



INTERNATIONAL ELECTION OBSERVATION MISSION Republic of Turkey – Early Parliamentary Elections, 1 November 2015

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Ankara, 2 November 2015 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE).

Mr. Ignacio Sanchez Amor (Spain) was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator to lead the short-term observer mission. Ms. Margareta Cedersjö (Sweden) headed the OSCE PA delegation. Mr. Andreas Gross (Switzerland) headed the PACE delegation. Ambassador Geert-Hinrich Ahrens is the Head of the OSCE/ODIHR Limited Election Observation Mission (LEOM), deployed from 28 September 2015.

The assessment was made to determine whether the election complied with OSCE commitments and Council of Europe standards for democratic elections, as well as Turkey's international obligations and domestic legislation. Each of the institutions involved in this IEOM has endorsed the 2005 Declaration of Principles for International Election Observation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the election process. The final assessment of the election will depend, in part, on the conduct of the remaining stages of the election process, including the count, the tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The OSCE PA will present its report at its Standing Committee meeting in Vienna in February 2016. The PACE delegation will present its report at the meeting of the Standing Committee in Sofia on 27 November 2015.

PRELIMINARY CONCLUSIONS

The 1 November early parliamentary elections offered voters a variety of choices. The challenging security environment, in particular in the south-east, coupled with a high number of violent incidents, including attacks against party members and campaign staff, as well as on party premises, hindered contestants' ability to campaign freely. Media freedom remains an area of serious concern and the number of criminal investigations of journalists and the closure of some media outlets, reduced voters' access to a plurality of views and information. The 10 per cent parliamentary threshold continues to limit political pluralism. The election administration organized the elections professionally.

Most contestants were generally able to convey their messages to the electorate; however the escalation of violence, particularly in the southeast part of the country, restricted some contestants' ability to campaign freely. The last two weeks of the campaign were marked by an increased number of attacks against and arrests of members and activists, predominantly from the People's Democratic Party (HDP). The IEOM observers received reports of intimidation of voters and pressure to vote for several political forces. A major terrorist bomb attack in Ankara on 10 October significantly affected the atmosphere and conduct of campaign, with all political parties temporarily suspending campaign activities.

The campaign was overall low-key, with increased visibility in the last 10 days. The campaign

atmosphere was polarized between the ruling party and other contestants, and confrontational rhetoric was used. Parties focused on door-to-door campaigning and a few rallies were organized mostly by the four parliamentary parties in several targeted districts. The main topics included the socio-economic situation, the end of the '*Solution Process*' and the campaign against terrorism.

If implemented fully and effectively, the legal framework is generally conducive to holding democratic elections. However, certain fundamental freedoms, including the right to vote and be elected, are unduly restricted by the Constitution and legislation. Previous OSCE/ODIHR and Council of Europe recommendations for legal reforms dating back to 2011 that would address gaps and ambiguities have generally not been addressed. In addition, the 10 per cent threshold for parliamentary elections limits political pluralism. In a positive step, the freedom to campaign in any language was guaranteed by law in 2014. The system of seat allocation to constituencies, results in a significant differential in number of voters per parliamentary seat, which is inconsistent with the principle of equality of the vote provided for by paragraph 7.3 of the 1990 OSCE Copenhagen Document and Section I.2.2.2.iv of the Council of Europe Venice Commission Code of Good Practice in Electoral Matters (Code of Good Practice).

The elections were well organized by the election administration, comprising representatives of the judiciary and the main political parties. Despite the shortened election calendar, the Supreme Board of Elections (SBE) was able to meet all deadlines. Following discussions, the SBE decided that it was feasible to conduct voting in the areas affected by violence stating that relocation of any polling stations outside of the respective *mukhtarlik* (smallest administrative area) is not in line with the law. Several District Election Boards (DEBs) relocated a significant number of polling stations within the respective neighbourhoods in line with the SBE's decision.

Candidate registration was overall inclusive, offering voters a diverse and genuine choice. In total, 8,426 candidates stood on the lists of 16 political parties and 21 independent candidates were registered. However, the restrictions to run for those who have not completed compulsory military service or have been convicted of a broad range of crimes including minor criminal offences are incompatible with the fundamental right to stand for election entrenched in several international documents, including Paragraph 7.5 of the 1990 OSCE Copenhagen Document and Section I.1.1.1 of the Code of Good Practice.

Around 54 million voters were registered to vote in Turkey and some 2.9 million abroad. IEOM interlocutors generally expressed confidence in the voter register. However, the restrictions of the right to vote of conscripts, students in military schools and prisoners are not in line with paragraphs 7.3 of the 1990 OSCE Copenhagen Document, Section I.2.2.2.iv of the Code of Good Practice and other international obligations.

The media landscape comprises a variety of outlets. However, undue legal restrictions on the freedom of expression remain in place. Criminal investigations of journalists and media outlets for support of terrorism and defamation of the president, the blocking of websites, as well as the removal of several television stations from digital service providers and the effective seizure of some prominent media outlets reduced voters' access to a plurality of views and information. Sanctions based on the Radio and Television Supreme Council's media monitoring reports, and imposed by the SBE on the broadcasters, did not provide effective remedy for breaches of regulations. OSCE/ODIHR LEOM media monitoring findings showed that three out of the five monitored television stations, including the public broadcaster, favored the governing party in their programs, with the remaining two offering negative coverage.

