



**PARTY  
CLOSURE  
FILE**

Closing down political parties (or getting them closed down) by courts is unfortunately an established tradition in Turkey. If we leave out the first opposition parties, who dissolved themselves following the threats wrapped as advice from above, 24 political parties in total have been closed down by the courts. We have seen socialist parties, and then the parties with Islamic and Kurdish identities getting closed down; however, a political party facing a closure case while in the office is a novelty for Turkey. It must be difficult to comprehend for the world the attempt to close down a political party by a court case, who won an election victory only eight months ago having a strong majority in the Parliament.

## **How did it all begin?**

High Court Chief Prosecutor Abdurrahman Yalçınkaya announced on 14 March 2008, to the surprise of all, that he prepared an indictment to submit to the Court of Constitution asking the court to close down the governmental Justice and Development Party (AKPARTY). The indictment charged AKPARTY with “becoming a centre of pro-Sharia (Islamic legal order) actions,” just like Milli Nizam (National Order) and Refah (Welfare) parties with Islamic identities, which were closed down earlier. The indictment wants AKPARTY closed down and the executive members banned from politics for a long period, under articles 68/4 and 69/4, 5, 6 of the Constitution and articles 101 and 103 of Law on Political Parties.

## **What does the Indictment say?**

Some of the actions presented as evidence by the Indictment:

### **AKPARTY**

- \* amended articles 10 and 42 of the Constitution allowing the free use of headscarf in higher education institutions.
- \* submitted to the head office of the Parliament a draft cancelling the minimum age rule to attend religion courses (15 for winter courses, 12 for summer courses); holding of summer religion courses (Koran courses) under the control of Department of Religious Affairs and Education Ministry.

\* Health Ministry proposed in article 113 of the draft on the Licensing of Medical Institutions that the institutions to allocate praying space for patients.

### **R.T. Erdoğan**

\* Said during his visit in Sydney, Australia, *“Everyone can be proud of their identity. That is one’s most natural right. A Kurd with being Kurd, a Turk with being Turk, a Circassian with being Circassian, a Laz with being Laz. I mean ethnic identities. However, we have a supra identity of being citizens of Turkish Republic. That is our common denominator.”*

\* Said as he flew to the States in June 2005 *”We do not have any problem with secularism. There is a definition in the preamble of the related article of 1982 Constitution. The preamble says ‘being at an equal distance to all religions.’ All beliefs are under the guarantee of the state. I repeat: I am not secular as an individual; but the state is secular. Hence, I am responsible for protecting the secular order. However if you present secularism as a religion you will hurt the people of this country. Turkey is moving for the better, the government is successful; there are some who wants to make secularism an issue and benefit from that. ‘Mind readers’ are making false accusations in Turkey.”*

\* Said in January 2004, at Foreign Affairs Council in New York *“Headscarf is a common problem for the nation and the institutions in Turkey where 90% of the population are Muslim. We want to solve it through social agreement. Yet I have to say that this problem exists in Turkey.”*

### **Abdullah Gül**

\* In November 2003 as he flew to Rome to attend EU Troika Meeting, he criticised in an interview the omission of the ban on headscarf from the list of democracy and human rights problems in EU’s Progress Report.

\* He said at a special meeting of the Human Rights Commission of the Parliament on the 55th. Anniversary of the acceptance of UN Universal Declaration of Human Rights *“We are determined about freedoms of expression and conscience; everyone should be able to live as they believe. Everyone should feel safe, away from fear and worry. All should be able to*

*express what they think or believe and live accordingly. Our target is to save freedoms of expression and conscience from torture and terror. All necessary legal reforms will continue to be made.”*

### **Hüseyin Çelik**

\* Minister of Education Hüseyin Çelik said in June 2004, in Yalvaç district of the city of Isparta, as he attended the opening of an elementary school, referring to the placards held by two girls with headscarves *“We have not forgotten vocational schools, everything has its time, you may want to do something but if its not the right time you may have to postpone it for a while, but we will do what is necessary to eliminate this injustice, this brutality.”*

Etc. etc...

## **How did the things develop?**

Following the report of the reporter of the Court of Constitution, “The indictment may be accepted or refused by the Court,” the Court voted unanimously “to accept the case,” and decided with a majority vote that President Gül too could be tried. (8 out of 11 members of the board of judges were appointed by the former President Sezer, who did not hide that he was against AKPARTY.)

