

TURKEY POST-REFERENDUM: INSTITUTIONS AND HUMAN RIGHTS



MAY 2, 2017

**Briefing of the
Commission on Security and Cooperation in Europe**

Washington: 2017

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The OSCE Secretariat is in Vienna, Austria, where weekly meetings of the participating States' permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations. Periodic consultations are held among Senior Officials, Ministers and Heads of State or Government.

Although the OSCE continues to engage in standard setting in the fields of military security, economic and environmental cooperation, and human rights and humanitarian concerns, the Organization is primarily focused on initiatives designed to prevent, manage and resolve conflict within and among the participating States. The Organization deploys numerous missions and field activities located in Southeastern and Eastern Europe, the Caucasus, and Central Asia. The website of the OSCE is: <www.osce.org>.

ABOUT THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The Commission on Security and Cooperation in Europe, also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance by the participating States with their OSCE commitments, with a particular emphasis on human rights.

The Commission consists of nine members from the United States Senate, nine members from the House of Representatives, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair rotate between the Senate and House every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

In fulfilling its mandate, the Commission gathers and disseminates relevant information to the U.S. Congress and the public by convening hearings, issuing reports that reflect the views of Members of the Commission and/or its staff, and providing details about the activities of the Helsinki process and developments in OSCE participating States.

The Commission also contributes to the formulation and execution of U.S. policy regarding the OSCE, including through Member and staff participation on U.S. Delegations to OSCE meetings. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from participating States. The website of the Commission is: <www.csce.gov>.

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MAY 2, 2017

Page

PARTICIPANTS

Hon. James P. McGovern, Co-Chair, Tom Lantos Human Rights Commission	1
Everett Price, Policy Advisor, Commission on Security and Cooperation in Europe	2
Dr. Beata Martin-Rozumilowicz, Regional Director for Europe and Eurasia, International Foundation for Electoral Systems	4
Dr. Henri Barkey, Director, Middle East Program, Wilson Center	7
Nate Schenckan, Project Director, Nations in Transit, Freedom House	10
Dr. Ebru Erdem-Akçay, Turkish Political Scientist	13

APPENDIX

Prepared Statement of Nate Schenckan, Project Director, Nations in Transit, Freedom House	23
Prepared Statement of Dr. Ebru Erdem-Akçay, Turkish Political Scientist	26
Elections in Turkey: 2017 Constitutional Referendum—Frequently Asked Questions	28

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Commission on Security and Cooperation in Europe Washington, DC

The joint briefing with the Tom Lantos Human Rights Commission was held at 10:30 a.m. in room 2255, Rayburn House Office Building, Washington, DC, Hon. James P. McGovern, Co-Chair, Tom Lantos Human Rights Commission and Everett Price, Policy Advisor, Commission on Security and Cooperation in Europe, moderating.

Panelists present: Hon. James P. McGovern, Co-Chair, Tom Lantos Human Rights Commission; Everett Price, Policy Advisor, Commission on Security and Cooperation in Europe; Dr. Beata Martin-Rozumilowicz, Regional Director for Europe and Eurasia, International Foundation for Electoral Systems; Dr. Henri Barkey, Director, Middle East Program, Wilson Center; Nate Schenkkan, Project Director, Nations in Transit, Freedom House; and Dr. Ebru Erdem-Akçay, Turkish Political Scientist.

Mr. MCGOVERN. Well, good morning, everybody. I'm Congressman Jim McGovern, co-chair of the Tom Lantos Human Rights Commission. And along with my colleague, the other co-chair, Congressman Hultgren, we want to welcome you all to this briefing on institutions and human rights in Turkey in the aftermath of the attempted coup of July 2016, and the recent vote to approve major changes to the Turkish constitution.

I also want to welcome our distinguished panelists, and I want to thank them for sharing their expertise with us today. I thank the Helsinki Commission for co-hosting this briefing, and for its important work over many years promoting democracy and human rights throughout the OSCE region.

So what to do about Turkey, a NATO ally that has turned toward authoritarianism? We are here this morning because we are all in need of answers to that question. Former prime minister and current President Erdoğan has been in power since 2003. And during his time in office, he has steadily increased his power over the military, something that those of us who care about human rights usually welcome. But in August of 2014 he won Turkey's first-ever popular election for president, and there is no doubt that his party, the ruling AKP, has a large popular base.

Yet, for at least the last 10 years, most observers agree that democracy has lost ground to creeping authoritarianism. Turkey is an example of the use of democratic

means to pursue anti-democratic ends. To be more precise, it's the case of the use of elections and parliamentary majorities to consolidate the power of the executive, reduce the independence of the judiciary, stigmatize and criminalize the opposition and the media, restrict protest, and generally undermine the rule of law.

One morning, the folks who don't support the dominant party wake up and realize that the democracy they thought they were living in has turned into an authoritarian nightmare. It doesn't happen overnight. It happens over years. In Turkey, last summer's coup attempt served as an excuse for the government to intensify repression. In the last nine months, human rights abuses have occurred on a massive scale that has suddenly made the deterioration of democracy very evident and very visible to the entire world.

As many as 130,000 public workers have been fired, 45,000 people have been arrested, hundreds of journalists have had their credentials revoked, and dozens of media outlets have been shut down—all without due process or recourse. Thousands of businesses, schools and associations have been closed. Human rights groups have documented intimidation, ill-treatment and torture of those in police custody. And in the ongoing conflict with the Kurds in southeast Turkey, we on the Commission have received reports of allegations of war crimes committed against civilians.

In a country that's a NATO ally, this is a mind-boggling record. Most analysts of the April referendum have concluded that the constitutional changes further weaken the independence of the justice system and reinforce Erdoğan's power. Thousands more people have been purged from the civil service and the military since that vote took place. Victims of the government's abuses who have spoken with us—journalists, doctors, lawyers, judges, and scholars—are searching for what to do next to protect themselves and others. And all of this is taking place against the backdrop of the conflict with the Kurds, the ongoing wars in Syria and Iraq, and the fight against ISIS—conflicts in which Turkey's interests and those of the United States and Europe do not always coincide.

I think it is clear that we are at a crossroads in the U.S.-Turkey bilateral relationship. Turkey is a strategically important country, but I do not believe that repressive regimes that consistently violate fundamental human rights make for reliable allies, nor do I think massive repression is effective for countering extremism. It more likely feeds it. So I'm eager to hear what our panelists think the U.S. Government, and particularly the Congress, may be able to do to help get Turkey back on track and, in the meantime, to protect those who are getting trampled by the Erdoğan government.

So I now turn this over to Everett Price, who's a policy advisor at the Helsinki Commission, who will moderate the briefing and introduce our panelists, and lead the discussion. Thank you.

Mr. PRICE. Thank you very much, Congressman McGovern.

Good morning. I want to welcome everyone to this congressional briefing titled, "Turkey Post-Referendum: Institutions and Human Rights," co-hosted by the Tom Lantos Human Rights Commission and the Commission on Security and Cooperation in Europe, otherwise known as the U.S. Helsinki Commission.

We have the privilege today to hear from an expert panel that will update us on the state of democratic institutions and human rights in Turkey. The timing of this briefing is significant. Two weeks ago, Turkey had a constitutional referendum to fundamentally alter its form of government from a parliamentary system to a presidential one, and confer broad powers on the so-called executive presidency that will come into effect in

2019. Two weeks from now, Turkish President Recep Tayyip Erdoğan will travel here to Washington, where he is scheduled to hold his first-ever meeting with President Donald Trump. Bookended by these two events, it is a critical time to evaluate U.S.-Turkish relations.

How do we assess the events that have transpired, and how should that influence the way we proceed? Today we ask those questions specifically of Turkey's waning respect for democratic institutions and human rights. The referendum two weeks ago was held under a protracted state of emergency, in a media environment muted by intimidation and self-censorship, and amidst an ongoing war in the southeast that has displaced at least half a million people.

Before the vote, international observers and opposition groups raised significant concerns about the content of the amendments and the context for the vote. Afterwards, they questioned last-minute changes to the tallying process, where less than 1.4 million votes made the difference between the yes and no camps. President Erdoğan dismissed these concerns out of hand, and scolded international observers, telling them to, quote, "know their place."

Our panel's extremely well suited to help us understand what has become of Turkish democracy, why that matters, and how the U.S. should respond. Our first expert is Dr. Beata Martin-Rozumilowicz, the regional director for Europe and Eurasia at the International Foundation for Electoral Systems, or IFES. She will discuss the conduct of the constitutional referendum, drawing off her extensive experience in the field of election observation. From 2009 to 2016, she served as the deputy director and then director of the election department for the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights, known as ODIHR. It was the preliminary report for ODIHR's international referendum observation mission in Turkey that drew President Erdoğan's ire last month.

Next we'll hear from Dr. Henri Barkey, director of the Middle East program at the Woodrow Wilson International Center for Scholars, and the Bernard L. and Bertha F. Cohen professor at Lehigh University. Dr. Barkey is a renowned expert in Turkish affairs. And we have asked him to help us understand the changes that are taking place to Turkey's governing institutions, particularly as they impact the rule of law and human rights.

Our third panelist is Mr. Nate Schenkkan, project director for the Nations in Transit Initiative at Freedom House, a research project on democracy in the 29 formerly communist countries from Central Europe and Central Asia. Mr. Schenkkan has deep expertise in Turkey and the broader Eurasian region, where he has dedicated much of his time to focusing on democratic institutions and human rights. Today he will give us a sense for Turkey's media environment and civil society sector—two critical pillars of a democratic society.

Last, but certainly not least, we'll hear from Dr. Ebru Erdem-Akçay, a political scientist and Turkey analyst. In early 2016, she signed a peace petition, along with a couple thousand other Turkish scholars, calling for a peaceful resolution of the conflict in Turkey's Kurdish-dominated regions. She will share with us her experience and that of her academic colleagues, who have come under overwhelming official and social pressure for the stand that they took for peace.

We have much to discuss, and I want to make sure we have plenty of time to open the floor to questions after the interventions by our panel. So, without further ado, I will turn it over to Dr. Martin-Rozumilowicz.

Dr. MARTIN-ROZUMILOWICZ. Thank you very much. Good morning to everyone. “Hos geldiniz.” And thank you to the U.S. Helsinki Commission, and especially to the Tom Lantos Human Rights Commission for hosting what I consider to be a very timely event on a very important country.

I’m here representing IFES, the International Foundation for Electoral Systems, which, as many of you may know, is a nonpartisan organization better known as IFES. And we worked in over 145 countries to support citizen rights to participate in free and fair elections, with the understanding that credible elections are really the cornerstone of a healthy democracy, and that enabling all persons to exercise their basic human rights in how they are governed is one of the most fundamental aspects of democratic rule.