The lack of judicial review of SBE decisions challenges the separation of powers and denies access to judicial remedy in electoral matters. The Constitutional Court's recent ruling that SBE decisions

cannot be reviewed even for violations of fundamental rights and freedoms further restricted the opportunity for stakeholders to seek judicial redress. While the SBE effectively addressed some complaints, others were left without substantive examination, and in some cases, effective or timely remedy was not provided.

Women played an active role in the campaign, although they remain underrepresented in political life. While the Constitution guarantees gender equality, there are no special legal obligations for the parties to nominate women candidates. On a positive note, some parties implemented gender quotas and introduced affirmative measures for enhancing the participation of women. Overall, approximately 24 per cent of candidates on party lists were female. Women comprised some 27 per cent of Provincial Election Boards members but only 6 per cent of the DEB members.

The law does not establish rights for non-party citizen observers and does not provide for international observation as foreseen in paragraph 8 of the 1990 OSCE Copenhagen Document, the Code of Good Practice and by the Council of Europe Parliamentary Assembly in its previous recommendations. Civil society groups were actively involved, although, due to legal constraints, they had to register their observers on behalf of political parties.

Election day was generally peaceful. In the limited number of polling stations visited by international observers, election day was generally organized in an efficient manner. In seven polling stations IEOM observers were asked to leave and in several instances citizen observers accredited on behalf of political parties were denied access. The counting process was assessed as transparent and well organized, although there were some instances of the BBC members not following the procedures prescribed by the law. The tabulation at several DEBs observed was assessed as orderly and efficient overall, despite being crowded at times.

PRELIMINARY FINDINGS

Background

On 24 August, following unsuccessful coalition negotiations, the president called early parliamentary elections for 1 November. The last parliamentary elections took place on 7 June 2015. For the first time since 2002, the Justice and Development Party (AKP) did not obtain an absolute majority and was not able to form a single-party government. As a party, the People's Democratic Party (HDP) entered parliament for the first time. The outgoing 550-member Turkish Grand National Assembly (parliament) is composed of the AKP with 258 seats, the Republican People's Party (CHP) with 131 seats, the HDP with 80 seats, the Nationalist Movement Party (MHP) with 79 seats and two independents.¹

A two-year break in confrontations between the Turkish security forces and the Kurdistan Workers' Party (PKK), ended in July 2015.² After a bombing in Suruç on 20 July, which resulted in 32 people killed and 104 injured, an increase in terrorist acts, counter-measures and hostilities followed.

Legal Framework and Electoral System

If implemented fully and effectively, the legal framework is generally conducive to holding democratic elections. The framework has largely remained unchanged since the 2011 parliamentary elections, leaving a number of previous OSCE/ODIHR and Council of Europe recommendations

¹ Two MPs, one from the CHP and one from the MHP, left their parties since being elected and are independent.

² The PKK is listed as a terrorist organization by some participating States (EU Member States, USA, and others).

unaddressed.³ It has a number of gaps and ambiguities, including absence of provision for citizen and international observation, lack of judicial review of the Supreme Board of Elections (SBE) decisions, absence of regulations on recounts and invalidation of results, and insufficient campaign finance regulations. In a positive step, the 2014 amendments related to party funding and providing for freedom to campaign in any language, addressed some previous OSCE/ODIHR and Council of Europe recommendations.⁴

The elections are primarily regulated by the 1982 Constitution, the 1961 Law on Basic Provisions on Elections and Voter Registers (Law on Basic Provisions), the 1983 Law on Parliamentary Elections, and the 1983 Law on Political Parties (LPP). Regulations and decisions issued by the SBE, which are part of the legal framework, did not sufficiently supplement the legislation in a number of key areas, including accreditation of party observers and matters related to the campaign.

The Constitution, adopted under military rule, entrenches fundamental rights and the superiority of international law over domestic legislation, however, it focuses on bans and prohibitions for the protection of the state rather than broad guarantees of rights and freedoms. Gender equality is guaranteed, but not the rights of ethnic groups. Fundamental freedoms, including the freedoms of association, assembly and expression, key to holding democratic elections, and the right to vote and to be elected, are unduly restricted by the Constitution and legislation.⁵ In particular, the fact that defamation of the president and other public figures is a criminal offence and that parties are prohibited from promoting a number of political ideologies, including non-secularism and the existence of minorities, restricts freedom of speech. The independence of the judiciary is not guaranteed by the legal framework.⁶

Members of parliament (MPs) are elected for four year terms under a proportional system in 85 multi-member constituencies with closed political party lists and independent candidates. Party coalitions are not permitted. The distribution of seats to constituencies was last undertaken by the SBE in early 2015, based on current population statistics.⁷ The system of seat allocation to constituencies results in a significant differential in number of voters per parliamentary seat, which is inconsistent with the principle of equality of the vote under paragraph 7.3 of the 1990 OSCE Copenhagen Document, Section I.2.2.2 of the Code of Good Practice and other international obligations and standards.⁸