In the meanwhile, AKPARTY began looking for support from other parties to overcome this problem through a Constitutional amendment, considering a possible restriction in the power of the court. AKPARTY’s Central Executive Board meeting on 7 May 2008 decided not to sustain the tension.

## **What Now?**

It is rather difficult to answer this since Turkey is not a state ruled by the supremacy of law. Politics will determine the outcome of the trial, which has nothing to do with the law. Naturally, the European Union and the USA

elements are at work in addition to “the army, High level bureaucracy and the capital.”

Possibilities can be listed as follow:

1. AK PARTY might amend the Constitution with the support of MHP (Nationalist Movement Party) and DTP (Democratic Society Party) restricting the powers of the Court of Constitution
2. The court might reject the prosecutor’s case and close the case, with the help of political pressures.
3. AKPARTY may be closed down.

Of course then a BAKPARTY would be set up immediately and team “A” who are removed from politics would pass the flag to team “B”, and they would come to the office with a bigger majority in the first general elections. These are only possible if those who want to drag the country into a new period of military takeover fail to create a blood bath. Let us have a look at the past.

## **The periods when democracy was put on the shelf:**

**1960:** Army overthrew Democrat Party government. Leading members were tried; Menderes, Zorlu and Polatkan were hanged. The rest set up Justice Party (AP). AP under the leadership of Demirel came to office in 1965.

**1971:** Demirel government had to withdraw following an army ultimatum on 12 March. The left and trade union movement was attacked heavily and this period led to Ecevit’s coalition government in 1974 who had become very popular with his social democratic promises.

**1980:** 5 generals under the leadership of General Evren took over, following political murders and “the fight between the right and the left” most of which later turned out to be the products of the provocations on the part of

the secret services of the state. The coup bloodily repressed the left, Kurds, and the whole opposition. They changed all democratic laws beginning with the Constitution. Turkey is still in the straight jacket of 1982 Constitution. In the first general elections in 1983, people voted not for (the left and the right) two parties fabricated by the junta but for the only other party. Turgut Özal's Motherland Party (Anavatan Partisi) won the elections.

**1997:** As Erbakan who was popular with his Islamist identity became the prime minister, first the army tanks held a parade show, “a wheel balancing for democracy” in the words of the Generals, then on **28 February** through a “post modern coup,” it was announced that “The Number 1 threat” was no longer “Terrorism” but “Islamic reaction.” Prime Minister Erbakan was forced to withdraw. The name of the new fight was “secularism – Sharia (Islamic order)” and the most intense battle ground was picked as women's heads. The fight still continues. However, as the time came for by elections another disappointment was ready for “the state.” AKPARTY, which represented a modernised version of Islam, had an election victory. Erdoğan was banned from politics at the time but present President Gül took over the flag and carried it until passing it back to its owner.

**2007:** Presidential elections caused tension. A more modern coup was staged when it became clear that Gül whose wife wore a headscarf would be elected. Crisis of “367” was invented. A military declaration placed on the website of the office of the General Chief of Staff in the midnight of 27 April, which threatened with a takeover in case the Court of Constitution did not approve the need for 367 MPs for the Parliament to convene. As the court cancelled the first round of presidential elections with a decision impossible to reconcile with law, AKPARTY went for early general elections. The insobriety of the mass “Respect the Republic” rallies came to an end in the election results. AKPARTY returned to office with a bigger majority. The army faltered for a while but pulled itself together quite fast. The army stopped talking against AKPARTY on the condition that AKPARTY collaborated in the fight against the other great danger.

Yes! We almost forgot that there is another political party facing closure: Democratic Society Party (DTP). The representative of the South Eastern

cities beyond dispute, DTP has been excluded and condemned since the opening of the Parliament by all parties except the leftist ODP (Freedom and Solidarity Party). AK PARTY who champions democracy against the closure, agrees with the excuse “except the separatists” when it comes to DTP. Erbakan had done the same thing believing he could save his seat by sacrificing Leyla Zana and her friends. Does history have to repeat itself?

## **What if the society takes a wrong direction?**

The Court of Constitution was established on “national” and “secular state” values, the founding principles of “the centre,” which had political hegemony. The court interpreted these principles strictly, which were the source of the two issues that the Republic failed to solve: ‘Kurdish issue’ and ‘religion issue.’ The court restricted the political space by preventing the transfer of religious and ethnic differences to a political plane. The court pushed the parties who dared to rival the centre, out of the race for office.