My background with the OSCE ODIHR, I’ve been involved with Turkish elections as far back as 2009, specifically with the 2011, 2014, and 2015 elections. But today I would like to primarily draw upon the reports of various observers—both the OSCE ODIHR, the Parliamentary Assembly of the Council of Europe, the Venice Commission, and others in their evaluation of this process. IFES does not currently have activities in Turkey, other than activities with Syrian refugees in the south of the country, but it’s very much our hope that more extensive work in the area of democratic governance is something that will be on the cards in the future.

As many of you will know, previous to this referendum in April the Turkish Government was based on the 1982 Constitution, which really defined Turkey as a parliamentary republic with the executive power vested in the Council of Ministers, headed by a prime minister. And this involved a legislature of 550 representatives in which the latest iteration represented four political parties within the Turkish space. However, over the last decade, the issue of transformation of the constitutional order had been discussed quite widely, both in the 2011 and the 2014 elections.

The AK Parti had already transmitted their viewpoint that it would be beneficial to the country to transform to a presidential type of government. And as of December, there was a very quick process in which those amendments were put through the parliament. Many of the HDP deputies were in jail at the time, so I’m not sure that there was really a full-bodied discussion. But on 11 of February, the Supreme Board of Elections announced that the referendum would take place on the 16th of April. So between December, when those amendments were first tabled, and February, when the referendum was announced, it was a very short process to get these amendments put forward.

Those 18 amendments affected 72 articles of the constitution, and they were voted on as a single package, which is really contrary to international good practice for referenda. These changes will bring about a change of the present parliamentary system, abolishing the office of the prime minister, transferring some of the parliamentary oversight functions to an executive presidency, increasing the number of seats in the parliament to 600, and empowering the president to appoint some high-level positions in the judiciary. Now, this package of amendments was analyzed by the Venice Commission, which is the, I would say, main body in Europe in terms of legal reform. And it was criticized as not having the necessary checks and balances in place to prevent possible authoritarianism.

But beyond that, there were other concerns expressed with the background to which the referendum took place in. One of the main aspects was the state of emergency, which continued and which was seen as restricting certain fundamental freedoms in the process of the referendum; also ongoing security operations in the southeast of the country that resulted in several thousands of people fleeing their homes. And this really led to questions as to whether conditions were in place to permit a really democratic process to take place in voting on this referendum.

I would also add, as background, that none of the proposed amendments were featured on the ballot, so voters were simply asked to vote for a yes or no option, with no detail on what they were voting for. And as international observers also commented, there was an un-level playing field, with unequal opportunities in order to be able to campaign on either of those positions. This included a lack of impartial information to voters about key aspects of the reform process. I would note also that civil society organizations were not able to participate fully in that referendum process, fundamental freedoms essential to democratic process were often curtailed, and observers also noted, from their quantitative analysis of the media framework, that one side really dominated the referendum in the media space. And then lastly, I would mention that latent changes in the counting process removed important safeguards.

And so I'd like to unpack a few of those aspects specifically with regard to the legal framework, the election administration, and a little bit about the referendum day process. One of the aspects of the legal framework was that it was really based on election legislation and not legislation specific to referenda, which meant that much of what was implemented was based on regulations and instructions issued by the state board of elections, but the framework was really inadequate for a referendum process as such, as was judged that way by key international organizations.

The use of emergency decrees particularly in the referendum process was judged to be inappropriate. And in particular appeals lodged by CHP members to the parliament, the Constitutional Court decided that it does not have jurisdiction to consider appeals of emergency decrees, which thus effectively barred any challenges to the referendum-related decrees through any kind of legal process. I would also add that key legal framework recommendations that have been made in past elections had also not been addressed prior to this referendum, including those on suffrage rights, issues of campaign finance, lack of judicial review, and on the rights of observers.

In terms of the actual administration of the election, observers who were on the ground judged it to have been relatively well-administered by four levels of election body. However, they noted that the election boards lacked transparency, that often the board sessions were closed for the public and for observers, and that only a limited number of those decisions were published in the public domain. There was also a very large scale turnover for election administration following the attempted coup in July 2016. Three of the SBE members were changed, 221 lower-level election chairpersons, who were all judges, were also replaced following their dismissals.

And one other point that I would underscore is that the law does not envisage an opportunity for balanced representation for the proponents and opponents in a referendum process within the referendum administration. And this is something that is really recommended by good international practice. So the election administration was very much based on the election law, which meant that political parties gained representation on an

observer status basis, but the various sides that were arguing the referendum did not have proper representation in the election administration.

Regarding voter registration, in case some of you are interested, more than 58 million voters were registered to vote, including 2.9 million voters abroad. Voters were able to verify their entry in the voter list and to request changes. However, many who had to flee their residences in the provinces were affected by security threats and faced difficulties with their registration. And many international observers were informed that some of them were not able to vote.

A few words about the campaign for the referendum. The law does not provide for broad stakeholder participation, as I mentioned. To participate in the referendum, one had to be a political party registered with the Supreme Court chief prosecutor's office, and have an organizational structure in at least half of the provinces and one-third of the districts. These eligibility criteria unduly limited political pluralism. And as well, following an SC CPO investigation, 19 political parties that had been eligible to compete in November 2015 were found to be ineligible for the purpose of this referendum.

The campaign framework was restrictive. The campaign was found to be imbalanced, due to the active involvement of the president and several leading national officials, as well as many local public officials in the yes campaign. And I would just note here that under the constitution—the previous constitution—a president was required to remain nonpartisan and perform his duties without bias.

There was also observed obstruction of efforts of several political parties and also civil society organizations, to the extent that they were able to get involved, to support the no campaign, as well as noted misuse of administrative resources in the process. And supporters of the no campaign faced a number of undue limitations with regard to their freedom to campaign, and sometimes suffered physical attacks. A high number were arrested, most often on charges of organizing unlawful public events or insulting the president. And in numerous cases, no supporters faced police intervention and violent scuffles at their events.

Lastly, I would just touch upon the issue that the law does not provide for international and nonpartisan observation, either from the international community or civil society. The efforts of political parties to observe the process varied, and significantly limited their ability to observe efforts to due to fear of repression. I would also note that following the attempted coup 1,583 civil society organizations were dissolved. And I'm sure my other colleagues will be talking about this in more detail.

And then just for the referendum day proper, it was noted by observers to have proceeded in an orderly and efficient manner, although they only did observe in a limited number of polling stations. They did note that some observers were impeded in their observation, especially during the voting and opening, when access was either not granted or limited. Police presence was widely reported, both in and outside polling stations. And in some cases, police were checking voters' identification documents before granting them access to the polls, which is really not within their purview to be doing.

And I would also underscore a late instruction issued by the state board of elections, which significantly changed vote—the ballot validity criteria. And this undermined an important safeguard and contradicted the law. But in essence, the SBE, during the referendum day, issued two instructions—to consider ballots improperly stamped by the ballot board commission and those without a ballot board control stamp as valid. And this

was given after the counting of votes had already commenced. And so this variable approach means that it's very unclear to what level certain ballots which may have been considered valid were made invalid, and vice-versa, which also adds complexity to the referendum process.

The final result that was announced was 51.3 in favor of the yes vote. But many of these aspects that I have mentioned in the eyes of the international observer community have caused questions to be asked about the fairness and the democratic fundament of this referendum process. Thank you very much.

Mr. PRICE. Thank you.

Dr. BARKEY. Yeah. Thank you for the Helsinki Commission, the Tom Lantos Commission, to invite me.

And thanks for Congressman McGovern, who was here earlier.

What I will talk about is the impact of the constitutional changes on the political system and also look at some of the issues regarding the judicial system in Turkey. Let me start with the—you heard some of the changes, I'm not going to repeat them—in terms of what the new constitution includes. But this is a constitution, now it's been accepted, that was tailor-made for Erdoğan.

When you look at all the details—I mean, this is designed to essentially install a one-person, one-man rule in Turkey for a very, very long period of time. And it doesn't allow for any—really any organized opposition. But the most important thing that it does, is that it completely obliterates the concept of the separation of powers. There is no longer separation of powers. All power—all judicial power, all legislative power, and all the executive power now is in the hands of one man.

People have made a lot of fun of the fact that Erdoğan built himself a 1,000-room palace in Ankara. But in fact, he already was planning these changes because Erdoğan is not going to waltz with his wife in the big palaces like Versailles, et cetera. No, this is to concentrate all the executive and all powers in one building, so that everybody will be at his command.

One of the things that this does is, it not only it eliminates the prime ministership, but it makes all the Cabinet members—he appoints all the Cabinet members, whereas in the past Cabinet members came from parliament. And so the Cabinet members have no responsibility to parliament. He hires them and can fire them, as some people have talked about here. And at the same time, he also appoints all the top-level bureaucrats—undersecretaries of all the ministries. Now, you can say also in the United States the president has this power, except that we have a confirmation process and Congress has the right to—the Senate in this case—has the right to question the nominees. The top level of the bureaucracy will be appointed politically.

Actually today, Erdoğan, who was supposedly an impartial president—well, he never was—now is officially a member of the party. And he's going to become the head of the party. So the president is not only leader of the country, but he's also the leader of his political party, which means that all parliamentary members are also ultimately responsible to him. In other words, he will decide who can become a member of parliament or not. So in effect the parliament, which already has now diminished powers, will—individual members, at least, from his own party—will be determined by him. So, if you cross the president, you can be sure that in your next election you will not be a candidate again.

So parliament doesn't have the right anymore to question Cabinet members. You can send—I mean, in the old days you could have formal questions in parliament, or you could send formal requests for answers. Now you can write to them, but whether or not a Cabinet member decides to respond to you depends on his or her whim. Which means that the only parliament has been completely denuded from power. There are also a few gems in the constitutional changes as well.

First of all, people think that this constitution limits Erdoğan to two terms, starting in 2019. Well, in fact, there's a loophole. The loophole says that if in the second term of the presidency national elections are called—which a president can do that, of course—then the second term is counted as invalid in terms of the term limits. The president can run for a third term. So imagine for a moment that Erdoğan wins a first term in 2019, serves five years, has another election, wins again. On the fourth year of his second term, he suddenly decides he wants to have parliamentary elections. So he will have served nine years. Let's say he wins again. He will then be able to serve another five years.

And in fact, he's going to be able to run for 14 years after 2019. If you do the math, until 2033, which means that he'll have been in power nonstop for 30 years, from 2003 onwards. This is a little bit of a—you know, he's trying to show that he's going to be the most consequential leader, which he will be, in Turkey since Atatürk. And even, in his mind, probably more than Atatürk.