To qualify for seat allocation, parties must surpass the national electoral threshold of 10 per cent of valid votes. The threshold is a subject of public discussion, and is criticized by domestic stakeholders. In 2014, the CHP submitted a bill to lower the threshold to three per cent, but it failed to pass and three non-parliamentary parties lodged separate petitions with the Constitutional Court unsuccessfully challenging the threshold. The OSCE/ODIHR, PACE and the European Court of

³ [See previous OSCE/ODIHR reports on Turkey.](#)

⁴ The threshold for political parties to qualify for state funding was lowered from seven to three per cent of valid votes cast in the most recent elections. The Law on Political Parties still includes a provision prohibiting the use of any language other than Turkish in political activities.

⁵ The drafting of a new constitution to broadly guarantee fundamental rights and freedoms stalled in October 2013.

⁶ The head of the High Council of Judges and Prosecutors, which oversees the judiciary, is the Minister of Justice.

⁷ The number of seats per constituency ranges from 2 to 30. On 5 May, the HDP submitted a request to the SBE for a review of the seats in the constituencies of Bayburt and Mus claiming the statistics used for the seat distribution had been manipulated. The application included a comparison of population statistics used by the SBE and voter register statistics issued by the Ministry of Interior. The SBE rejected the request.

⁸ In Bayburt constituency there are 26,309 registered voters per seat and in a constituency in Izmir 121,721 registered voters per seat. See also paragraph 21 of the [1996 United Nations Human Rights Committee \(UNHRC\) General Comment No. 25](#) to the [International Covenant on Civil and Political Rights \(ICCPR\)](#).

Human Rights (ECtHR) previously recommended that the threshold be lowered to increase political pluralism.⁹

Election Administration

The elections were well administered and technical preparations were successfully accomplished within the legal deadlines. Since the elections were called, the SBE adopted over 450 decisions, and most of the key decisions were available online. The meetings of the SBE and lower election boards were not open to media and international observers, which limited the transparency of the election administration.¹⁰

The four-tier structure of election management bodies consists of the SBE, 81 Provincial Election Boards (PEBs), 1,067 District Election Boards (DEBs) and 175,006 Ballot Box Committees (BBCs). The SBE is a permanent 11-member body composed of senior judges elected for a six-year term by and from the Supreme Court and the Council of State. One member of the SBE in its current composition is a woman. In line with the law, the four parties with the highest number of votes in the last parliamentary elections appointed their non-voting representatives to the SBE who have the right to attend SBE meetings, access documents and express their views and concerns regarding any aspect of the work of the SBE.

The PEBs in each of the 81 provinces are chaired by the most senior judge in the province and comprise two other judges appointed for a two-year term.¹¹ The DEBs are composed of a chairperson (a judge) and six members - two civil servants and four representatives of parties with the highest results in the district in the last parliamentary elections.¹² Women comprised some 27 per cent of PEB members but only 6 per cent of DEB members. The BBCs were appointed only for these elections, comprising a chairperson, five party representatives and one member nominated by the eldermen council.¹³

Some DEBs either adopted decisions, or requested the SBE's opinion on relocating polling stations in the areas affected by the escalation of violence to safer locations.¹⁴ While, various OSCE/ODIHR LEOM interlocutors alleged political motivation, the AKP claimed that conducting elections in such conditions could result in loss of life and impact the integrity of voting.¹⁵ On 3 October, the SBE decided in favour of conducting voting in these areas stating that relocation of any polling stations outside of the respective *mukhtarlik* (smallest administrative area) is not in line with the law.¹⁶ Subsequently, several DEBs took decisions to relocate a significant number of polling stations within the *mukhtarlik*.

⁹ In the case of [Yumak and Sadak v. Turkey, application no. 10226/03](#), 30 January 2007, the ECtHR ruled that the threshold did not amount to a violation of the right to free elections; however, the ECtHR considered the threshold "excessive" and noted that it would be desirable to lower it to ensure political pluralism.

¹⁰ OSCE/ODIHR EOM Long Term Observers (LTOs) were allowed to attend a DEB session in Tarsus.

¹¹ The PEBs in Ankara, Istanbul and Izmir cover more than one electoral constituency.

¹² As DEBs were appointed for a two-year term in January 2014, the HDP did not qualify for DEB membership. In a few DEBs where vacancies occurred, the HDP was able to appoint their members.

¹³ While the HDP had a right to nominate BBC members they were not legally entitled to participate in the lotteries for the appointment of BBC chairpersons.

¹⁴ The polling stations were located in some 80 districts spread across 20 provinces in the east and southeast. The HDP appealed several DEB decisions to higher boards. These polling stations were located in HDP strongholds.

¹⁵ The AKP informed the OSCE/ODIHR LEOM that during the June 2015 elections around 250 polling stations in 16 provinces in the east and the southeast registered 100 per cent turnout with all ballots cast for the HDP. This raised the AKP's concern regarding the possibility of irregularities and the ability of voters to vote free of pressure.

