

The AK Party Closure Case: Domestic Situation and International Reactions

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Summary

The closure case against AK Party heralds a new era in Turkish politics marked by the increased intervention of the judiciary in politics. Inasmuch as the governing party enjoys support of half of the Turkish electorate, the case has harmed the image of Turkish democracy and consequently risks jeopardizing Turkey's quest for full membership in the EU. The overall reaction of the West to the case indicates that the Western political and intellectual elites avoid the conventional Islamist-secularist dichotomy in interpreting Turkish politics. Top-level EU bureaucrats have emphasized that closure would seriously jeopardize the process of membership. AK Party needs to accelerate the democratization process by focusing on the rest of the constitutional reforms required for EU membership.

The case against the Justice and Development (AK) Party to close it down is seen as a judicial intervention against a governing party and, as such, has harmed the image of Turkey as a stable and functioning democracy. The case is controversial both in its claims and motivations. The AK Party came to power after sweeping the July 2007 elections to form the second consecutive single party government; it has become the only party able to increase votes while in power. Despite the damage the closure case has inflicted on global public perception of Turkey, paradoxically, it helps the outside world to better understand the internal dynamics of Turkish politics and to locate the current situation within a larger historical framework of Turkish democratization.

The current attempt to close down AK Party is as undemocratic as the previous closures of the Welfare (Refah) and the Virtue (Fazilet) parties in 1998 and 2001 respectively. The current case, however, takes place against a fundamentally different strategic and ideational context as far as Turkey and its Western allies are concerned. The events of September 11 and the Iraq War have changed the strategic environment of the region where Turkey is located. In the post-September 11 world, it has become increasingly important that Islam and modernization can be shown as compatible; in this sense, the AK Party offers a unique opportunity. Iraq's ongoing instability, coupled with Turkey's security concerns, means that there needs to be a stable and predictable political system

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in Ankara. Furthermore, because of the impending economic crisis, both in the United States and globally, a political crisis in a region vital for global economic security would be highly undesirable for the United States. In a similar vein, European countries, Russia and Turkey's neighbors in the Middle East are opposed to any development that would drag Turkey into a period of political uncertainty and instability. The case has already raised major concerns in the official EU circles about Turkey's membership prospectus

The Case

On March 14, 2008, the Chief Judge Abdurrahman Yalçınkaya opened a closure case against AK Party with a 162-page indictment, accusing AK Party and its leaders of violating the principles of secularism defined in the article 2 of the Turkish Constitution. The indictment contains speeches and statements by President Abdullah Gül, Prime Minister Recep Tayyip Erdoğan and other party officials. The main accusation is becoming "the focus of anti-secularist activities" as defined in the Constitution. The judge asks 71 AK Party members to be banned from politics including PM Erdoğan. The indictment also includes the name of Abdullah Gül. This is unprecedented in Turkish legal and political history because a president can be indicted only for treason. If accepted, the ban will be effective for five years and bar those people from registering with any political party. However, there is a discussion that they can run for parliament as independents.

The members of the Constitutional Court, the highest legal authority in Turkey, are appointed by the President permanently until the retirement age of 65 and composed of 11 members. The Court members accepted the indictment by a unanimous vote of 11-0. But four members objected to the inclusion of President Gül in the indictment. Since 1960, Turkish courts have closed down 26 political parties, the highest in any country in Europe. The case is expected to last up to 6 or 8 months depending on the court's handling and the political climate in Turkey.

The Court decision can come in four forms: 1) a total closure of AK Party and the banning of 71 (or less) members of AK Party listed in the indictment; 2) closure of the party without the banning of party members including President Gül and PM Erdoğan; 3) a partial punishment such as barring AK Party from getting financial support from the state budget; 4) no closure of the party but banning party members from politics for five years.

International Atmosphere: the United States and European Union

The United States official reaction to the closure case was expressed in a clear language by the Assistant Deputy Secretary of State, Matthew Bryza, who stated that the democratic process must be respected. The U.S. Ambassador Ross L. Wilson expressed similar views. While it might be argued that the Americans were not as explicit as European leaders in condemning the judicial coup attempt, they nonetheless reacted more strongly than they had in response to the 27th April electronic memorandum of 2007. Yet this latter is a more serious crisis threatening the party and the government as a whole. In the earlier crisis, the United States perhaps wished to avoid a direct confrontation with the Turkish military with which

it maintains strong institutional ties within the NATO framework. In the judicial coup case, however, the U.S. administration expressed its support for the democratically elected government.

It appears that some media outlets in the United States continue to subscribe to the stereotypical understanding of Turkish politics described above. A few articles in *Los Angeles Times* and *Washington Times*, written by US-based Turkish authors, have charged the AK Party with bringing the country closer to Iran, inviting Arab capital investments in Turkish economy, and orienting Turkish foreign policy away from the United States. Criticizing the AK Party government for pursuing an Islamist foreign policy agenda is an old story, as the AK Party government has pushed for the EU membership; ironically the same government is blamed by domestic secular nationalist forces for 'serving the interests of the imperialist West'.

