

European
Elections monitor

from **Corinne Deloy**
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RESULTS

An easy victory for the “yes” vote during the constitutional referendum in Turkey

12th September 2010

The majority of Turks accepted the reform of their Constitution during the referendum organised on 12th September – the day of the 30th anniversary of the coup d’Etat led by General Kenan Evren in 1980.

57.9% of the electorate voted “evet” (“yes”) to the modification of the Fundamental Law and 42.1% said “no”. The rejection of the text came mainly from the West and South West of the country. Turnout rose to 77%. It is obligatory to vote – refusal or failure to vote could lead to a 22 Turkish pound fine (around 12€). The call to boycott by the Democratic Society Party (DTP), the main party of the Kurdish community (15 million people, i.e. 20% of the population) because this reform would not enhance Kurdish rights, did not have much influence over the referendum results in the end.

This popular approval is a victory for Prime Minister Recep Tayyip Erdogan and the Justice and Development Party (AKP). Just under a year from the general elections planned for the summer of 2011, it is a positive sign for the party in office since 2002. “*The victor in this is Turkish democracy. The guardianship regime of the army is now belongs to history. The supporters of military putsches will not achieve their goals,*” declared Recep Tayyip Erdogan. “*The 12th September will be a turning point in Turkey’s democratic history. Our people took an historic step on the road to democracy and the supremacy of the rule of law. How good it is to have raised the levels of democratic standards in Turkey,*” he indicated on the announcement of the results.

“*For many Turks who will vote or who choose not to vote it is more an election with regard to the Islamic-Conservative government,*” analyses Cengiz Aktar, professor of European Studies at the University of Bahcesehir in Istanbul. “*This election looked like a vote of confidence for the AKP and it has won confidence,*” stressed political expert Tarhan Erdem. Riza Türmen, former judge at the European Court of Human Rights believes however that the fact that 42% of the people rejected the reform of the Fundamental Law is impor-

tant and problematic. “*A Constitution has to be the result of a social contract and it is clear that the new text is not one,*” he declared.

The popular vote is a failure for the opposition forces notably for the National Action Party (MHP) led by Devlet Bahçeli and the People’s Republican Party (CHP) led by Kemal Kilicdaroglu, who had campaigned for the “no” vote.

On 7th May last the constitutional reform which included 26 articles in all won the approval of 336 of the 550 members of the Grand National Assembly, the only Chamber in Parliament i.e. a number lower than necessary to be finally adopted but enough for the issue to be submitted to referendum. The Turkish President Abdullah Gül, adopted the text five days later.

The constitutional reform adopted on 12th September stipulates that the military, including officers and those accused of crimes against the State can now be brought to trial in civil courts. It also says that officers who are dismissed from the army for having links with radical Islamic groups may make an appeal. Finally the text authorises the trial of the leaders of the coup d’Etat of 12th September 1980. The modified text also

Referendum on the reform of the Constitution in Turkey 12th September 2010

structures the Constitutional Court of Justice, the number of members of which rises from 11 to 17 (three will be appointed by Parliament) and the Magistrates' Surveillance Council the number of members of which rises from 7 to 22 (four will be appointed by the President of the Republic).

The text submitted to referendum withdraws the sole right of the legal institution to have a monopoly of decision over the dissolution of political parties, it grants new rights to civil servants (including the right to undertake collective negotiations but not the right to strike), promotes positive discrimination in favour of the elderly and equality between men and women and the protection of children – it also plans for the creation of the position of ombudsman. Finally the constitutional reform brings Turkey in line with the EU's Charter of Fundamental Rights which has already been signed by Ankara. The Prime Minister repeated during the electoral campaign that with this modification of the Constitution Turkish democracy was enhanced and the country would fall in line with European norms. The European Commission also expressed its support for the re-organisation of the legal system but reproached the Turkish authorities for the lack of public debate before the referendum. It is a "step in the right direction" declared Michael Leigh, Director General of the DG Enlargement at the European Commission after the results were announced.

In the opinion of the opposition the constitutional reform threatens the independence of the legal system and also the separation of power since the President of the Republic's powers are now greater likewise those of the government over the legal institutions and this will allow the AKP to control sources of power by placing its supporters in key positions – finally they believe it threatens the principle of secularity that has been in place in Turkey since 1923.

"This is not just a victory for the government – we are moving towards a new Constitution. It is just the start. Turkey is moving towards standardisation and demilitarisation which it needs to become a country which is truly confident in its future," said Cengiz Aktar. In the opinion of Mithat Sancar, professor of law, the victory of the "yes" is neither a government victory nor a defeat for the opposition. *"The result shows that most Turks are against the army and the legal system interfering with politics,"* he declared. He believes that the amendments adopted on 12th September will help to make Turkish political life *"more democratic and more civilised."* *"There is a demand for democracy on the part of the people which is seen as a means to settle problems. And all of the political parties should take this seriously before the next elections take place,"* he concluded.

Referendum Results on the Constitution 12th September 2010 in Turkey

Turnout: 77%

| Question submitted to referendum | % of « yes » votes (no of votes in brackets) | % of « no » votes (no of votes in brackets) | Blank and void (no of votes in brackets) |
|--|---|--|---|
| Constitutional Reform (amendment of 26 articles of the Turkish Fundamental Law) | 57.90 (21 781 555) | 42.10 (15 848 532) | 1.4 (725 908) |

Source : *Supreme Council for Elections in Turkey*

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