So he plans to be there until 2033. But to me, actually the most insidious change that most people missed is a two-word change to one of the constitutional amendments. There is something called the State Oversight Council. This is a council that has—under the old constitution—had the right, and reports to the president—has the right to do oversight of any institution, public or private. That is to say, they can look at Turkish Airlines and say whether it's managed well or not, look at Turkish electric company, you name it. So any government-owned or any government institution, whether a certain ministry or not, is—will be—they have the oversight of it. They also have oversight over NGOs and civil society groups like chambers of commerce, labor unions, et cetera.

But it was only an oversight law. They added two words to now give that council the right to prosecute. Which means the president, if he doesn't like a certain NGO or a certain business association, can decide to tell this council, just issue a report, and there goes that—in other words, he can close it down. So that gives essentially a chilling effect on all the institutions in Turkey. And this is the one thing that actually I was surprisingly—in Turkey there was absolutely no discussion of this—of this particular change, and there's been very little change otherwise. So we're talking essentially about an amazingly authoritarian system that is coming to power through the constitutional referendum.

Now, let me talk a little bit about the judicial system, because in some ways the judicial system, just like in our country, has been a little bit of an opposition to any governmental power in Turkey. Now, let me just emphasize one thing. This is not to say that pre-Erdoğan or pre this constitutional change that Turkey was a democracy. Turkey was always a challenged democracy. It was always a managed democracy. It was a democracy in which there was always a power behind the throne, and that was the military. And that the military essentially could veto, without saying anything in public, all kinds of decisions that any government took.

And every single government—because there have been so many military coups—every single government always lived under the shadow of a potential military coup. So it was not a democracy, OK? We shouldn't suddenly say, oh, Turkey was a democracy and

is becoming undemocratic. It was one form of undemocratic system. Unfortunately, under the new system, it is becoming even more undemocratic. It's just going from less democracy to whatever you want to say. That's the most important thing to remember about Turkey.

When you look at the judiciary, the judiciary now is going to be completely controlled by the president. He will be able to appoint just about every single member of the Constitutional Court, every single member of the Council of Prosecutors and Judges. Those are the people who essentially decide all the rules that judges and prosecutors have to abide by. And he does this essentially either by—he has the right to appoint directly some of these judges. But parliament also appoints them. But since parliament is planned to be essentially from the same party as the president in the way they've constructed the system, in effect he will tell them whom to appoint.

And look at what essentially has happened to the Justice and Development Party [AKP]. The AKP, which was in its formation years, was essentially a system where Erdoğan was *primus inter pares*. He was the most important leader, but there was a whole cadre of second-level people who had a huge amount of influence, who had essentially support in society. Every single one of them has been essentially dismissed or is no longer in the party. Who has replaced these people are essentially yes-men—mostly men. So you have a system now whereby everybody responds to Erdoğan.

When you look at the judicial system, all right, we have seen enormous numbers of people—and Congressman McGovern mentioned them—who have been dismissed, who have been jailed. More than 150 journalists are in jail. Some of the people—a friend of mine, one of the great intellectuals of Turkey, he and his brother are in jail because apparently the day before the coup they were sending subliminal messages on television. You tell me, how are you going to try this case, and how you're going to prove subliminal messages in a court of law? They've been in jail now for almost 200 days without the charges being implemented.

So you already see that the judicial system has been completely corrupted. Look, I used to say that in Turkey—this is before these new changes—that Turkish justice is to justice what military music is to music, right? There's a semblance, all right, but it is not really music. It is not really justice. Now, it's even worse than that. As of last week—and there have been more purges since these numbers so I haven't been able to update them yet—4,100 judges and prosecutors have been dismissed, of whom 3,089 are in jail. It doesn't take much to dismiss—I mean, of course you can accuse somebody of being a member of Fethullah Gülen organization. And, yes, there was—many of these judges and prosecutors were affiliated or sympathetic to the Gülen movement, which was an ally of the government.

But it is also the atmosphere. About three or four weeks ago, a panel of three judges released 21 journalists, one of whom is a friend of mine. I remember in the morning when I heard the news I was very excited. I tweeted that this guy, Acar, had been released. But before they could essentially leave the prison, they were re-arrested on new charges. But most importantly, the three judges and the prosecutor who decided to release them were all dismissed.

So you tell me, next time a judge has to make a decision on whether or not to release a defendant, whether or not he or she will dare to? Because when you get dismissed from the service not only do you lose your salary, you lose your right to work for the government again, they take away your retirement benefits, and if you had public housing—you

lived in housing offered—you immediately get kicked out. So the atmosphere of fear and pressure is such that you can't breathe anymore in Turkey, all right?

And you must have seen the news yesterday that Wikipedia has been banned because they repeatedly refused to take down some references to Erdoğan that he did not like. People get jailed for long periods of time for quote/unquote “insulting the president” on Twitter. But you don't have a judiciary anymore that can stand up. And that's a great tragedy, because there's nobody left in Turkey who now can defend the individual against the state. As bad as the judicial system used to be, at least there were judges who could stand up to executive authority and who did do the right thing. That's gone now. They're either purged or they're completely cowed.

Let me stop here, and then if you have questions I'll answer them afterwards.

Mr. PRICE. Thank you, Dr. Barkey.

Mr. Schenkkan.

Mr. SCHENKKAN. Thank you. And I'd like to thank the Commissions—the Helsinki and Lantos Commissions—for having me today. It's an honor to be here.

I'm going to speak about non-state institutions in Turkey. At Freedom House and on the project that I direct, Nations in Transit, we use a thick definition of democracy. What that means is as opposed to a thin or a minimalist definition that is just about elections, we think about democracy in terms of intermeshed but functionally independent institutions. And so those are elected and non-elected state institutions—like national governments, local governments, the judiciary, but also non-state institutions, the media and civil society. I'm going to focus on those non-state institutions and how they've been subordinated under the agenda of the Justice and Development Party, but in particular under President Erdoğan's agenda for the last several years.

I'll start with the media. And I want to state, like Dr. Barkey did regarding the judiciary, that this crackdown on the press in Turkey that we've been following now for several years, and has gotten a lot of attention in international media and in policy circles, there's good reason for that. But at the same time, Turkey's media has been vulnerable for a very long time—and since long before 2002, and before the AKP became the dominant party.

This is true legally in terms of the protections offered to freedom of expression and to the media. Turkey has very over-broad legislation, especially in the realm of anti-terror legislation. It's also true on the financial side, and in terms of kind of the structural issues within the media, which have left media owners for several decades dependent on cultivating good relationships with the government or with the military, when the military was dominant, in order to make sure that they won government contracts for other business interests that those media owners also held.

So what the AKP and what Erdoğan did is, they took full advantage of those vulnerabilities. And so, by the time the Gezi Park protests started in May 2013, which is when a lot of this started getting a lot of international attention, they had consolidated their control over the mainstream media already. Most of the mainstream outlets by that time had been transferred to supportive owners, and they had become pro-government channels. The government's most influential media company, the Dogan company, had been forced to sell off two of its most important assets to a government-friendly owner because it was subject to a politically motivated tax investigation.

And then in addition, with the internet—which is a longer and separate topic—when social media and internet organizing showed themselves to be actually quite powerful tools in 2011 and in 2013, during Gezi, the government first moved to suppress those, and then also to co-opt them, to take over those channels as well. There was also extensive imprisonment of journalists already in that time. A majority of the journalists—as they had been under previous regimes, under previous administrations prior to the AKP—a majority of the journalists persecuted and imprisoned were Kurdish or left-wing journalists.

So by December 2013 already the Committee to Protect Journalists [CPJ] was recording 40 journalists in prison in Turkey. And their counts, for the record, tend to be a little bit lower than some of the other monitoring groups because of their methodology. And in that year already, Freedom House had downgraded Turkey to “not free” in freedom of the press. So, for all that the alarm bells were ringing at that time, in early 2014, the deterioration has still been, frankly, extraordinary. The AKP fell out with its former allies in the Gülen movement, which I know we’re going to talk about a little bit, in December 2013.

And at that point, the crackdown on the media widened to include the Gülen movement’s affiliated outlets, which previously had been on the side of the government and had been protected a little bit from this persecution. The government took over a series of Gülen-affiliated outlets, and also began using affiliations or connections with the Gülen movement—very indirect connections—to persecute other non-Gülen journalists. We also started to have a huge wave of foreign journalists having their press credentials denied, being deported, in some cases being arrested within the country.

Then the coup attempt, July 15, 2016. And since then, I would say the attack on the media has really taken on this scorched earth kind of quality. The powers granted by the state of emergency, which is still in effect, give the government the power to close media outlets unilaterally. And they’ve used that very widely. They’ve closed and expropriated, I should add—the government has seized the assets—of more than 150 media outlets—TV stations, news agencies, magazines, newspapers, publishing houses, radio stations. There were two more closed this weekend. Yes, many of those are Gülen-affiliated. Many are not. And essentially, the ones that are not are largely leftist or Kurdish. So you have kind of all these things being folded into one large crackdown.

Imprisonment, CPJ as of December 2016 was counting 81 journalists in prison. The local monitor, P24, is counting 163. They just updated it today. The impact is the total evisceration of the media sector. There’s dozens of well-known journalists—I mean, we all know now many journalists who are in prison, many others who are in exile. And those who are working, who continue to work, fear every day that they can be targeted. That results in a media that is crippled and self-censoring. Or, alternately, that what remains open is marginal and cannot reach a broader audience. So the Dogan Group, the largest—formerly largest media group—its flagships, Hurriyet, CNN Turk, they remain open, but they’re extremely censored at this point—self-censored, because editors are afraid of consequences if they cross one of the many invisible lines.

Cumhuriyet, the country’s oldest newspaper, is still open. But its former editor, Can Dündar, is in exile. Its current editor and 10 other staff members are in jail. And there’s now a very muddy legal case that’s being fought out, where the judiciary may be used to manipulate the future control of that paper. And what you have then are things like far-left—what we would have considered far-left or hard nationalist—very obscure outlets

like Evrensel, Aydinlik, all of a sudden playing a much bigger role, because readers don't have anywhere to go for information, journalists don't have anywhere to go to work. But the resources of those outlets and their ideological affiliations and positions really means that they really can't read a mainstream audience. Also, in addition, I should add that they are print, fundamentally. And TV is under very solid control, which is far more important.

This means that many stories just aren't covered, or if they are covered are covered only in the way that the government wants to frame the coverage. So really all the most important things you can imagine—official high-level corruption, the state of the economy, the war with the PKK, radicalization and recruitment for Islamist groups like ISIS, and then of course the coup attempt and the purges that have followed—these are essentially either off-topic or off the agenda or they are framed within the way that the government wants to frame them.