Nevertheless, major US and European outlets have not failed to capture the true picture of Turkish politics. The *New York Times* covered the issue in some detail, and analyzed it in its editorial entitled "Turkey's Democracy on Trial" (March 21, 2008). Meanwhile, the editorial of the *Financial Times* included the following comment: "However much they are covered with a fig leaf of constitutional legitimacy, these efforts amount to a naked *coup d'état* by forces unable to win power at the polls. If they come even close to success, Turkey really can forget about Europe" (March 21, 2008). Likewise, *the Guardian* asserted that "the power struggle between Ankara's secularist elite and the new class of conservative, reformist Muslims represented by Erdoğan and his party is likely to last into next year, undermining Turkey's EU ambitions and discouraging foreign investment" (April 01, 2008).

In contrast to the United States, Europe expressed its reaction on a much higher level and with stronger language. Leading EU bureaucrats as well as several European prime ministers and foreign ministers condemned the closure attempt as a serious backlash against democratization and as a move that would move Turkey away from the EU reform process.

There are two camps in Europe as far as the Turkish membership issue is concerned: (1) anti-Turkish membership political parties and politicians who are in power in France and Germany, and (2) pro-Turkish membership EU bureaucrats. As Joost Lagendijk, a member of the European Parliament and the chair of the Joint Parliamentary Committee with Turkey, said that the AK Party closure case gave ammunition to those who would like to close the Turkish membership case. Now they can claim that Turkish democratization process is unstable and can easily be reversed. The highest level EU condemnation of the closure case came from the EU enlargement chief Olli Rehn who asserted that it would have serious ramifications for Turkey's membership process.

If the goal of those who initiated the closure case was to harm Turkey's EU membership process, their efforts might be considered a success. Those who have defended Turkish membership thus far will be in a weaker position. However, the resulting political chaos and turmoil in the Turkish system will have repercussions beyond the already decelerated membership process. Even those who oppose Turkey's membership will be troubled by

seeing a chaotic environment in Turkish politics and the ensuing domination of anti-EU circles within Turkey, particularly in the context of looming global economic stagnation, instability in the Middle East, and a rising Russia. Just as it is true for the United States, the ultimate desire of Europe is to see a predictable political future in Turkey. Predictability can be offered only by elected governments, as those who achieve power through non-democratic means do not have to confront elections and thus can behave irresponsibly.

Future Prospects

If AK Party is closed down, it will have serious consequences for Turkey's future. Four possibilities loom large:

1. People's belief in Turkish democracy will be shattered again. AK Party is the only political party that has been able to increase its votes while in power. While its popular support has increased after the closure case, recovering from such a judicial coup will not be easy (especially given the possibility that PM Erdoğan, if banned from politics, may not lead his party for five years).
2. There is a real danger of a major economic crisis. It is quite possible that Turkish economy will take a major hit, foreign investment will lose its confidence in Turkey, and the current debt ratio will have adverse effect on both domestic and foreign companies.
3. Turkey's EU membership prospectus will be in jeopardy. European Union will not accept a country that has damaged its democratic credentials. Seen from the opposite angle, the Europeans may act with a sense of urgency and accelerate the membership process to secure political predictability in Turkey. But without a strong political leadership from within Turkey, the accession process may drag on for years.
4. Kurdish issue will be out of control. With AK Party out of the picture, there is a real possibility that the Kurdish voters will go back to DTP and may even support PKK as a reaction. This may lead to Turkey's disintegration and open the Pandora's box for secessionist aspirations. AK Party and DTP received about 95 % of the votes in the Kurdish areas of Turkey. There is a closure case against both parties at the moment.

The AK Party government enjoys a favorable international context upon which it must capitalize in order to complete the domestic reform process. However, in the face of the growing power of nationalism, the AK Party needs to boost its efforts to continue the reform process, primarily on civil liberties and party closures. Rather than passively submitting itself to the good will of the Turkish justice system, the AK Party should take the leadership in the legislative process to enact necessary legal changes. Party closures should be prevented from being a constant feature of Turkish democracy. The AK Party should seek the support of other major parties in parliament, but if this is not possible, it should act alone

and force changes through a referendum. The government should spend serious efforts to abolish Article 301 of the Penal code, which is used to suppress freedom of expression.

The success of the reform process also depends on the good will of the European leadership toward the issue of Turkey's EU membership. The ambiguity of Turkey's membership prospects has removed much of the public enthusiasm in Turkey, contributing to the rise of ultra-nationalism. If the EU wants to appear more credible in its support for Turkish democracy, it needs to convey to the Turkish public the message that there are good reasons to remain hopeful about the membership process. Similarly, the AK Party government's major challenge is to gain the approval of European public opinion on behalf of Turkey's full membership. At any rate, the only way out of the current state of political uncertainty is to continue with the political and legal reforms that will put Turkey back on its democratic track.