Bureaucratic institutions at the centre still feel that the ground is moving under their feet and the power is slipping from between their hands. That means for them the loss of their privileges and their hierarchical superiority before the population. Hence, what we have before us is not a legal affair.

## **Turkey is violating the European Human Rights Convention!**

Numerous cases have been filed with the European Court over the closures of political parties by the Court of Constitution. The European Court decided that Turkey violated the Convention in all cases except the case of Welfare Party (Refah Partisi). Here is the list of 24 parties closed down by the Court of Constitution:

|   |   |
|---|---|
| Worker-Farmer Party (15.10.1968)              | Freedom and Democracy Party (3004.1993) |
| National Order Party (20.05.1971)             | Socialist Turkey Party (30.11.1993)     |
| Turkish Cities Country Party (24.06.1971)     | Democracy Party (16.06. 1994)           |
| Workers Party of Turkey (20.07.1971)          | Democrat Party-2 (13.09.1994)           |
| Great Anatolia Party (19.12.1972)             | Democracy and Change Party (19.03.1996) |
| Labour Party of Turkey (08.05.1980)           | Resurrection Party (18.02. 1997)        |
| Great Anatolia Party (24.11.1992)             | Labour Party (14.02.1997)               |
| Socialist Party (10.07.1992)                  | Socialist Unity Party (07.06.1994)      |
| Green Party (10.02.1994)                      | Welfare Party (16.01.1998)              |
| Peoples Party (25.10.1991)                    | Democratic Mass Party (26.02.1999)      |
| United Communist Party of Turkey (16.07.1991) | Virtue Party (22.06.2001)               |
| Peoples Labour Party (14.07.1993)             | Peoples' Democracy Party (13.03.2003)   |

### The Constitution says:

**Article 68/4-** The statutes and programmes, as well as the activities of political parties shall not be in conflict with the independence of the state, its indivisible integrity with its territory and nation, human rights, the principles of equality and rule of law, sovereignty of the nation, the principles of the democratic and secular republic; they shall not aim to protect or establish class or group dictatorship or dictatorship of any kind, nor shall they incite citizens to crime.

**Article 69/4-** The dissolution of political parties shall be decided finally by the Constitutional Court after the filing of a suit by the office of the Chief Public Prosecutor of the Republic.

**69/5-** The permanent dissolution of a political party shall be decided when it is established that the statute and programme of the political party violate the provisions of the fourth paragraph of Article 68.

**69/6-** The decision to dissolve a political party permanently owing to activities violating the provisions of the fourth paragraph of Article 68 may be rendered only when the Constitutional Court determines that the party in question has become a centre for the execution of such activities. A political party shall be deemed to become the centre of such actions only when such actions are carried out intensively by the members of that party or the situation is shared implicitly or explicitly by the grand congress, general chairmanship or the central decision-making .or administrative organs of that party or by the group's general meeting or board at the Turkish Grand National Assembly or when these activities are carried out in determination by the above-mentioned party organs directly.



## Law on Political Parties

**Article 101-** Court of Constitution orders closing down of a political party if;

a) The political program or founding statute of a political party is in conflict with the independence of the state and its indivisible integrity with its land and nation, human rights, the principles of equality and the rule of law, national sovereignty, the principles of democratic and secular republic, or they defend or aim to set up a dictatorship of a class or a group or any kind of dictatorship, or incite citizens to crime,

b) The Court of Constitution establishes that a political party has become a centre of the actions in violation of article 68 paragraph 4 of the Constitution,

c) A political party receives financial aid from foreign states, international institutions and non-Turkish persons and institutions,

In cases mentioned paragraphs (a) and (b) of the law, instead of permanent closure The Court of Constitution may order, complete or partial cut in last year's public subsidy received by the party, depending on the seriousness of the violation but not less than the half of the subsidy, If the full amount of public subsidy has already paid, the court may order the party to return it to the Treasury.

**Article 103-** The Court of Constitution establishes whether or not a political party has become a centre of actions against article 68/4 of the Constitution.

(Paragraph 2 has been cancelled by a decision of The Court of Constitution dated 12.12.2000 and num. E.2000/86 - K.2000/50, published in the Official Gazette, issue 22.12.2000 and number 24268.)

A political party shall be deemed to become the centre of such actions only when such actions are carried out intensively by the members of that party or the situation is shared implicitly or explicitly by the grand congress, general chairmanship or the central decision-making or administrative organs of that party or by the group's general meeting or group executive board at the Turkish Grand National Assembly or when these activities are carried out in determination by the above-mentioned party organs directly.



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