On civil society, briefly, it's also very dire. The formal civil society sector that I'll talk about—the NGOs, think tanks, professional activist groups—again, they've also long been suffering from the same kind of negative legal environment, even prior to the AKP, and prior to the crackdown starting 2013 and its escalation in the recent years, and since the coup attempt. And as with the media, those that have been targeted the most are leftist and Kurdish groups, or human rights defenders who work on behalf of ethnic, religious, sexual minorities. Most recently the renewal of the conflict with the PKK already, in summer 2015, brought very serious consequences for human rights defenders and for human rights groups in Turkey.

Tahir Elçi, who was the chairman of the Diyarbakir Bar Association and one of the most prominent human rights defenders in Turkey was murdered in public in Diyarbakir in November 2015. And the investigation remains ongoing. It remains unclear why he was killed or who killed him. But at the time, he was facing charges for disseminating terrorist propaganda for criticizing the conduct of the war against the PKK. In 2016, before the coup attempt, the president of the Human Rights Foundation of Turkey, as well as the Turkish representative of Reporters Sans Frontieres, were among a group of freedom of expression activists who were arrested and are being prosecuted for a solidarity campaign with a Kurdish newspaper. And that trial continues, remains open.

And since the coup attempt, the government has been using—like with the media—using the coup attempt as a pretext to purge the sector. So as was mentioned, more than a thousand associations have been closed under emergency orders. Many of these are completely obscure, nonpolitical groups, where there's no conceivable connection to the Gülen movement or to leftism, in fact. Some of the others are being targeted probably for their work. You have a couple of very important lawyers groups that handled human rights cases—the Progressive Lawyers Organization and Liberal Lawyers Association—that were closed. Four hundred and eleven lawyers are currently under arrest right now.

The Islamic human rights organization and effective conservative Islamic human rights organization, Mazlumder, has had its leadership replaced, in this case due to heavy government pressure and internal disagreements about how to cover the war with the PKK. And then a number of prominent human rights defenders are being targeted directly. Orhan Kemal Cingiz, who's a very well-known human rights lawyer, who was also the lawyer for Zaman, a Gülen flagship newspaper, after it was seized by the government. Orhan Kemal is under indictment, along with dozens of journalists, for supposedly being a member of the Gülen movement. And the evidence in this, frankly ridiculous, case

is simply that he wrote columns at Zeman. And he, along with the others in that case, are facing three aggravated life sentences.

Additionally, other human rights defenders—Mohammed [sic; Muharrem] Erbey, who's the former chair of the Diyarbakir branch of the Human Rights Association, was sentenced in March to six years in prison for being a member of an illegal organization. The current chair of the IHD in Diyarbakir, Raci Bilici, was detained in March and is under investigation under similar charges. And the Cizre Representative of the Human Rights Foundation of Turkey, who is a doctor, was convicted of aiding an armed group for acting as a physician during the fighting in that city.

So what then does the referendum mean and what do the changes mean for media and civil society? In a direct legal sense, I would say they don't necessarily change that much, with the exception perhaps of this amendment. The vulnerabilities that were there for media and civil society are so grave, and have been for so long in Turkey, that there's really been very little to constrain an organized and a willing state from taking any kind of action it wanted against the media and civil society. And they have done so, especially since the coup attempt.

Indirectly, though, in the legal sense, the referendum means a great deal because of the disappearance of any kind of independent judiciary, as you see in this recent case involving one of the groups of journalists that Dr. Barkey mentioned. Just like regular citizens, media and civil society needs to have ways to appeal actions of the law enforcement or the executive branch when they are persecuted. And without an independent judiciary, there's simply no check. And so we'll see much more arbitrary abuse of power as a result.

And then finally, in political terms, there are ramifications for media and civil society. To go back to the distinction I made at the beginning between the thick and thin democracy, President Erdoğan and those who support him in his camp, who are consolidating control, have an extremely thin conception of democracy. It really comes down to only voting, and only voting in all disregard for even the circumstances of that voting. And what they see, when they see media and civil society, are not independent institutions that should be respected and protected. They see threats, or they see opportunities, ways to further dominate the public discussion and to drive a public agenda.

And with this kind of very thin definition of democracy now in ascendance, the future for media and civil society is, unfortunately, very grim.

Thank you.

Mr. PRICE. Thank you.

Go ahead.

Dr. ERDEM-AKÇAY. Good morning. I'd like to thank the Helsinki Commission and the Lantos Commission for inviting me to talk about the academic freedoms in Turkey. And I'd like to thank them for giving a voice to the Turkish academics who have been facing persecution and prosecution in Turkey since January 2016.

I'd like to pick up on where Nate ended. Basically, the July 2016 coup attempt did not make a huge difference. Even the referendum now, with the constitutional changes, it will not make a huge difference in terms of the trajectory that Turkey has been on towards more authoritarianism. And I will try to illustrate this case by using the case of Academics for Peace in Turkey.

In June 2015, there were parliamentary elections held. For the first time since 2002, Justice and Development Party, AKP, failed to gain enough seats in the parliament to achieve a majority. This meant that they could not just form a government. And that was a period of political uncertainty, after the election—will there be a government, will it be a minority government, and things like that. And during this time, the uncertainty contributed to the worsening of the situation in the southeast. The Kurdish towns in the southeast have been experiencing civil violence for decades now, but in this period this conflict became more urban warfare, rather than the rural warfare that it had been experiencing before. And urban warfare has different dynamics and different consequences, especially considering the numbers of residents living in urban areas.

So larger numbers of residents were caught in the crossfire between PKK militants and the military. Tens of thousands had to flee their homes. Neighborhoods blocks away from the governor's offices, in cities like Diyarbakir, for example, were shelled. People were trapped in their homes under curfews—and when I say curfews, it's 24 hours. So I prefer to use the word siege. And they had a hard time finding bread, let alone ambulances for the wounded.

Towards November and December of 2015, terrible news and heart-wrenching images were trickling through to the rest of the country. In January 2016, a group of scholars called Academics for Peace protested this ongoing violence and called for a peaceful solution to the conflict in a peace petition. This petition was titled “We Will Not Be a Party to This Crime.” The statement demanded an end to the ongoing violence and to the siege in the region. They called for identification and punishment of those who violated human rights during this period. They also asked for permission of international observers to study and report the conditions and human rights violations. And they also denounced all forms of government suppression on the opposition.

At the time of the declaration on January 11th, 1,128 scholars had signed the petition. They were women and men who worked as faculty, researchers, and doctoral students at public and private universities across the country. Also, Turkish citizens abroad. It would be fair to say that they are all left-leaning, democratic, and progressive individuals, and many had activist experiences and they were active in politics. By the time the petition was closed to signatures on January 18th, a total of 2,212 scholars, including myself, had signed on.

Right after the public declaration of the petition, the signatories became the targets of Erdoğan himself, other high-ranking AKP leaders, the Higher Education Council, university administrators, convicted mafia leaders, ultranationalist thugs on campuses, and local nationalist and pro-government media. The signatories faced real threats to their lives and security. Their photos were published in local media as traitors, their campus office doors were marked with red paint. Some received threat letters under their office doors. Some were threatened with death and/or rape, insulted, harassed on social media. They were branded as PKK militants. Erdoğan himself called them traitors. Mafia leader Sedat Peker said he would spill their blood in streams and shower in it.

Local prosecutors and university administrators started legal and disciplinary investigations respectively. All of the some 1,400 signatories who lived in Turkey at the time are currently subject to criminal investigations. But they were not told what they were charged with when they went to the police to give statements.

This case is at the investigation stage and has not gone to court yet. Four Academics for Peace were held in pretrial detention for a month, some of it under solitary confine-

ment. And this was for reiterating the content of the peace petition and outlining the retaliation that Academics for Peace face after the declaration. Their case is still ongoing, but they have been freed pending trial.

Fifty-six scholars were briefly detained, and their homes and offices were searched in the weeks following the declaration and the outrage. And just yesterday, about 13 other scholars were detained in Diyarbakir and then released.

To this date, I have not seen any court decisions convicting any signatories with charges related to the peace petition. Those Academics for Peace who had contractual positions had their contracts terminated soon after; 122 were dismissed, forced to resign or retire. However, it is not as easy to dismiss faculty who have more secure positions, similar to the tenure in the United States. Dismissing them involves bureaucratic action such as investigations by a committee, defense statements and higher-education council approvals. Moreover, these decisions can be appealed and reversed by the courts technically.

Between January and July of 2016, 505 investigations were ongoing at universities, and some contract terminations were actually reversed by the courts, although they were never really reinstated to their previous positions, despite the court's decision.

The coup attempt led to the declaration of a state of emergency, which has been extended every three months ever since, currently ongoing in Turkey. State-of-emergency rule allows rule by governmental decrees. And these decrees effectively bypass the legislature and any bureaucratic regulations. It is through these decrees that the government was able to ban hundreds of thousands from public-service employment and canceled their passports.

The 7,317 purged academics cannot find employment in any public university. And private universities or private companies refrain from hiring them because their names were on this list. They are basically blacklisted from employment anywhere. Those who were able to secure fellowships and visiting positions abroad had to forgo these opportunities because they do not have passports anymore. There is no legal recourse for the purge decision. Both higher administrative court and the constitutional court have declined appeals, saying they have no jurisdiction over them.

Coming back to the Academics for Peace, 372 of them who could not be dismissed through the bureaucratic procedure were dismissed overnight with cabinet signatures, just by decree. Sixty-six of the 484 academics dismissed by decree—66 of the 484 academics dismissed by the decree on April 29th, just recently, were Academics for Peace. And several Academics for Peace were recently purged from Dicle University in Diyarbakir, the major town in the southeast. They were detained yesterday, and fortunately they were released. But it looks like there is another criminal case coming.

There is no expectation of justice any time soon, because the judicial system itself is undermined by the purges. Many of the justices and judges, prosecutors, they were purged too. And the justice system is totally overwhelmed with the huge number of cases. There is a huge volume of cases, and actually there's not even enough space in prisons anymore.

The coup attempt failed, but it enabled the government to dismiss Academics for Peace by passing the requirement—required official procedure. And it was able to punish the dissenters in a way that it could not do under no-state-of-emergency situation.

And a funny tidbit here—actually, tragicomic—is there were some Academics for Peace who had resigned from their positions or who were actually dismissed because they were on contracts. But they were still purged, the decree, although they were not working for a while, because the government wanted to punish them by blacklisting, because the actual purge removes you from your position but it also takes away your pension. It takes away your passport. And it is more dire punishment than just simple dismissal.

