

*May 8, 2017*

## **After the Referendum**

On May 2, President Recep Tayyip Erdogan rejoined the Justice and Development Party (AKP), which he had established in August 2001 and then led for 13 years during which he won three successive elections and served as a very strong and effective prime minister. He had resigned from the AKP when he was elected president in August 2014 in accordance with the constitutional requirement, and the ceremonial return at AKP headquarters in Ankara constitutes the first dividend of his victory in the April 16 constitutional referendum. Erdogan commented “Today, I return to the party that I founded, my home, my passion, my love, which I had to leave according to our constitution on August 27, 2014, when I was elected president. Our 979 days of longing has come to an end.” He will resume his leadership of the AKP after an extraordinary party congress on May 21, thus formally fusing the presidency with the ruling party.

The result of the referendum confirmed and consolidated the de facto presidential system that has been in operation since Erdogan’s election to the presidency. However, the existing parliamentary system will continue and the prime minister will remain in office until the other constitutional amendments come into force after simultaneous presidential and parliamentary elections scheduled for November 2019. Erdogan’s immediate focus now shifts to foreign policy, with special emphasis on what he has been characterizing as the imminent threat to Turkey emanating from developments in the ongoing Syrian crisis. He will visit Moscow and Beijing before coming to Washington for his first meeting at the White House with President Donald Trump on May 16, four years to the day since his meeting there with Barack Obama in 2013.

### **A Narrow Margin of Victory**

Soon after the official news agency Anadolu Ajansi reported, within a few hours of the polls closing, that the referendum had been approved by a surprisingly narrow margin of 51.41 to 48.59 percent (25,157,025 million “yes” against 23,777,091 “no”) Erdogan claimed victory by saying “The fact that the outcome of the referendum is ‘yes’ shows that our people accept the presidential system of government.” Prime Minister Binali Yildirim, whose position will be eliminated when most of the constitutional changes take effect, also chose to welcome the result without waiting for a formal announcement by the Higher Electoral Council (YSK). Both leaders also brushed off allegations of extensive fraud by the main opposition Republican People’s Party (CHP), which had spearheaded the “no” campaign, as well as by the predominantly Kurdish Peoples’ Democratic Party (HDP), whose coleaders along with eight other HDP members of parliament and a number of Kurdish local officials are in jail on terrorism charges, about irregularities in voting in the southeastern provinces.

Following up their objections on the night of the referendum, CHP deputy chairman Bulent Tezcan formally called the next morning on the YSK to cancel the results. He added that “the only decision that will end the debate about the legitimacy of the vote is its annulment by the YSK.” In addition to the YSK’s decision to reverse its previous policy on not accepting unstamped ballots and envelopes during the count, the CHP alleged numerous irregularities, including the exclusion of ballot box observers, the violation of secret vote procedures, the number of votes exceeding that of voters in many election centers, errors in ballot box reports and the swapping of “no” votes with “yes” votes. Kilicdaroglu followed up on April 18 by saying “YSK has violated the law. It has not fulfilled its duty. It seems to take its power not from the constitution or the rule of law, but from a certain center; a certain political authority.” HDP spokesman Osman Baydemir also rejected the official results. “The unstamped ballots being counted as valid is a coup by the YSK...If the [constitutional] package is accepted as it is, it will result in a new legitimacy crisis.” The leading figure among the dissidents from the Nationalist Action Party (MHP) who opposed MHP leader Devlet Bahçeli’s controversial decision to back Erdogan’s campaign, Meral Aksener, commented “We will pursue our case. YSK has committed a crime.”

The separate appeals to the YSK by the CHP and HDP for the cancellation of the referendum were rejected by a 10 to 1 vote on April 19. Kilicdaroglu immediately charged that the decision was “illegal” and indicated that he would take it to the Constitutional Court. Yildirim responded by saying that the YSK decision was “final” and that there were “no legal avenues above it.” He added that they could “appeal anywhere they like, but ultimately no court can override a nation’s decision.” However, instead of the Constitutional Court, the CHP chose to appeal to the Council of State (Danistay) to review the administrative conduct of the YSK and to void its decision to accept unstamped ballots. Even as the appeal was being reviewed by the Danistay, Justice Minister Bekir Bozdag weighed in on April 22. “The duty of examining all corruptions, objections, and complaints regarding election issues and making a final decision about them belongs to the YSK. No appeals can be made against its decision to any court or authority, including the Danistay and the Constitutional Court.” Bozdag added that in the event of an appeal, “the courts have no option but to reject.” In a 4 to 1 vote on April 25, the Danistay duly turned down the CHP appeal.

On April 26, Erdogan characterized the opposition efforts relating to the referendum result as futile. “The main opposition party went to the YSK and was rejected. It went to the Danistay and got the same response. The Danistay does not have the authority and it said so. What is the opposition saying now? ‘We will go to the Constitutional Court.’ The Constitutional Court does not have the authority to make decisions regarding votes cast in a political space. Neither does the European Court of Human Rights (ECHR). What is their problem? They cannot digest it. When you look at their history, they have never been able to accept defeat, which is what is happening now.”