¹⁶ According to the SBE's interpretation of Article 5 of the Law on Basic Provisions, there should be at least one polling station in each *mukhtarlik*.

Out-of-country voting was conducted from 8 to 25 October in 113 polling locations established in 54 countries and at 30 custom points across Turkey.¹⁷ Around 1.2 million voters voted abroad. Due to the high turnout, the SBE decided to extend voting hours in the last two days. Out-of-country ballots were transported by charter flights and diplomatic pouches to be counted in Ankara. Safeguards such as online verification of voters and secure storage of election materials were put in place to ensure the integrity of the process.

Although there was no nationwide voter education campaign, the issue was not raised by most OSCE/ODIHR LEOM interlocutors. Shortly before the elections, the DEBs and some political parties organized trainings of the BBC members which were in general assessed positively by the OSCE/ODIHR LEOM observers.

Voter Registration

Turkish citizens over 18 years of age have the right to vote, except conscripts, students in military schools and prisoners convicted of intentional crimes. These restrictions are not in line with paragraph 7.3 of the 1990 OSCE Copenhagen Document, Section I.2.2.2 of the Code of Good Practice and other international obligations.¹⁸ The ECtHR has twice ruled that the ban on convicted prisoners' voting rights is too broad and must be proportionate to the crime committed.¹⁹ While the legal framework has not been amended yet, as in the last elections, the SBE issued a decision that partially implements the court's ruling by permitting all convicts outside of prison to vote even if their sentence is not fully executed.

Around 54 million voters were registered to vote in Turkey and some 2.9 million abroad. Turkey has a passive voter registration system. The SBE maintains a permanent voter register linked to the civil and address registry operated by the Ministry of Interior (MoI). Since the June 2015 elections, the total number of voters increased by over 300,000 due to those who reached 18 years of age since then. Most OSCE/ODIHR LEOM interlocutors expressed confidence in the voter register and raised few concerns regarding its reliability and inclusiveness.

Candidate Registration

Citizens over the age of 25 who have legal capacity and primary education are entitled to run. Ineligible are male citizens who have not completed compulsory military service, those who are legally banned from public service, or have been convicted for a broad range of crimes including minor criminal offences, even if pardoned.²⁰ Such restrictions on candidacy rights are incompatible with the right to stand for election entrenched in several international documents, including Paragraph 7.5 of the 1990 OSCE Copenhagen Document and Section I.2.2.2.iv of the Code of Good Practice.²¹

¹⁷ Out-of-country voting at the customs points took place from 8 October to 1 November.

¹⁸ Paragraph 7.3 states that the participating States will "guarantee universal and equal suffrage to adult citizens". See also [Paragraph 14 of the General Comment No. 25 to the ICCPR](#).

¹⁹ See judgments: [Soyluer v. Turkey, application no. 29411/07](#) from 17 September 2013 and [Murat Vural v. Turkey, application no. 9540/07](#) from 21 October 2014.

²⁰ Restoration of the right to be a candidate is not automatic upon release from prison. A 2011 Constitutional Court decision annulled a legal provision in the Judicial Records Law establishing a lifetime ban on contesting elections. In 2012, the law was amended to provide the opportunity for restoration of convicts' candidacy rights after a minimum three-year period after full execution of sentence, proof of living a 'good life' and no new convictions for any crime. Following a 15 year period, convicts' criminal records are deleted.

²¹ Paragraph 7.5 provides that participating States will respect the right of citizens to seek political or public office without discrimination. See also paragraph 15 of General Comment No.25 to the ICCPR.

In order to form a political party and to contest elections, parties must have an organizational structure in at least half of the provinces and one third of the districts in each of those provinces and convened a party congress six months prior to the elections.²² All parties must submit candidate lists in at least half of the provinces. These requirements potentially limit freedom of association and the right to be elected. Independent candidates had to submit an electoral deposit which is refundable only to those elected, which is inconsistent with international good practice.²³

Candidate registration was overall inclusive, offering voters a diverse and genuine choice. In total, 8,426 candidates stood on the lists of 16 political parties and 21 independent candidates were registered.²⁴ Some 24 per cent of candidates were women.

Three political parties were denied the right to contest the elections by SBE decisions due to insufficient organizational structure.²⁵ On 2 September, the AKP lodged a complaint to the Prosecutor's Office of the Supreme Court seeking de-registration of the TURK Party on grounds of an insufficient organizational structure.²⁶ As a result, on 18 September the SBE took a decision to de-register the TURK Party from contesting the elections. On 16 October the TURK Party lodged a petition to the Constitutional Court for violation of its freedom to associate and right to contest. On 27 October, the Constitutional Court dismissed the case based on lack of jurisdiction.