It was known from Erdoğan's comments in January 2016, way before the coup, that the Academics for Peace would pay a price for signing the petition and asking for peace. But this price was steep and collected more swiftly, thanks to the coup attempt. And under the current situation with the new constitution, we do not really have much hope for any improvement towards more justice.

Mr. PRICE. Thank you very much, Dr. Erdem-Akçay.

And thank you all very much for your extremely compelling and expert interventions. I think we've gotten a very impressive, if overwhelming and disheartening, view of the landscape of repression that currently exists in Turkey.

I wanted to pick up on one theme that coursed through a few of your interventions, and that is that this is not new to the Turkish experience: that it was already a weak democracy before the constitutional referendum, before the coming of the AKP Party. And I wanted to ask, what lessons do you think we should draw from that? In a minute I want to ask you about what Congress can do and what the administration can do and this sort of thing. But what do you think our lessons should be from that? And does that point to some kind of historical analogy for what our relationship has looked like in the past, and what it might look like now or in the future? Anybody can take that question as you wish.

Dr. MARTIN-ROZUMILOWICZ. Maybe I'll just say a quick word about institutions. And I think one of the fundamental things is that, despite all of the different problems, there was a point in Turkish development where institutions were relatively vibrant and had some level of protection against political incursion.

And I think up until around 2011, at least the election administration, which is formally part of the judicial branch, had some kind of resilience in trying to resist the various incursions that were being made politically. But that only can survive for some period of time. And looking at those early warning signs early enough and trying to buttress those kinds of important democratic institutions in appropriate ways earlier in the process, so that when you come to this very dramatic shift, there is some spirit left that is able to fight the right cause. I'm not saying that would have been the ultimate solution, but it may have helped in the current circumstances.

Mr. SCHENKKAN. Yes. And I think I would add on to that, which is to say the role of the anti-terror legislation and kind of the formative role within the legal vulnerability for media and civil society—so much of it is based on the way the anti-terror laws are written. And those were a target for reforms in the EU process in the late 2000s. And even five or six years ago, that was still on the table as an item for discussion.

But that was kind of late in the game. And they're such an important constraint for freedom of expression, for freedom of association, for freedom of assembly, that I would say they really needed to be addressed earlier in that process; I think they were saved for the last in a way because they were seen as so sensitive, which they certainly are.

But they're also so fundamental that without improving them and changing that legislation, there really wasn't adequate protection for media or for civil society.

Mr. PRICE. So then if I could ask also, as I mentioned about what steps you think the Congress and the administration should take, are there particular kinds of assistance that you think should be offered or that should be withheld in this kind of environment, and also what specific messages would you recommend that the President convey to President Erdoğan when they meet in a couple of weeks?

Dr. BARKEY. Look, when it comes to issues of freedom of the press, human rights, the United States has failed miserably when it comes to Turkey. And I'm a big "D" Democrat. The Obama Administration was awful when it came to that. A hundred and fifty journalists went to jail under the Obama Administration, and not a peep came out of this administration. This is an administration that's supposed to be sensitive to these issues.

Similarly, you know, we abated Erdoğan's rise, just like we abated the military's rise in the past, because we're always tempted to think that Turkey is strategically too important for us to alienate. But the fact of the matter is that we are more important to the Turks than the Turks are to us.

Yes, Turkey is strategically, amazingly important, unquestionably. We have a very long relationship with Turkey. But now we are faced with a situation where we have essentially a populist leader who on a daily basis assaults us and our allies in Europe, calls us all kinds of names, and not a peep comes out of any of these administrations. And I think the Trump Administration was terribly wrong in calling and congratulating at a time when the Europeans, when the OSCE had not even issued a report on the results of the referendum, and he congratulates Erdoğan on his victory.

I'm sorry. That victory is a victory that may not have been a victory to begin with, because we don't know and we'll never find out, right. And so, first and foremost, we have to at least stand up for our principles. Look, we have the Americans and dual nationals in jail in Turkey. We have people who worked for the U.S. Government.

There's a Foreign Service national who worked for us for 35 years, who was jailed—he's still on our payroll—he was jailed four months ago, and we haven't been able to get him out. And I've—look, he's somebody I've known for 30 years and somebody I really care about. But it's not just—it's the fact that we seem to—we have a bully, unfortunately, in Mr. Erdoğan, and we tend to always bend at his wish.

The only time the Obama Administration stood up to Erdoğan was when he came to the question of Kobani in 2014. The Turks did not want us to intervene. We intervened. And look what happened at the time. Until then, the Turks were refusing to give us access to Incirlik airbase to fight ISIS. So, when we decided to work with the Syrian Kurds, all of a sudden the Turks said, oh, you know what, you can come use Incirlik.

But that should have given us the sense that when you push back, you get results. The Russians got results, for crying out loud, right? The Turks shot down an airplane. Both Erdoğan and Davutoğlu, who at the time was the prime minister, said, yes, we gave the order, and we would do it again. The Russians imposed some minor sanctions, and suddenly those pilots were Gülenists, and suddenly they shot down the plane without authorization from the government.

So there are ways in which one can send up—if you don't do that, they'll take it as far as they can—they will. I mean, in terms of being, shall we say—what's the expression? I can't think of it—honestly, I'm now an indicted conspirator, a formally indicted con-

spirator, for trying to overthrow the Turkish Government. Two weeks ago they indicted me. Mind you, they indicted me with Chuck Schumer—[laughter]—and Preet Bharara and the former head of the CIA, John Brennan; I mean, good company. You know, there are others also in that.

But, come on, they can indict a ham sandwich if they want to. But what did we say about that? Nothing.

Dr. ERDEM-AKÇAY. I realize that the situation in Syria, the Syrian conflict, the fight against ISIS and also the ongoing refugee crisis, Turkey is playing a big role, and we have to appreciate that. You know, criticizing Turkey is not very easy. You have to keep a leader like Erdoğan pleased. And I know that the United States has cooperated with authoritarian leaders, and sometimes even dictators, in the past for geopolitical-security reasons.

But I think I would ask the Congress and our government to at least acknowledge that Turkey is not a democracy. It hasn't been a democracy for a while. They have an authoritarian with a very strict authoritarian regime in place. And adjust our relationships with the country accordingly.

It's not the hopeful Turkey of maybe a decade before or maybe in the early 2000s. They were, like, oh, the Turkish model. No, it's not. Even if it existed at some point, it's not there anymore. So let's make sure that we are on a clear page at this point.

And I'd like to give another example, in addition to Mr. Barkey's. And this is the case of a Turkish-American scholar—he's actually an American citizen who works at NASA. He's a NASA scientist, and his name is Serkan Golge. And he was on vacation in Turkey visiting his family during the coup attempt, and he was detained just before he was due to come back with his family. And he is now in prison, and he has been in prison and, I believe, solitary confinement. He had a court hearing a few weeks ago and it was just postponed.

He's charged with being a member of this Gülenist terror organization. But the evidence that they have on him is the denouncement of somebody. They don't even know who exactly. It was probably something that was said—just sent to the security forces over the internet saying he's Gülenist and he works for the CIA, blah, blah. And also they found a one-dollar bill in his home.

I mean, this is the state of Turkish justice at this point. Yes, the government needs to prosecute this coup attempt and who was involved in it, and there is something to be done. And they have all the right to do that. But a one-dollar bill found in somebody's pocket should not be evidence for solitary confinement or justifying anything. I mean, we are in a situation. I want to give this personal example. We were emptying our pockets of one-dollar bills at the airport before flying into Turkey last summer. And I'm thinking, OK, does being on the same panel with Mr. Barkey here, does that put me on some black-list, if I'm not already?

So this is really, honestly—I don't know if we should be going back to Turkey this summer. And again, the Congress and the government should understand the dire situation. And although we may continue to cooperate on the important international issues with Turkey, we do not need to enable this authoritarian government; I mean, calling them and congratulating them on the referendum, inviting them to D.C. to put on some kind of show. I think it will be a spectacle.

So, yes, I think the government has certain ways of adjusting the way that it approaches Turkey.

Mr. PRICE. Please.

Dr. BARKEY. Look, one of the things you can do is talk to your bosses and ask them to ask the White House to raise the issue of these Americans and people working for us. I think if the President were to raise it in his conversations with Erdoğan, then we'll get somewhere. I mean, of course, Erdoğan wants other people to be released here who are in jail. But it's only if Congress gets to the President that something will happen. Otherwise it's hopeless.

Mr. SCHENKKAN. Let me endorse what Dr. Barkey said, and also to say that in terms of public statements or statements that the U.S. has made, including failed to make, as he said, under the Obama Administration for years, there's always this argument about whether those will have the desired impact, whether a statement by the President will make Turkey a democracy, which is this kind of straw-man argument. Of course not. Everyone knows that.

And that's not why we make statements. That's not why it's important that the U.S. make statements. Of course, it would be nice if it worked that way. But one of the reasons you make statements is also for ourselves. It's also to affirm what we believe in and to reinforce among ourselves in the United States and with our allies in Western Europe to reinforce what kind of values and what kind of systems we stand for. And it has an impact. It has a domestic impact. It's for us too. So I really urge it on those grounds as well.

Regarding assistance, because you asked, the U.S. has been very reluctant for a long time, across many administrations going back to the 1990s, to really engage in democracy assistance and democracy promotion in Turkey. This is based on Turkish sensitivities. It's also based on lumping Turkey in with countries in Central Europe that were considered graduated, generally because they were on an EU process, an EU track, and the EU was handling it. That's not been a good approach in Central Europe either, by the way.

The U.S. should expand its democracy assistance. It should expand the kinds of democracy promotion work that it does and the kinds of people that it work with, well beyond the very, very limited kind of support that you get right now from the National Endowment for Democracy or from the party institutes or from, every once in a while, the State Department through the Bureau of Democracy, Human Rights and Labor.

There really is an enormous need, a bottomless need, of organizations that can be supported and encouraged in the media, especially in the areas of investigative journalism, which is a kind of work that has dramatically expanded in terms of democracy assistance in the last 10 years, that people have gotten quite good at doing and good at facilitating and supporting.

And Turkey has enough good journalists and enough quality high-capacity journalists still, perhaps in exile in some cases, where that is a thing that can be supported; and civil society organizations as well. Not all of them will take the funding. Not all of them will want it. And that, as always, is going to be their decision. But there's still a great opportunity there that is waiting to be taken, but it will require the U.S. really to, as Dr. Akcay said, to rethink what the relationship is with Turkey and to restate what is Turkey. Which group of countries are we putting it in?

Dr. MARTIN-ROZUMILOWICZ. Can I just second that, that I think this increased level of activity is absolutely essential? And also a clear statement on the state of play at the moment, if only because, at some point, there were democratic aspects of Turkish society and its political government which very much puts forward the idea that Islam and democracy are not necessarily antithetical.

