of Property Rights : 5.3

Turkey has been governed for more than a year under the State of Emergency. It was declared on 20 July 2016, five days after the failed military coup attempt. Despite the early statements from top politicians of the ruling AK Party (including President Erdogan) that the State of Emergency was a temporary measure, Turkey is still under the State of Emergency as of October 2017. The post-coup crackdown, which was carried out under the State of Emergency conditions, led to many violations of property rights. Massive amounts of property, including companies, private schools and universities, and nongovernmental organizations, which belonged to suspected Gülenists, the secretive Islamic movement behind the coup, were confiscated. The government cleansed the cadre of the judiciary by dismissing thousands of prosecutors and judges, who were thought to be linked to the Gülen movement. This, naturally, made the other prosecutors and judges more susceptible to government pressure. Furthermore, newly appointed prosecutors and judges who replaced the dismissed ones, do not yet have the necessary professional experience and skills for quick and efficient legal procedures. Due to these conditions, court procedures involving enforcement of contracts continue to be lengthy and costly.

Size of Government: Expenditures, Taxes, and Enterprises : 6.66

Although direct tax rates are not very high (the top personal income tax rate is 35 %, and the top corporate tax rate is 20%), the Turkish citizens continue to pay high levels of indirect taxes. As in the previous years, most of the total tax revenue (68%) comes from indirect taxes. Direct taxes make up less than 30 % of the total tax revenue. The most common indirect taxes are the value-added tax (in most cases it is 18%, but for other items, it is either 8% or 1%) and the special consumption tax, which could be as high as more than 100% for some items. According to provisional figures, in 2016 total government expenditures were about 41.6% of GDP while total government revenues were about 41%. The ratio of total government revenues to the GDP was 31% in 2002, the first year of AKP rule. Since then, it increased by ten percentage point. It is

unlikely that it could be further increased without causing a widespread slowdown in the economy.

Regulation of Credit, Labour, and Business : 5.76

Business regulation in Turkey is quite favorable towards entrepreneurial activity. Nevertheless, as compared to European and North American countries, Turkey is still far from being business-friendly. Although starting a business and registration is not complicated, administrative requirements, bureaucratic costs, market regulations and ineffective enforcement of the rules make conducting business activities costly. High level of the minimum wage and high severance pay based on the employees' seniority at the workplace, continue to be very disadvantageous for business activities and foster the informal sector.

Freedom to Trade Internationally : 7.94

Being a member of the World Trade Organization (WTO) and in a customs union with the European Union, Turkey has quite low tariff rates for manufactured products. Since the agricultural sector is not part of this customs union, some agricultural products – especially red meat - are protected with considerably high tariff rates and quotas. Unable to change tariff rates for manufactured products because of its commitments to the EU and the WTO, the Government of Turkey seems to be increasing its efforts to use non-tariff barriers to protect some industries. As a result of this tendency, the trade freedom score of Turkey dropped from last year's 8.44 to 7.94 this year, which re-categorizes Turkey's international trade as "mostly free," rather than simply "free" as it was from 2006 to 2016. Furthermore, the government uses high "special consumption taxes" especially in markets, where most of the products are imported, such as smartphones and automobiles. Although these taxes are equally applied to both domestic and foreign goods, and therefore are not regarded as barriers to trade, the effect of these taxes is a decrease in the volume of imports.