Campaign Environment

The Law on Basic Provisions provides a framework for regulating campaign conduct and aims to ensure fair and equal opportunities for contestants. The law establishes two periods with different application of campaign rules. During the official campaign period, which started on 22 October and ended on 31 October at 18:00, stricter regulations and broader equitable campaign principles applied, such as the prohibition on all public ceremonies and speeches on government works. Having only the last 10-day period of the campaign strictly regulated leaves the larger campaign process under-regulated and does not serve to ensure a fully level playing field for contestants.

The campaign was generally low-key. Some party leaders agreed informally to refrain from using certain campaign methods to prevent noise and environmental pollution.²⁷ An increase in visibility of campaign material, in particular flags and posters, was observed in the last days of the campaign. The campaign atmosphere was polarized between the AKP and other contestants and confrontational rhetoric was used.²⁸

Contestants were in general able to convey their messages to the electorate. Most political parties utilised social media and undertook a door-to-door campaign and small meetings. All parliamentary parties organized a few rallies in several targeted districts across the country. In total, the

²² Parties that have parliamentary groups are automatically entitled to contest the elections.

²³ For these elections the deposit is 10,651 TL (around 3,100 EUR). The number of independent candidates was eight times lower than in the 7 June 2015 elections. Section I.I.I.3 of the Code of Good Practice, states that if a deposit is required, it must be refundable should the candidate exceed a certain score; the sum and the score requested should not be excessive.

²⁴ Two independent candidates withdrew after the legal deadline.

²⁵ The Right and Truth Party, the Yurt Party, and the TURK party; the latter two ran in the June 2015 elections.

²⁶ Previously, on 20 August, the AKP had submitted a complaint claiming that in the June 2015 elections it lost more than 150,000 votes to the TURK Party or to invalid ballots due to similarities in the parties' logos.

²⁷ The measures included restrictions on use of loudspeakers on vehicles and vehicle convoys, campaign materials posted only in the vicinity of the campaign offices, removal of campaign material after a rally and campaign offices located in open areas with easy access for security. While some parties were supportive of the agreement, some lesser-resourced parties, for instance the Felicity Party, were concerned that it might disadvantage them.

²⁸ OSCE/ODIHR LEOM observed the use of confrontational rhetoric in the following rallies: AKP in Samsun and Erzurum on 5 and 6 October respectively and Konya on 30 October, HDP rally in Istanbul on 8 October.

OSCE/ODIHR LEOM observed 16 campaign events. The overriding issues were the socio-economic situation, the ‘*Solution Process*’,²⁹ and the campaign against terrorism.³⁰ Some parties used religious references and three parliamentary parties campaigned abroad, both in breach of the law.³¹

The campaign was tarnished by violence. A major terrorist bomb attack in Ankara on 10 October resulted in over 100 people killed and more than 500 injured.³² At the end of July, violence escalated in the southeast part of the country, where a significant part of the Kurdish population lives. During the campaign, offices of the HDP were targeted, a high number of HDP members were taken into custody, HDP affiliated mayors were suspended, and its campaign leaflets were confiscated.³³ Some members of the CHP, the MHP and the HDP were investigated for defamation of public authorities, including insult of the president. The AKP reported to the OSCE/ODIHR LEOM a number of attacks on its offices and threats against its members, in particular in the east and southeast of the country. The IEOM observers received reports of intimidation of voters and pressure to vote for several political forces.

In several provinces of the east and the southeast, the ability to campaign freely was considerably restricted by the deteriorating security situation and where Special Security Zones (SSZs) were declared and/or curfews imposed.³⁴ Some OSCE/ODIHR LEOM interlocutors criticized these measures as politically motivated and beyond the legal framework.

State party funding is distributed annually, on a proportional basis, to parties that received at least three per cent of votes in the last parliamentary elections.³⁵ There are no requirements for disclosure of the sources and amounts of campaign donations and spending other than in annual party finance reports, limiting transparency.³⁶ Most contestants did not publicly disclose their campaign finances during the campaign.

²⁹ The ‘*Solution Process*’ is the official term used to describe the peace process.

³⁰ The AKP announced on 12 October that the party’s subsequent rallies would be turned into anti-terror rallies. The president attended anti-terror demonstrations on 20 September in Istanbul, on 4 October in Strasbourg and on 5 October in Brussels.

³¹ OSCE/ODIHR LEOM observed use of religious language in AKP campaign events in Samsun, Manisa and Bursa on 5, 8 and 16 October respectively. On 22 September and 3 October, the SBE upheld two complaints against an AKP campaign song that included religious references; it banned use of the song at indoor and outdoor campaign meetings, and in social media and internet campaign. A letter in the name of the leader of the AKP was sent to voters abroad, however the party informed IEOM that it was not responsible for the letter.

³² The attack occurred during a *Labour, Peace and Democracy Rally* organized by trade unions, civil society and professional organizations. Several political parties, including HDP and CHP joined the event.