And I think the Turkish example has been quite clear that you can have a system of political rule where you do have an adequate level of separation of church and state, where you do have democratic institutions, where you can have a vibrant civil society and a vibrant media, and not to forget that at some point the accession of Turkey to the European Union was a very seriously discussed and considered possibility.

And so, to have that example slide into authoritarianism is not in the interest of Turkey, but it's also not in the interest of the Islamic world, where many people would say that there is an antithesis between Islam and democracy, which I think is very much untrue.

Mr. PRICE. Thank you so much.

I want to make sure that some members of our audience get a chance to ask a question too. We're closing in on our concluding time in the next 10 minutes or so. But if there's a question from the audience—

Sir.

QUESTIONER. Not so much a question. I'm from the Turkish Embassy. You know, thank you all for your interest in Turkish democracy.

But what strikes me is the absence of democracy in this room, that there has been no dissenting view, which is a requisite of democracy. When we heard about the event taking place, we tried to get in touch with the Helsinki Commission to bring this imbalanced composition of speakers to their attention and maybe encourage them to provide additional speakers to make the audience hear the other side of this story. There's always a different side of the story.

We've heard that the glass is almost empty in Turkey. But, you know, there are cases in which a different composition, a different speaker with a different background making a different point, that can give a more thorough picture to the audience. And we remain at your disposal. If the Helsinki Commission or the Tom Lantos Commission feels the necessity to rectify this deficiency next time around, we stand ready to provide the additional names of such—[inaudible].

Thank you.

Mr. PRICE. Thank you, sir. Well, we thank you for your attendance.

And we feel it important to raise these voices at this time. As was mentioned, there has been concern about the unlevel playing field that has existed in Turkey surrounding these current events. This is a way to offer what we believe to be expert—this isn't just opposition against a prevailing view—but true experts, people that have spent a long time studying this subject.

We do thank you for your attendance, though, and for chiming in, and look forward to being in contact.

Are there any other questions? Yes.

QUESTIONER. Hi. Good morning. My name is Leanne [sp]. I'm a Lantos Fellow, actually, here—[inaudible].

My question is regarding the bilateral relations between Turkey and the United States, and also noting that the EU and Turkey's relations are a bit kind of shaky in the past year.

How is your suggestion of the Congress basically naming or acknowledging Turkey not as a democracy, but rather as an authoritarian regime would affect those bilateral relations, which the United States is looking at actually strengthening? Because of the weakening of the relations between Turkey and the EU, how is it going to affect it? And will it pursue or will it push Turkey to search for other relations, mainly with Russia and other actors in the international arena?

Thank you.

Dr. ERDEM-AKÇAY. Thanks for your question.

I think acknowledging that Turkey is an authoritarian regime and not really on the track towards more democracy need not change their bilateral relationships. You can still have cooperation on the issue of the Syrian conflict. You can have cooperation over the issue of refugees, the fight with ISIS. All those can actually continue.

And again, as I said, it's not that U.S. never has relationships, cooperative relationships, with authoritarian regimes. It has. What it does is a change of framework. You know that you're dealing with an authoritarian regime and a regime where one person's words carry a lot of weight. So you adjust yourself accordingly.

This is good for the U.S. too, because they will know what they should expect. Before we had the Turkey-EU axis and we had the Turkey-NATO axis, and the NATO membership, the NATO relationship had been very important for Turkey for decades. But now Turkey has totally put the EU membership issue on the back burner. And while they are not considering leaving NATO, it doesn't stop them from establishing kind of warmer relationships with Russia. There's always talk of buying weapons from China, weapons from Russia.

I think acknowledging the real situation in Turkey would also be [inaudible] on the part of the U.S., too. It doesn't need to be, leave Turkey on its own and not deal with it at all. It is just continue, cooperate, help out in ways that could improve democracy, but just know the facts on the ground.

Mr. PRICE. All right. Well, with that, I think we can conclude.

I thank very much our participants, our expert panel, and all of you for your attendance today.

Thank you very much. [Applause.]

[Whereupon, at 11:55 a.m., the joint briefing ended.]

A P P E N D I X

PREPARED STATEMENT OF NATE SCHENKKAN, PROJECT DIRECTOR, NATIONS IN TRANSIT,
FREEDOM HOUSE

Introduction

Chairman Wicker, Co-Chairman Smith, Co-Chairmen McGovern and Hultgren, and members of the Helsinki and Lantos Commissions, it is an honor to join you today.

I'll be speaking today about non-state institutions in Turkey. At Freedom House, and on the project I direct, Nations in Transit, we use a “thick” definition of democracy, as opposed to a “thin” or minimalist definition. A thick definition means we consider democracy to be not just elections. It is the product of intermeshed but functionally independent institutions: both elected and non-elected state institutions, like national and local governments and judiciaries, and non-state institutions, like the media and civil society.

Today I will, focus on the non-state institutions of media and civil society, and how they have been subordinated to the agenda of the Justice and Development Party or AKP, and particularly President Recep Tayyip Erdoğan, in Turkey over the last several years.

The Media

The crackdown on the press in Turkey has received intense international attention for several years, and for good reason. Turkey’s media was vulnerable since long before the AKP won its first parliamentary majority in 2002. This was both on the legal side, with weak protections and overbroad legislation, especially concerning antiterror legislation, and on the financial side, with media owners dependent on government contracts and vulnerable to pressure.

The AKP and Erdoğan took full advantage of these vulnerabilities. By the time the Gezi Park protests started in May 2013, they had consolidated their control over the mainstream media. Most mainstream outlets had been transferred to more supportive owners and become ardently progovernment. The country’s most influential media company was forced to sell two of its most important assets to a government-friendly owner in order to settle politically motivated tax investigations. When social media and internet organizing revealed themselves as surprisingly powerful tools in protests in 2011 and 2013, the government moved first to control and then to co-opt these tools as well.

Many journalists were also imprisoned, mostly those working for left-wing and Kurdish nationalist publications. The Committee to Protect Journalists recorded 40 journalists in prison in Turkey in December 2013. Taking all these factors into account, Freedom House downgraded Turkey to “Not Free” in *Freedom of the Press 2014*.

Yet for all that alarm bells were ringing at that time, the deterioration since 2013 has still been extraordinary. After the AKP fell out with its former allies in the Gülen movement in December 2013, the crackdown widened to include the movement’s affiliated outlets, which were once reliably pro-AKP. The government took over a series of Gülen-affiliated outlets and began using the Gülen movement as a pretext to attack other

journalists. Foreign journalists started to have press credentials denied, be harassed by security services, or even to be deported from the country.

What had been already a remarkably severe crackdown on the press took on a scorched earth quality after the July 15, 2016 coup attempt. Using the powers granted by the post-coup state of emergency—which is still in effect—the government has closed and expropriated the assets of more than 150 media outlets, including TV stations, news agencies, magazines, newspapers, publishing houses, and radio stations. Two more newspapers were closed in a new emergency order this weekend. CPJ as of December counted 81 journalists in prison, while local monitor P24 puts the number at 141. The impact has been the total evisceration of the media sector, as dozens of well known journalists are in prison or in exile, and those who continue to work fear every day that they could be targeted.

What remains of the media that is not under government control is either crippled and self-censoring, or marginal and unable to cultivate a broader audience. The Doğan Group’s flagships, the newspaper *Hürriyet* and the TV channel CNNTürk, are self-censored by editors who fear any controversy could land them or their owner in more legal trouble. The country’s oldest newspaper *Cumhuriyet* is still open, but its former editor Can Dündar is in exile and its current editor and ten other staff members are in jail. Far-left and hard-nationalist minor outlets like *Evrensel* and *Aydinlik* have grown in influence as journalists and readers have been driven out from the mainstream, but the resources and the ideological positions of outlets like these mean they are in no way able to replace the reach of mainstream media.

This denuded landscape leaves enormous swathes of stories uncovered, or covered only within the framework preferred by the government: things like official, especially high-level, corruption; the state of the economy; the war with the PKK; Islamist radicalization and recruitment; and of course, the coup attempt and the purge themselves.

Civil Society and Freedom of Association

The situation for civil society is also dire in Turkey. The formal civil society sector, meaning NGOs, think tanks, and professional activist groups, has suffered from the same stifling legal environment affecting the media, and now is caught in the deterioration caused by the war with the Kurdistan Workers’ Party (PKK), the collapse of the Gülen-AKP alliance, and the coup attempt. As has been the case throughout Turkey’s history, the gravest threats have been against leftist and Kurdish groups, and against human rights groups and activists working in defense of the rights of ethnic, religious, and sexual minorities. Tahir Elçi, the chairman of the Diyarbakir Bar Association and one of Turkey’s most prominent human rights defenders, was murdered in public in Diyarbakir in November 2015 under unclear circumstances that still lack proper investigation. At the time he was killed, he was facing charges for disseminating “terrorist propaganda” by criticizing the conduct of the war against the PKK. In 2016 and well before the coup attempt, the President of the Human Rights Foundation of Turkey, Şebnem Korur Fincancı, was detained along with the Turkish representative of Reporters sans Frontières Erol Önderoğlu and several dozen others for participating in a solidarity campaign with a Kurdish nationalist newspaper. Their trial has not concluded.

Like with the media, the government has been using the coup attempt as a pretext to purge the civic sector. More than one thousand associations have been closed by emergency orders after the coup attempt, many of them obscure and completely non-political

groups. Among the closed organizations were two prominent lawyers' groups that handled human rights cases, the Progressive Lawyers' Association and Liberal Lawyers' Association. Four hundred and eleven lawyers are currently under arrest. The conservative Islamic human rights organization MazlumDer has ousted its longtime leader, Ahmet Faruk Unsal, over disagreements on whether to report on state violations of human rights in the southeast or only on the PKK's crimes, and a new, more progovernment leader is now in charge.

In addition, several prominent human rights defenders have been directly targeted recently, either in relation to the coup attempt or to the fighting with the PKK in the southeast. Orhan Kemal Cengiz, a well known human rights lawyer who also acted as the lawyer for *Zaman* after its closure in 2016, is under indictment along with dozens of journalists for supposedly being a member of the Gülen movement, which the government has designated a terrorist organization. The indictment gives as evidence of his crime only the fact that he wrote columns for a Gülen-affiliated publication. Muhammed Erbey, the former chair of the Diyarbakir branch of the Human Rights Association (IHD), was sentenced in March to six years in prison for being a member of an illegal organization. Raci Bilici, the current chair of the IHD, was detained for a week in March and is under investigation for relations with the PKK. The Cizre representative of the Human Rights Foundation of Turkey, Dr. Serdar Kuni, has been convicted of aiding an armed group for performing his duties as a physician during the fighting in that city last year.

