



## How the EU should respond to Erdoğan's constitutional coup d'état

Steven Blockmans and Sinem Yilmaz

*Apart from weak Council conclusions adopted last November and a non-binding resolution from the European Parliament condemning the repressive measures taken in the wake of the failed coup, most EU leaders and institutions have been conspicuously silent about the profound crisis of true democracy that has seized Turkey. In this Commentary, CEPS researchers Steven Blockmans and Sinem Yilmaz insist that the writing is on the wall and that the EU leadership must deliver a strong value statement in response.*

The failed military coup attempt of 15 July 2016, which left 241 dead and 2,196 people wounded, has become a turning point in Turkey's political history. In the immediate aftermath of the attempt, President Erdoğan declared a three-month state of emergency, which has been extended for a period of up to 12 months. Ruling via executive decrees, the government has cracked down on the country's military, police, academia, judiciary, education system, civil service, media and business community. Almost 130,000 people have been sacked, more than 92,000 detained, and 45,000 arrested. Meanwhile, Turkey's internal security challenges have multiplied since the collapse of the peace process between the government and the Kurds in July 2015. The terrorist threat to Turkey is not limited to Kurdish separatist groups. The so-called Islamic State has also struck on Turkish soil, as both the cause and effect of Ankara's policy towards Syria and its military intervention in that country under the codename Operation Euphrates Shield.

During this period of high tensions on the domestic and external front, the President's AK Party has revived the constitutional reform package that was put on hold in December 2013. The proposed amendments met strong opposition in parliament but were nevertheless approved by an AKP-led majority on 21 January 2017. The President endorsed the reform bill in February and a referendum is scheduled for 16 April 2017.

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This controversial package seeks to replace the current parliamentary system with one that abolishes the post of prime minister and the council of ministers and gives the President unsupervised power to appoint and dismiss ministers, who would be accountable only by the procedure of impeachment. The new Constitution would grant the President the right to obtain a third mandate, to be a member – and even the leader – of a political party, to veto laws and dissolve the parliament on any grounds whatsoever. S/he would also have the exclusive power to declare a state of emergency and extensive powers to issue presidential decrees without the need to resort to an empowering law which the Constitutional Court could review. Finally, the President would have responsibility for appointing half of the Council of Judges and Prosecutors and an almost unfettered right to prepare the budget.

It is fair to say that the draft reform package, which consists of 18 articles, consolidates so much power in the position of the President that, if the bill passes in the referendum – which the polls indicate it will – the current separation of powers between the legislative, executive and judicial branches will be lost. Under the new Constitution, the political accountability of the President will be limited to elections, which would take place only once every five years. In the ‘Turkish-style’ Presidential system, an increasingly authoritarian Erdoğan will be able to ‘check and balance’ everything.

The constitutional amendments have been pushed through under the state of emergency by way of excessive use of urgent procedures with insufficient consultation and minimal input from experts. The mass liquidation of media outlets (149 were shut down) and arrest of 162 journalists have made an informed public debate about the constitutional reform package impossible, thus eviscerating any prospect of a free and fair plebiscite.

Apart from weak Council conclusions last November and a non-binding resolution of the European Parliament condemning the repressive measures taken in the wake of the failed coup and calling for the suspension of accession negotiations, most EU leaders and institutions have been conspicuously silent about constitutional ‘reform’ in Turkey.

This passive stance is untenable in light of recent and upcoming developments. In a set of reports presented to the Parliamentary Assembly of the Council of Europe for adoption on March 10-11th, the Venice Commission – the organisation's advisory body on constitutional matters – is expected to deliver a sharp condemnation of the constitutional reform package and the state of media freedom in Turkey.

This begs the question whether the European Union should send a signal after the Venice Commission publishes its opinions, perhaps in an attempt to sway voters to say ‘No’ in the referendum. Such a tactic could well backfire when cited by President Erdoğan as evidence of unwarranted intervention in Turkey's internal political affairs. But this is not the time for the Union to be tactically pragmatic. The writing is on the wall. In the face of a crisis of true democracy, a strong value statement should be delivered.

The very least the EU should do is issue a statement by Johannes Hahn, Commissioner for Enlargement Negotiations, underlining the opinions of the Venice Commission, aligning with

the grave concerns it expresses and warning of the dangerous consequences of disregarding them. The statement should also refer to the problematic context in which the referendum is being organised, which would render the outcome invalid. Finally, the statement should stress that, with the entry into force of the constitutional amendments, Turkey would no longer meet the Copenhagen political criteria for EU membership and leave the Commission no other choice but to suspend accession negotiations.

Policy-makers have shied away from drawing this inevitable conclusion, arguing that shutting the door on Turkey's accession to the EU would irreparably harm bilateral relations. This need not be the case. The accession process is only one, albeit a central, element on the much wider strategic agenda of discussions between the EU and Turkey. Negotiations have hardly advanced since they started more than a decade ago. A resolution of the Cyprus issue could unblock the stalemate but hopes of an agreement are fading into the background. Moreover, Erdoğan's Turkey has turned its back on the EU's pledge of accession years ago.

The EU should not debase its own membership criteria simply on grounds of Turkey's strategic importance for the Union. This would seriously undermine the credibility of the EU's enlargement policy and would send a negative signal to other pre-accession countries in the Western Balkans. The suspension of accession negotiations with Turkey would not mean termination of the talks. Indeed, the door should be left ajar, but the EU should be unwavering in its defence of European values and consistent in its approach.