³³ According to data provided to the OSCE/ODIHR LEOM by the HDP 129 attacks on its party offices occurred between 6 September and 9 October. According to data provided by the MoI the following attacks occurred against party offices in October: the AKP 9, the HDP 7 and the CHP 1. More than 20 mayors, who are members of the Democratic Regions Party, affiliated to the HDP at the national level, were suspended by the Minister of Interior due to criminal investigations for infringing the territorial integrity and unity of the state. According to data provided to the OSCE/ODIHR LEOM by the HDP: 2,590 HDP members were taken into custody and 630 were arrested between 20 July and 18 October. On 16 October, a Criminal Judge of Peace ordered the confiscation of the leaflet which referred to ‘decentralised government’ as criminal evidence in an investigation under the Anti-Terrorism Law.

³⁴ On 21 August, the Council of Ministers by decree declared SSZs in at least eight provinces in effect from September to March 2016. In addition, as of September 2015 provincial governors declared SSZs for up to 15 days in 20 districts in at least 7 provinces in the southeast. Some governors also declared curfews in several neighbourhoods in at least 10 districts ranging from a few hours up to an indefinite amount of time.

³⁵ While the HDP is entitled to state funding following the June 2015 election, the instalment will be released in January 2016. The Ministry of Finance did not respond to the HDP’s request for early release of the funds.

³⁶ The Council of Europe’s Group of States against Corruption (GRECO) in its [Interim Compliance Report from 4 February 2015](#) noted the majority of past recommendations have not yet been implemented.

Media

The Constitution and the legal framework do not sufficiently guarantee freedom of expression. In particular, unclear provisions in the Anti-Terrorism Law and Press Law, and criminal provisions on insult of the president were excessively applied during the election period.³⁷ Criminal investigations were launched against dozens of journalists, social media users and media outlets. Some of the investigations resulted in the seizure of several outlets.³⁸ A ban on reporting on any matter related to the investigation of the Ankara bombing, *de facto* criminalized reporting on issues of public concern.³⁹ Journalists reported to IEOM observers that cases of violence against them and attacks on media outlets has resulted in an increase of self-censorship.⁴⁰

The media landscape comprises a variety of outlets, many of which are politicized. Media owners' business interests in obtaining public tenders and state advertising led to interference into editorial autonomy and resulted in limited criticism of the government, in particular on television. Four digital service providers ceased broadcasting of several television stations most of which are critical of the government, following correspondence from the Ankara Prosecutor's Office in connection with on-going investigations on charges of supporting terrorism.⁴¹

The Internet increasingly contributes to a vibrant discussion on issues of public importance. However, several OSCE/ODIHR LEOM interlocutors expressed concerns over the issue of blocking of websites. According to a domestic media organization, as of 24 October, 103,877 websites are blocked, some without court decision.⁴²

³⁷ Insult of the president is penalized with imprisonment. [General Comment No. 34 by the UNHRC](#) on Article 19 of the ICCPR which indicates that a norm, to be characterized as a law, must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly. Furthermore, it states that the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties and that imprisonment is never an appropriate penalty. Article 10 of the ECHR contains the same requirement. See also ECtHR judgments, [Lingens vs Austria, application no. 9815/82 from 8 July 1986](#), [Castelis v Spain, application no. 11798/85 from 23 April 1992](#), [Incal v Turkey, application no. 22678/93 from 9 June 1998](#), [Arslan v Turkey \(GC\) application no. 23462/94 from 8 July 1999](#) and [Fikret Sahin v Turkey application no. 42605/98 from 6 December 2005](#).

³⁸ As reported by the media, cases include terrorism charges against the Doğan Media Group on 15 September, the Koza-İpek Media Group on 1 September and the television stations *Samanyolu Haber* and *Mehtap TV* on 15 October, all of which are critical of the government. On 26 October an Ankara Criminal Judge of Peace ordered the replacement of the Koza-İpek Media Group management by state trustees. On 27 October officials together with police forcibly entered the Koza-İpek Media Group building. According to the Independent Communications Network *Bianet*, between July and September 2015, 61 people, including 37 journalists, were investigated, prosecuted or convicted for insulting the President.

³⁹ The ban was imposed on all media by an Ankara Criminal Judge of Peace on 14 October and lifted on 19 October. The OSCE/ODIHR LEOM was informed that criminal investigations were launched by the Ankara Public Prosecutor against public officials and a journalist for releasing information on the investigation.

⁴⁰ On 1 October, the [OSCE Representative on Freedom of Media \(RFoM\) condemned the attack on journalist Ahmet Hakan, and called for improved safety of journalists](#). On 5 October, [the Council of Europe issued an alert](#) on the police raid on the offices of the Kurdish daily newspaper *Azadiya Welat* and Kurdish news agency *DIHA* in Diyarbakır on 28 September. Thirty-two detained Kurdish journalists were released after being interrogated.

⁴¹ The digital service providers *Tivibu*, *Turkcell TV+*, *Digitürk* and *Turksat* removed television stations on 27 September, and 2, 8 and 12 October respectively. The affected television stations include *Samanyolu TV*, *SHaber*, *KanalTürk*, *Bugiin TV* and *Mehtap TV*. On 9 October, *Samanyolu TV* filed complaints to the SBE, the Radio and Television Council (RTSC) and the Supreme Board of Prosecutors and Judges. Another complaint was filed on 12 October by the MHP to the SBE on the same issue. The complaint filed by *Samanyolu TV* was rejected by the SBE without legal reasoning. On 21 October, two CHP members filed complaints with the RTSC, the Izmir Public Prosecutor and the Supreme Board of Prosecutors and Judges.