Conclusion

What, then, does the presidential referendum mean for Turkey's non-state institutions of the media and civil society? In a direct legal sense, not much. The vulnerabilities of media and civil society before the referendum—in the constitution, in legislation, and through the post-coup attempt state of emergency that remains in effect—are the same as before. The constitution did not address fundamental rights in these ways. But there is very little in terms of domestic law and its traditional application that has constrained the Turkish state in its ability to circumscribe fundamental freedoms.

In the indirect legal sense, however, the referendum means a lot. The weakening of the independence of the judiciary undermines the rule of law, which leaves the media and civil society, like ordinary citizens, more vulnerable to arbitrary abuses of power. As we have been seeing under the state of emergency, when there is no check on executive authority, media and civil society will suffer gravely.

The political ramifications of the referendum are even greater. To return to the original distinction I made at the beginning of my remarks between thick and thin democracy, President Erdoğan and his supporters have an extremely "thin" conception of democracy. They define democracy as voting and nothing else, even to the point of disregarding the conditions under which voting occurs, or if there are consistent rules of the game for voting. Erdoğan and those who support him do not see media and civil society as independent institutions that should be respected and protected. They see them either as threats, or as means to strengthen their control of the state and the society. With such a thin definition of democracy now in full ascendance in Turkey, the future for media and civil society is grim.

PREPARED STATEMENT OF DR. EBUR ERDEM-AKÇAY, TURKISH POLITICAL SCIENTIST

The July 2016 coup-attempt only accelerated the ongoing authoritarian trajectory in Turkey; it gave the government extra vigor in its human right violations. I will illustrate this argument with the case of “Academics for Peace.”

In June 2015 parliamentary elections, for the first time since 2002, Justice and Development Party failed to gain enough seats to achieve a majority in parliament. The political uncertainty after the election contributed to the violent turn that the conflict in the Kurdish towns in the southeast took. The ongoing civil conflict evolved into urban warfare, which has different dynamics and impact compared to rural warfare. Larger numbers of residents were caught in the crossfire, tens of thousands had to flee their homes, neighborhoods blocks away from the governor’s offices were shelled, people trapped in their homes under curfews had a hard time finding bread to eat let alone ambulance for the wounded.

Terrible news, heart wrenching images were trickling through to the rest of the country. In January 2016, a group of scholars called Academics for Peace protested the ongoing violence and called for a peaceful solution to the conflict in a peace petition, titled “We will not be a party to this crime.” The statement demanded an end to the ongoing intentional indiscriminate violence and siege in the region, identification and punishment of those who violated human rights during the sieges, permission of international observers to study and report the conditions. They denounced all forms of government suppression on the opposition.

At the time of the declaration on January 11th, 1128 scholars had signed the petition. They were women and men who worked as faculty, researchers, and doctoral students at public and private universities across the country. It would be fair to say that they are all left-leaning, democratic, progressive individuals, many with activist experiences. By the time the petition was closed to signatures on January 18th, a total of 2212 scholars, including myself, had signed on.

Right after the public declaration of the petition, the signatories became the targets of Erdoğan himself, other AKP leaders, the Higher Education Council, university administrators, convicted mafia leaders, ultranationalist thugs on campuses, and local nationalist and pro-government media. The signatories faced real threats to their lives and security. Their photos were published in local media as traitors, their campus office doors were marked with red paint, they received threat letters under their office doors. They were threatened with death and/or rape, insulted, and harassed on social media. They were branded as PKK militants, Erdoğan himself called them traitors. Mafia leader Sedat Peker said he would “spill their blood in streams and shower in it.”

Local prosecutors and university administrators started legal and disciplinary investigations respectively. All 1411 signatories who lived in Turkey at the time are currently subject to criminal investigations but they were not told what they are charged with. This case is at the investigation stage and has not gone to court yet. Four Academics for Peace were held in pretrial detention for a month for reiterating the content of the peace petition and outlining the retaliation Academics for Peace faced. They are free pending trial and their case is ongoing. Fifty-six scholars were briefly detained and had their homes and offices searched in the weeks following the declaration and the outrage. To this date, there have not been any court decisions convicting any signatories with charges related to the peace petition.

Those Academics for Peace who had contractual positions had their contracts terminated soon after. One hundred and twenty-two were dismissed, forced to resign or retire. However, it is not as “easy” to dismiss faculty who have more secure positions, similar to tenure in the U.S. Dismissing them involves bureaucratic actions such as investigations by a committee, defense statements, and HEC approvals. Moreover, these decisions can be appealed and reversed by the courts. Between January and July 2016, 505 investigations were ongoing and some contract terminations were reversed by the courts.

The coup-attempt led to the declaration of State of Emergency, which has been extended every 3 months ever since. State of Emergency rule allows rule by governmental decree, effectively bypassing the legislature and bureaucratic regulations. It is through these decrees that the government was able to ban hundreds of thousands from public service employment and cancel their passports. The 7317 “purged” academics cannot find employment in any public university and private universities refrain from hiring them. Those who were able to secure fellowships or visiting positions abroad had to forgo these opportunities because they do not have passports anymore. There is no legal recourse for the “purge” decision, both Higher Administrative Court and the Constitutional Court have declined appeals.

Three hundred seventy two Academics for Peace who could not be dismissed through the process required by law were dismissed overnight with the cabinet’s signatures. Sixty-six of the 484 academics dismissed by decree on April 29, 2017 were Academics for Peace. Seven Academics for Peace who were recently “purged” from Dicle University in Diyarbakir, the major province in the southeast, were detained on May 1st, 2017. There is no expectation of justice anytime soon because the judicial system itself is undermined by the purges and it is overwhelmed with the large volume of cases.

The coup-attempt failed but it enabled the government to dismiss Academics for Peace, bypassing the required official procedure and to punish these dissenters in ways that it could not do under no-State of Emergency. It was known from Erdoğan’s comments in January 2016 that these scholars would pay a price for signing the petition, but the price was steep and collected more swiftly thanks to the coup-attempt.

Bio: Ebru Erdem-Akçay is a political scientist and Turkey analyst. She received her PhD at Stanford University in 2006 and served as an Assistant Professor at University of California Riverside until 2013. She studies identity politics, ethnic conflict, gender equality, and political Islam in Turkey. She is a signatory to the Peace Petition, which called on the Turkish government to stop the ongoing violence in the Kurdish dominated south-eastern Turkey. She has been involved in the solidarity efforts among the Academics for Peace, most prominently in collecting, organizing, and disseminating the data on administrative and legal retaliation against Academics for Peace.

ELECTIONS IN TURKEY: 2017 CONSTITUTIONAL REFERENDUM FREQUENTLY ASKED QUESTIONS

PREPARED BY THE MIDDLE EAST AND NORTH AFRICA, EUROPE AND EURASIA
INTERNATIONAL FOUNDATION FOR ELECTORAL SYSTEMS

When will the referendum be held?

The Republic of Turkey will hold a constitutional referendum on Sunday, April 16, 2017 while out-of-country voting occurs from March 27 to April 9, 2017 in 57 countries around the world.

This will be the sixth constitutional referendum in the country since the passage of the 1982 constitution. According to Law 3376 Concerning Referendum on Constitutional Amendments, the referendum should take place on the first Sunday, 60 days after the publication of the proposed amendments in the official gazette. The referendum will take place amid a state of emergency that was extended following the 2017 New Year's Eve attack in Istanbul that killed 39 people.

What are the proposed amendments?

Turkish citizens will vote for or against the referendum package which contains 18 amendments to the constitution, the largest number of constitutional amendments proposed in a referendum since the creation of the Republic of Turkey in 1923. The amendments include the following changes: introduction of an executive presidency to replace the existing parliamentary system of government; the abolition of the prime ministerial office and the cabinet; presidential and parliamentary elections schedules so that elections would be held simultaneously every five years; increased and broader authority for the president over the High Council of Judges and prosecutors; and an increase in the number of seats in parliament from 550 to 600.

While supporters of the reform package believe it will contribute to stability through the consolidation of power in the country, critics believe that giving extensive powers to the president might damage the separation of powers and jeopardize the independence of the judiciary.

Why is this referendum taking place in Turkey?

The Turkish military passed the current constitution in 1982 following a coup. Discussions of amending the system from a parliamentary system to a presidential system began in 2005 and have been an integral component of current president Recep Tayyip Erdoğan's platform. In December 2016, the ruling Justice and Development Party, or *Adalet ve Kalkınma Partisi* (AKP), along with the Nationalist Movement Party, or *Milliyetçi Hareket Partisi* (MHP), who together control 353 seats out of the 550 in the Grand National Assembly, proposed 21 amendments to the constitution aimed at moving Turkey toward a presidential system of governance. The Parliamentary Constitutional Committee reviewed the proposed amendments and adopted 18 of the 21 articles. Following the Parliamentary Constitutional Committee's approval, the Grand National Assembly began its review of the proposed articles on January 9, 2017. On January 21, 2017, the Grand National Assembly voted 339-211 in favor of the 18 proposed amendments, meeting the three-fifth (330) constitutionally mandated threshold to send the amendments to a referendum. On February 2, the parliament sent the approved amendments to President Erdoğan for approval. The president approved the amendments on

February 10 and published them in the official gazette. According to the electoral legal framework, a referendum must be held on the first Sunday 60 days after the publication.

What is the election management body that will manage the referendum process?

The election management body in Turkey is known as the Supreme Board of Elections, or *Yüksek Seçim Kurulu* (SBE). The SBE is a permanent commission composed of 11 members from the judiciary that are elected for a six-year term. Six of the members are elected by the General Board of the High Court of Appeals and five of the members are elected by the General Board of the Council of State. In addition to this central board, the SBE is made up of 81 provincial election boards (PEBs), 1,500 district electoral boards (DEBs) and over 167,000 ballot box committees (BBCs). According to the Law Concerning Referendums on Constitutional Amendments, the SBE is in charge of electoral oversight during referenda.

What electoral system will be used to decide on the constitutional referendum?

A simple majority system will be used. The electoral system on the constitutional referendum is different from the system that is used for elections to the National Assembly. According to Article 8 of Law 3376 Concerning Referendums on Constitutional Amendments, “if more than half of the valid votes say ‘yes,’ then the constitutional amendment is accepted by the Turkish nation.”

Who can vote?