Although demonstrations protesting the result, which began on the night of the referendum, continued intermittently in a number of cities for a few more days, they inevitably petered out even as the CHP refrained from participating in the protests while failing to take its objections to the Constitutional Court. In contrast, the HDP decided to pursue the case with Turkey’s highest judicial institution, followed by an individual CHP member of parliament, Haluk Peksen. It is worth noting that the Constitutional Court president, Zuhtu Arslan, had met with Erdogan at the Presidential Palace on April 18 and April 25.

CHP chose instead to continue its effort by appealing to the ECHR on April 28 despite Erdogan's specific admonition and is apparently also planning to take it to the UN High Commission for Human Rights. At the same time, Kilicdaroglu tried to portray an image of continued defiance to his supporters on May 3 by declaring that the real winner was "the 'no' vote." He added "They were so sure that the 'yes' vote would win that they announced their victory before the YSK announcement. But the world has witnessed this and acknowledges that it is not right." However, the bitter reality Kilicdaroglu, whose position as leader has been seriously weakened by the referendum, must confront is that of Erdogan once again triumphant after using the electoral card to refashion Turkish politics in accordance with his plans.

Although Erdogan has been understandably jubilant about his victory, he is likely to have private concerns about the result. Leaving aside the claims that a majority was obtained only through impediments to the efforts of opponents during the campaign and the use of improper means during the count, the margin of victory was uncomfortably small despite Erdogan's characteristically barnstorming campaign. The vote also underlined the growing polarization in the country while undercutting Erdogan's constant assertion that there was overwhelming support for him and his policies in the country. In one sense these are self-inflicted wounds as it could be argued that there was no urgent need for this referendum. After all, Erdogan was already running the country through a hand-picked and subservient prime minister, a compliant AKP-dominated parliament, and a refashioned bureaucracy. Moreover, his domination of the Turkish political scene had become even more pronounced after the failed coup attempt, with government through decree under a state of emergency that has been extended three times since July 2016. Nevertheless, Erdogan wanted to appeal to voters to transform into lasting de jure form the power he had been exercising on a de facto basis, which was straining the limits of the existing constitution. He also wanted another reaffirmation of "the national will," which he frequently cites and claims to personify, through the ballot box.

The most important warning signs delivered to Erdogan on April 16 came in the previously reliable strongholds of Istanbul, where Erdogan had won every election he had contested stretching back to his mayoral victory in 1994, and Ankara. Post-referendum analyses confirm the loss of a significant number of votes in major cities, especially in western and southern Turkey, which are relatively more urbanized and socioeconomically developed compared to other parts of the country. There was also the failure to capitalize to the extent initially envisioned on the referendum alliance with the nationalist MHP under its cooperative leader. The two parties had obtained 49.36 and 11.94 percent of the votes respectively in the November 2015 parliamentary elections but received almost 10 percent less than their combined total in the referendum. While Bahceli could not deliver the MHP voters, it is clear that there was also some slippage of support among AKP voters.

Although Yildirim said on April 25 that there was "nothing right now that would move us to early elections," there has been speculation that Erdogan will decide to go in that direction in order to implement the constitutional changes before November 2019. However, it seems more likely that he will first endeavor to strengthen the AKP organization and sharpen its outreach and messaging. Erdogan confirmed this on May 4 by saying "It is apparent that we can no longer say 'It has always been and will always be this way.' That is behind us. What are our shortcomings? Where have there been mistakes? We have to see this and put forth a very different, very inclusive approach." Parallel to overseeing changes in the party as well as in the

government, Erdogan will also have to focus on the economy. The last time there was a similar decline in his vote tally in major cities was in the March 2009 local elections following the global economic crisis that inevitably affected the Turkish economy. The slower than anticipated recovery after the third quarter contraction last year, the biggest since 2009, the rising unemployment level, and double-digit inflation could all have contributed to the loss of votes despite pre-referendum measures such as the increase in the minimum wage, tax reductions, investment incentives, and credit guarantees.

### **Dismissing European Concerns, Looking Ahead to Trump**

While Erdogan has the political situation fully under control at home, the referendum has created external ripples he has to confront. In its pre-vote report dated March 13, the Council of Europe's advisory body, the Venice Commission, had suggested that the referendum would not be in line with European democratic tradition, as it was taking place under the state of emergency with substantive limitations on freedom of expression and freedom of assembly. It had also warned of "the danger of degeneration of the proposed system towards an authoritarian and personal regime." The Organization for Security and Co-operation in Europe's (OSCE) preliminary report immediately after the vote charged that the referendum had "not been held on a level playing field" and that "fundamental freedoms essential to a genuinely democratic process were curtailed." On April 18, OSCE mission member Alev Korun asserted that there was "suspicion that up to 2.5 million votes could have been manipulated," and the following day OSCE director Michael Georg Link called for "a recount."