⁴² In January 2014, [the OSCE RFoM stated that the application of Law No. 5651 \(the Internet Law\), has been used to block access to legitimate content, including news websites](#).

The Law on the Establishment of Radio and Television Enterprises obliges broadcasters to provide unbiased coverage of political parties and the RTSC monitors its implementation.⁴³ However, the law lacks precision on how to implement this requirement and the shortcoming was not sufficiently addressed by the SBE decisions. Several stakeholders, including RTSC members, questioned the RTSC methodology for monitoring of the campaign coverage.

The SBE acted upon monitoring reports by the RTSC and complaints filed mostly by political parties. In the absence of legal deadlines, the SBE did not deal with media-related complaints, most of which were related to the impartiality requirement, in a timely manner in order to provide effective remedies for complainants.⁴⁴ The sanctions imposed, including warnings and the suspension of relevant programs, did not provide effective remedy for breaches of regulations.

The Law on Basic Provisions provides contesting political parties with free airtime during the last seven days of the campaign and with the right to purchase political advertising time on the public broadcaster. OSCE/ODIHR LEOM media monitoring findings showed that three out of the five monitored television stations, including the public TRT1, favored the AKP in their news, current events and discussion programs. The AKP received the highest amount of coverage on all television stations - 73 per cent on TRT1, 77 per cent on ATV, 32 per cent on CNN Turk, 49 per cent on Haber Turk and 47 per cent on *Samanyolu TV*, while the other parliamentary parties received less coverage. The tone of the coverage of the AKP was mostly positive on the TRT1, ATV and Haber Turk, and mostly negative on CNN Turk and *Samanyolu TV*.⁴⁵ The CHP, MHP and HDP respectively received 12, 8 and 6 per cent on TRT1; 11, 8 and 4 per cent on ATV; 28, 18 and 14 per cent on CNN Turk; 19, 22 and 9 per cent on Haber Turk, and 23, 13 and 12 per cent on *Samanyolu TV*. Four other parties received coverage below one per cent, and the remaining parties were not mentioned on the monitored television stations.

Complaints and Appeals

In general, appeals against decisions of lower level election boards can be lodged with higher level boards up to the SBE.⁴⁶ Eligible to appeal are parties, voters, partisan observers, and candidates. Civil society groups are not entitled to lodge complaints. The legislation does not establish a campaign-related complaints process and the SBE did not issue regulations on this matter. Clear timeframes for submission and adjudication of some but not all types of electoral disputes are established in the law. Adjudication proceedings at the electoral boards are not open to observers or the media and not all decisions are publicly available or published in a timely manner, undermining transparency in the dispute resolution process.⁴⁷ Various OSCE/ODIHR LEOM interlocutors expressed a lack of confidence in the electoral boards and public authorities to impartially and effectively handle election-related complaints.

⁴³ The nine members of the RTSC are nominated by political parties and elected by parliament.

⁴⁴ The SBE received 14 media-related complaints, most of which were filed by political parties. In addition, the SBE received 80 RTSC reports on violations monitored. The SBE issued 21 warnings and five decisions on suspension of broadcasting of the relevant program.

⁴⁵ The tone of the AKP coverage on TRT1, ATV, Haber Turk was 95, 92 and 77 per cent positive, respectively. The tone was 50 per cent negative and 50 per cent neutral or positive on CNN Turk and 78 per cent negative and 22 per cent positive or neutral on *Samanyolu TV*.

⁴⁶ PEB decisions related to formation of DEBs and BBCs and DEB and PEB decisions on voter registration are final and cannot be appealed.

⁴⁷ The SBE decides on a case-by-case basis whether to publish decisions on complaints and appeals. These decisions are posted between 7 and 10 days after they are adopted. The OSCE/ODIHR LEOM was able on request to obtain from the SBE copies of complaints and decisions and information about decisions before they were published.

A number of interlocutors informed the OSCE/ODIHR LEOM LTOs of campaign-related grievances; however, few complaints were lodged at the national or local levels.⁴⁸ The SBE received some 40 complaints and appeals lodged by political parties, MPs and other stakeholders, mainly related to unbalanced and inaccurate media coverage as well as to various decisions of the election administration and campaign-related violations. While the SBE effectively addressed some complaints, others were left without substantive examination, and in some cases, were not provided effective or timely remedy. Some SBE decisions on complaints and appeals were not sufficiently reasoned, especially in cases which the SBE rejected or decided it lacked authority.