According to the 1982 constitution, Turkish citizens at least 18 years of age on the day preceding Election Day and who are on the voter list are eligible to vote, with the exception of: active conscripts, cadets, and prisoners who have committed intentional crimes regardless of the severity. According to Law 3376, all registered voters who do not participate in the referendum without a valid excuse will be fined 12,500 Turkish Liras (about 3,300 USD). While voting is mandatory under the Parliamentary Election Law, punishment for those who abstain from voting, in the form of a fine, is rarely enforced. The voter registry is kept with the Supreme Board of Elections in coordination with the Ministry of Interior.

Is out-of-country voting allowed?

Out-of-country voting will be held at 120 polling stations in 57 countries. One district electoral board in Ankara will oversee out-of-country voting and facilitate the counting of these ballots.

When did voter registration take place?

Voter registration in Turkey is passive. The permanent central voter register is maintained by the Supreme Board of Elections and linked to a registry operated by the Ministry of Interior. The registry uses personal identification numbers to identify citizens and maintain their place of residence.

How many registered voters are there?

According to the Supreme Board of Elections, the total number of registered in-country voters is 55,260,000, while there are 3,000,000 citizens registered for out-of-country voting. However, due to the significant insecurity in the southeast of the country, an estimated 300,000 people have fled their place of residence and may not be able to vote.

What form of voter ID will voters need to bring with them on Referendum Day?

Voters must bring a state-issued form of identification, such as a birth certificate or passport, to the polling station where they are registered to vote.

Which side are the major parties on (and why)?

The “Yes” campaign is led by the ruling Justice and Development Party and the National Movement Party and is supported by the president and other public officials. Most of the opposition parties, including the Republican People’s Party (CHP) and People’s Democratic Party (HDP), are part of the “No” campaign. The “Yes” campaign views these amendments as critical to a more stable political climate during a period of internal and geopolitical frictions due to the ongoing Syrian war, refugee crises, and the deterioration of security inside the country. The “Yes” campaign also believes the reform package will significantly improve the democratization process in the country with the inclusion of appeals process to judicial authorities, including the Constitutional Court. The “No” campaign is against the amendments which they believe would consolidate the president’s authority and, as a result, weaken the system of checks and balances that exists under the parliamentary system.

What are the rules on campaigning?

In accordance with Law 298 on the Freedom of Propaganda, campaigning began on February 16 and will end on April 15, 2017. During this period, additional provisions on campaign activities include allocating free airtime to the four political parties and the president and banning the use of state resources for campaign purposes.

Campaigning for this referendum has resulted in allegations by opposition parties against the ruling Justice and Development Party for abuse of state resources and against the Turkish Radio and Television Corporation for biased coverage supporting the “Yes” campaign. These allegations have created a debate over the role of media in this referendum.

It should be noted that under Article 94A of Law 298, “electoral propaganda” abroad and at foreign representatives’ offices (embassies and other diplomatic missions) is not allowed.

What role will media play in the referendum?

During campaigning, the four political parties and president are given free airtime on the state-owned Turkish Radio and Television Corporation (TRT).

Media coverage of the referendum is regulated by the Law on Referendum, Law on Broadcasting, the Law on Basic Provisions on Elections and Voter Registers, and Supreme Board of Elections (SBE) decisions and regulations made before each election. Recently, Statutory Decree KHK 687 repealed Electoral Law No. 298, Article 149A, thereby removing the penalty for private radio and television channels broadcasting in contradiction to the equity principle and electoral regulations of the SBE. The Radio and Television Supreme Council is the party responsible for ensuring broadcasters are complying with regulations, and submits weekly reports to the SBE during the campaign period.

What are the rules for campaign finance?

Turkish electoral law lacks comprehensive campaign financing regulations. Campaign finance reports are not publicly available.

The Law on Political Parties (LPP), the primary legislation addressing campaign financing, prohibits political parties and candidates from receiving material or in-kind contributions from anonymous sources, foreign states, international organizations and foreign natural or legal persons. The law also bans corporations with government contracts or partial government ownership from donating to political parties. The LPP does not ban or limit contributions by professional organizations such as public institutions, charities, foundations, trade unions or employers' associations to either political parties or candidates.

The LPP also specifies limits on the amounts of donations that can be made annually. However, this provision does not contain a limitation on the amount that can be donated in relation to a specific election. Furthermore, the law only applies to donations made to political parties, not to candidates, and it does not apply to some organizations such as public institutions, charities, foundations, trade union or employers' associations, and the cap on donations is adjusted annually.

How many polling stations are set up on Referendum Day?

Per the Supreme Board of Elections, there will be over 167,000 ballot box committees (BBCs). Polling stations will be placed in public places such as schools, cafes, and restaurants. Polling stations will not be placed in military buildings, police stations, political party buildings, or community chief aldermen's offices. The location of ballot boxes and polling stations is determined by BBCs with the supervision of district electoral boards.

What will the ballots look like and how should they be marked?

On Election Day, voters will receive a ballot split in two inscribed with the word "Yes" (or "Evet") in black letters on a white background on the left side and "No" (or "Hayir") in black letters on a brown background on the right side. Voters must stamp their selection on the ballot with a special seal. Voters will vote on the amendment package as one block.

What are the polling procedures for the referendum?

Per Supreme Board of Elections Law 2017/76, polling stations will open at 8:00 a.m. and close at 5:00 p.m. on April 16. For security reasons, in the cities closer to the Syrian border such as Ağrı, Artvin, Bingöl, Bitlis, Diyarbakir, Elazığ, Erzincan, Erzurum, Gaziantep, Giresun, Gümüşhane, Hakkari, Kars, Malatya, Kahramanmaraş, Mardin, Muş, Ordu, Rize, Siirt, Sivas, Trabzon, Tunceli, Şanlıurfa, Van, Bayburt, Batman, Şirnak, Ardahan, Iğdir and Kilis, polling stations will operate between 7:00 a.m. and 4:00 p.m. Voters in line at closing time will be allowed to cast their votes.

Once admitted to the polling station by the chairman of a ballot box committee, voters will present their voter identification documents. The chairman will find the voter's name on the voter list, give the voter a ballot paper, explain to the voter how to cast his/her vote and guide the voter to the voting booth. Once the voter has made a selection and sealed the ballot paper into the envelope, the voter will exit the voting booth and insert the envelope into the ballot box to which they are assigned in the voter registry. The chairman will then return the voter's identification document to him/her and have the voter sign the box adjacent to the voter's name on the voter list and mark his/her left index finger with indelible ink.

How will voters with disabilities cast their ballots?

Per the Law on Basic Provisions on Elections and Voter Registers, any disability that would prevent a voter from casting their vote will be noted during voter registration. Voters with disabilities will be assigned to accessible polling stations when the voter registry is announced. The number of accessible polling stations is determined by the Supreme Board of Elections based on the number of voters with disabilities in the voter registry. If needed, voters must apply to transfer to an accessible polling station if they are not initially assigned to one during the voter registration period. There is no public transportation program or absentee voting system to allow voters with disabilities to cast their ballots at home.

At the voting station, the ballot box committees will take measures to ensure voters with disabilities ease of access to polling stations and ballot boxes. Additionally, voters with physical disabilities may be accompanied into the booth by a relative who votes in the same electoral district, or, in the absence of a relative, by any other voter willing to provide assistance. Additionally, if a disability prevents a voter from signing the box adjacent to their name on the voter list, they may alternatively use their fingerprint, marked with indelible ink, as a signature in the signature box.

Are there any special provisions to assist illiterate voters to cast their ballots?

Article 33 of Decree 135/1 on Ballot Box Committees [BBC] Duties and Powers during the Referendum states that if an illiterate voter seeks help, only the chairperson of the BBC can explain the procedures on the ballot itself. Other than that, no other BBC can interfere and offer assistance. In this referendum, the ballot will contain two colors: “Yes” has a white background color while “No” has a brown background. The Supreme Board of Elections has also produced voter information posters with drawings detailing how to correctly vote.

Where are voting, counting and tabulation held?

Following voting, vote counting and tabulation will commence at the ballot box committees (BBCs). Ballot, district and provincial election board minutes should include the number of registered voters on the voter list, the number of citizens who voted in the referendum, the number of valid and invalid votes, and the number of voters who voted “Yes” and “No” to the referendum. Provincial electoral boards (PEBs) will gather minutes from the district electoral boards (DEBs) and deliver the results and a copy of the approved minute to the Supreme Board of Elections (SBE). The latter will then gather and declare the results.

All contents of the ballot boxes should be signed, sealed, and delivered to DEBs, who will conduct the same process in the presence of election observers. Once a DEB has counted the votes from all polling stations in its jurisdiction, the chairman of each DEB will deliver the results to PEBs. A copy of the results will be delivered to each of the political parties and to observers of independent candidates upon request, and a copy of the results will be posted on the front door of the DEB offices for one week. This process will be followed by each PEB, which will combine the ballots from the county election boards, count the ballots, post the results for one week, and send the results to the SBE for announcement and finalization. Any complaints or objections lodged during counting and tabulation will be recorded in the minutes and passed along with the ballots to each level of review.

When will official results be announced?

Once preliminary results have been received from provincial election boards, the Supreme Board of Elections shall promptly announce whether the proposed amendments were accepted or not publicly through radio, TV and the Official Gazette.

Who will observe during Referendum Day?

There are no legal provisions related to domestic or international observation of referendum. Political party representatives are allowed to observe Referendum Day proceedings. The Parliamentary Assembly of the Council of Europe will send a delegation to observe the referendum while the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights will also deploy a limited referendum observation mission.

Can referendum results be contested?

Referendum results can be challenged via objection and complaint. Complaints are challenges to election procedures conducted by election boards, while objections are stated or written challenges to either election results or to rulings handed down on complaints. The Supreme Board of Elections (SBE) is the only body responsible for examining all referendum/election-related disputes and its decisions cannot be appealed. Objections are adjudicated by the highest level of election board overseeing the jurisdiction in which an objection is raised. In other words, an objection to results announced by a ballot box committee (BBC) is adjudicated by a district electoral board (DEB); an objection to results announced by a DEB will be adjudicated by a provincial election board (PEB); and an objection to results announced by a PEB will be adjudicated by the SBE. Objections and complaints that are adjudicated by the SBE are considered final and cannot be appealed to a different judicial authority. The 2010 constitutional changes introduced the right to file individual petitions at the level of the Constitutional Court.

Resources

- Constitution of the Republic of Turkey
- Decree 135/1 on Ballot Box Committees' Duties and Powers during the Referendum (Turkish)
- International IDEA Political Finance Database: Turkey
- Law on Basic Provisions on Elections and Voter Registers (Turkish)
- Law Concerning Referendums on Constitutional Amendments
- Law on Political Parties
- Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights Needs Assessment Mission Report, 22-24 February 2017
- Parliamentary Elections Law (Turkish)
- Supreme Board of Elections



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