The OSCE response has predictably infuriated Ankara while helping to shape the response of Europe to the referendum. It is significant that the Hungarian prime minister, Viktor Orbán, who has expressed his admiration for what he termed "illiberal democracies" like Russia and Turkey, is the only European leader to offer congratulations to Erdogan. The joint statement of Chancellor Angela Merkel and Foreign Minister Sigmar Gabriel of Germany on April 17 reflected the near universal reservations throughout the European Union. "The close outcome of the referendum shows how profoundly divided Turkish society is. This means great responsibility for the Turkish Government and for President Erdogan personally...The Council of Europe's Venice Commission expressed grave concerns both on the process and the content of this constitutional amendment. As a member of the Council of Europe and the OSCE, and as a candidate country for EU membership that is bound to the EU's Copenhagen criteria on democracy and the protection of fundamental rights, the Turkish Government must now respond to these concerns."

Having vehemently attacked the European Union throughout the campaign and singled out Germany, together with Netherlands, for preventing Turkish ministers from meetings with expatriate voters, Erdogan reacted with anger to the expressions of concern. Targeting the OSCE on April 17, he said "They are preparing a report in their own way, saying this or that happened. Know your place. We do not see or hear those politically charged reports, we continue on our own way." Hitting at "the Crusader mentality in the West and its servants inside," Erdogan continued "Our concern is not what George or Hans or Helga say. Our concern is what Hatice, Ayse, Fatma, Ahmet, Mehmet, Hasan, Huseyin say, what Allah says." This was duly followed by a formal rejection through the Turkish Foreign Ministry that stated "The assessment that suggests that the referendum process fell short of international standards is unacceptable...The mission

arrived in Turkey with prejudices and the Preliminary Findings is a reflection of this biased and prejudiced approach.” EU minister Omer Celik charged on April 18 that the OSCE claims were “baseless and far from objectivity.”

Tensions with Europe exacerbated after the Parliamentary Assembly of the Council of Europe’s (PACE) decision on April 25 to resume its monitoring of Turkey after 13 years. Its resolution questioned “the advisability of holding a referendum under a state of emergency” and claimed that “the situation had deteriorated and measures have gone far beyond what is necessary and proportionate. The authorities have been ruling through decree laws going far beyond what emergency situations require.” Erdogan responded to PACE forcefully the very next day by saying “This decision taken against Turkey is entirely political. We don’t recognize it... Its importance shouldn’t be exaggerated.”

Despite the OSCE report, the PACE decision and EU commissioner for enlargement Johannes Hahn’s statement on April 29 that “Everybody is clear that, currently at least, Turkey is moving away from a European perspective... We have to see what could be done in the future, to see if we can restart some kind of cooperation.” Germany in particular remains reluctant to go beyond a certain point. On May 3, for example, Merkel commented “You should not just push away such a partner, even in view of negative developments that we must address.” It is clear that the Europeans have no intention of moving to end Turkey’s EU accession process themselves, even if they recognize that the process is completely stalled and are giving priority to the most important transactional bilateral item, namely the refugee deal.

However, they may eventually have no choice but to deal with the very difficult question of Turkey’s future relations with the European Union if Erdogan decides to fulfil his promise to his supporters to reintroduce the death penalty, which has been banned in Europe since the European Convention on Human Rights protocol came into effect in 2003. Erdogan has been calling for parliament to bring back capital punishment since the failed coup and even suggested a separate referendum on this issue on April 17. Significantly, in his speech to jubilant supporters on that day, Erdogan also raised the possibility of a referendum on Turkey’s accession process by saying “They are threatening us with suspending our EU accession negotiations. First and foremost, this is not a decision for them to make. Let me add that it doesn’t mean much to us... The EU made us wait at its door for 54 years. We can sit down, discuss and go to a referendum on that as well. The UK did so with the Brexit.”

It is more apparent than ever that Erdogan cares little about what Europeans think or say, or even about the fate of Turkey’s EU accession process, but relations with the United States is another matter entirely. Having expressed optimism about establishing a good relationship with Trump since his first phone call to him the day after the U.S. election and refrained from any negative comments about him, Erdogan is hopeful that the upcoming meeting with Trump will lead to the eradication of the stresses that had soured relations with his predecessor during the second term of the Obama administration. Trump’s willingness to diverge from the common line adopted by all other Western leaders and to phone Erdogan to convey his congratulations on the outcome of the referendum on April 17, in contrast to the cautious statements earlier that day by State Department and White House spokesmen, who referred to the OSCE’s reservations about the vote, has undoubtedly encouraged Erdogan to believe that they will have a good first meeting. However, the serious

wrinkles in the relationship—the continued U.S. reliance on the Syrian Kurdish YPG in the push against ISIS despite Ankara’s vehement objections, the lack of movement on the extradition request for Fethullah Gulen since July 15, and the thorny issues relating to the trial in New York of Turkish national Reza Zarrab—present major obstacles the two men will have to find a way to overcome.

**Bulent Aliriza**  
**Director**  
**CSIS Turkey Project**

**Zeynep Yekeler**  
**Research Assistant**  
**CSIS Turkey Project**