Under the Constitution, SBE decisions are final and not subject to judicial review, which leaves the electoral process under the final authority of an administrative body, challenging the separation of powers guaranteed by the Constitution, and denies the opportunity for effective judicial remedy in electoral disputes. This is contrary to paragraph 5.10 of the 1990 OSCE Copenhagen Document and Section II.3.3 of the Venice Commission Code of Good Practice.⁴⁹

A 2010 constitutional amendment established a right to lodge individual petitions to the Constitutional Court for review of public actions (and inactions) that violate fundamental rights and freedoms within the scope of the European Convention on Human Rights (ECHR) and guaranteed by the Constitution.⁵⁰ On 7 October, the Constitutional Court published its first decisions that address whether petitions against SBE decisions in parliamentary elections are within its jurisdiction.⁵¹ While the court acknowledged that the right to free parliamentary elections is guaranteed by the Constitution and the ECHR, it ruled that SBE decisions are not subject to review, even for breach of fundamental rights and freedoms.⁵² This key decision ruled out the remaining opportunity for electoral stakeholders to seek judicial redress in election-related matters.⁵³

Citizen and International Observers

The law does not establish rights for non-party citizen observers and does not provide for international observation as foreseen in paragraph 8 of the 1990 OSCE Copenhagen Document, the Code of Good Practice and by the Council of Europe Parliamentary Assembly in its previous recommendations.⁵⁴ However, the Law on Basic Provisions provides for monitoring of the election process by observers nominated by political parties and independent candidates. As established in the law, the vote count can be observed by the public. At least two civil society organizations, the Human Rights Association and the Association for Monitoring Equal Rights, applied to the SBE for accreditation to observe the elections. Their accreditation was denied for lack of legal basis.

⁴⁸ The OSCE/ODIHR LEOM was notified of some 10 campaign-related complaints lodged at the DEBs.

⁴⁹ Paragraph 5.10 states: “Everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity.”

⁵⁰ All other available legal mechanisms to protect these rights must be exhausted prior to lodging an individual petition to the Constitutional Court.

⁵¹ The decisions had been adopted earlier on 14 July and concern two petitions submitted during the June 2015 elections; one regarded an SBE decision to deregister a candidate and the other a decision to reject a complaint.

⁵² The decision included three dissenting judges, with two dissenting opinions.

⁵³ In the pre-election period, four petitions were lodged with the Constitutional Court regarding party and candidate registration and more than 10 other petitions are pending with the court concerning SBE decisions adopted during the June 2015 elections.

⁵⁴ Paragraph 8 reads: “The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law.”

Despite legal constraints, civil society monitoring of the electoral process is *de facto* vibrant. Several citizen observer groups accredited a large number of observers on behalf of political parties.⁵⁵ All international observers deployed by the OSCE/ODIHR, the OSCE PA and the PACE were accredited by the SBE.

Election Day

Election day was generally peaceful. In the limited number of polling stations visited by international observers, election day was generally organized in an efficient manner.⁵⁶ BBC members were well prepared and followed voting procedures overall. IEOM observers were asked to leave the BBCs in seven instances, at times by people acting on behalf of electoral contestants.⁵⁷ In several instances citizen observers accredited on behalf of political parties were denied access.⁵⁸ Following an instruction issued by a Provincial Governor, police officers requested representatives of a citizen observer group accredited on behalf of political parties to provide their identification.⁵⁹

In the limited number of polling stations where international observers were present, the counting process was assessed as transparent and well organized, although there were some instances of the BBC members not following the procedures prescribed by the law. In several cases the results protocols were not posted outside the respective polling stations. The tabulation at several DEBs observed was assessed as orderly and efficient overall, despite being crowded at times. While the SBE did not post preliminary results on its website, this information, along with polling station results protocols, was accessible to all political parties.

*The English version of this report is the only official document.
An unofficial translation is available in Turkish.*

⁵⁵ The civil society platform, Vote and Beyond, informed the OSCE/ODIHR LEOM that they intended to deploy above 60,000 observers.

⁵⁶ IEOM observers visited some 600 polling stations.

⁵⁷ In Koprükoy district, Osmangazi district, Ankara, Eskişehir, Istanbul and Izmir.

⁵⁸ On 29 and 30 October, two citizens appealed to the SBE requesting that citizen observer groups not be accredited on behalf of political parties due to security concerns. The SBE rejected the request.

⁵⁹ IEOM observed this in Eskişehir city. The instruction was lifted several hours later during election day.

MISSION INFORMATION & ACKNOWLEDGEMENTS

Ankara, 2 November 2015 – The OSCE/ODIHR LEOM opened in Ankara on 28 September. It includes 11 experts in the capital and 18 long-term observers deployed throughout Turkey.

In line with OSCE/ODIHR's standard methodology for Limited Election Observation Missions (LEOMs), the LEOM focused on the longer-term electoral process without the additional deployment of short-term observers that would have provided the basis for a quantitative assessment of election day.

The observers visited a limited number of polling stations around the country on election day, although observation was not conducted in comprehensive fashion. On election day, 112 observers were deployed, including 45 parliamentary observers from the OSCE PA, 31 from the PACE, and 35 long-term observers and experts from the OSCE/ODIHR. In total, there were observers from 34 OSCE participating States.

The observers wish to thank the authorities for their invitation to observe the election and the SBE and the Ministry of Foreign Affairs for their assistance. They also express their appreciation to other state institutions, political parties and civil society organizations and the international community representatives for their co-operation.

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