



INTERNATIONAL ELECTION OBSERVATION MISSION Republic of Turkey – Parliamentary Elections, 7 June 2015

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Ankara, 8 June 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).

Vilija Aleknaitė-Abramikienė (Lithuania) was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and leader of the short-term OSCE observer mission. Ignacio Sanchez Amor (Spain) headed the OSCE PA delegation. Tiny Kox (Netherlands) headed the PACE delegation. Ambassador Geert-Hinrich Ahrens is the Head of the OSCE/ODIHR Limited Election Observation Mission (LEOM), deployed from 6 May 2015.

The assessment was made to determine whether the elections complied with OSCE commitments and Council of Europe standards, as well as international obligations for democratic elections and with domestic legislation. This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the election process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the election process, including 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 PACE delegation will present its report at its June 2015 part-session in Strasbourg. The OSCE PA will present its report at its Standing Committee meeting on 5 July 2015.

PRELIMINARY CONCLUSIONS

The 7 June parliamentary elections were characterized by active and high citizen participation, during the campaign and on election day, which demonstrated a broad commitment to holding democratic elections. Voters could choose from a wide range of political parties, but the 10 per cent parliamentary threshold limits political pluralism. Media freedom is an area of serious concern; media and journalists critical of the ruling party were subject to pressure and intimidation during the campaign. The elections were organized professionally in general. Greater transparency of the election administration and legal provisions for observers, both citizen and international, would serve to increase trust in the electoral process. During the campaign, fundamental freedoms were generally respected. Unfortunately, there were numerous serious incidents, some resulting in fatalities.

Twenty parties and 165 independent candidates took part in the elections, offering the electorate a wide choice. Contestants were generally able to campaign freely and did so extensively. However, there were isolated cases of cancellation or restrictions of rallies of the opposition parties in favour of events organized for the President or the Prime Minister. Two criminal court orders for removal of certain opposition posters deemed to be insulting to the President were issued. The campaign was tainted by a high number of attacks on party offices and serious incidents of physical attacks.

The legal framework is generally conducive to conduct democratic elections, if implemented fully and effectively. Freedoms of association, assembly, and expression, as well as active and passive suffrage rights are to some extent unduly restricted in the Constitution and the general legislation. In particular, the fact that insult of the President is a criminal offence restricts freedom of speech and campaigning.

Previous OSCE/ODIHR and PACE recommendations for legal reforms that would address gaps and ambiguities have generally not been addressed. In a positive step, the freedom to campaign in any language was established in March 2014. The method of seat allocation for the 550 members of the parliament, established in the law is inconsistent with the principle of equality of the vote due to significant differences in vote weight.

The election administration, managed by the Supreme Board of Elections (SBE), composed of judges, generally administered the elections in a professional manner. Eligible political parties were entitled to nominate non-voting representatives or members at all levels of electoral boards. The meetings of the electoral boards were not open to the public. Not all SBE decisions were posted on its website. The SBE published an election calendar of election administration activities only until election day, missing an opportunity to clarify deadlines regarding post-election day events. Greater SBE transparency would serve to increase trust in the electoral process. Some SBE decisions were inconsistent with the legislation including issues related to election administration and campaigning. Several SBE decisions related to the President's involvement in the campaign included dissenting opinions.

Overall, the voter registration system is well developed. The voter lists were finalized by the SBE on 8 April after a two-week public display period. In a welcome development, these were the first parliamentary elections where close to 3 million voters had an opportunity to cast their ballots abroad. Out-of-country voting was conducted in 54 countries with voters also able to vote at custom points.

The campaign environment was marked by active engagement on substantive issues by the contestants, involving a large number of voters in campaign events. Polarization between the ruling party and other contestants was notable and confrontational campaign rhetoric was often used. The most overriding issue in the campaign was the transformation of the political system towards presidential, as advocated by the President and the ruling party and opposed by other contestants.

The President played an active role in the election campaign, even though under the Constitution he is obliged to be non-partisan and perform his duties without bias. The President attended an extraordinary number of public events, as head of state, along with local officials, however, these events were used as opportunities to campaign in favour of the ruling party and to criticize opposition figures. Numerous complaints calling to halt the President's campaign activities and misuse of administrative resources, including extensive coverage on state television were filed. The President's campaigning contravened campaign rules in the legal framework and is at odds with paragraph 5.4 of the 1990 OSCE Copenhagen Document and Section I.2.3a of the Council of Europe Venice Commission Code of Good Practice in Electoral Matters (Code of Good Practice).

The legislation does not contain comprehensive regulations of campaign financing. It only imposes certain restrictions on the amount and nature of donations. Political parties are required to declare their campaign funds solely through annual party financial reports submitted to the Constitutional Court. Donations and spending of parties and candidates during the campaign were not publicly available. The lack of timely and public disclosure of the reports limits the overall transparency and accountability of the campaign finance framework.

The media environment is vibrant, with a wide range of broadcast and print outlets, however, undue restrictions in the legal framework remain. Media critical of the ruling party faced increasing pressure and intimidation by public figures and political actors during the election period. The Radio and Television Supreme Council (RTSC), is responsible to oversee compliance of broadcast media with the regulations. The seemingly partisan functioning of the RTSC raised concerns over its transparency and independence. The OSCE/ODIHR media monitoring results showed that the election coverage was polarized along partisan lines: three out of five monitored television stations, including the public broadcaster *TRT1*, displayed a significant bias towards the ruling party, which also purchased the great

majority of paid political advertising. The President enjoyed extensive television coverage benefiting the ruling party.

The lack of judicial review of SBE decisions challenges the separation of powers and denies access to judicial remedy in election matters. The SBE's dismissal of a series of complaints and appeals related to the President's involvement in the campaign and its extensive media coverage denied election stakeholders access to effective remedy in electoral disputes. All 16 election-related petitions lodged with the Constitutional Court remained undecided as of election day, leaving petitioners without timely remedies.

Women played an active role in the campaign, although they remain underrepresented in political life. The Constitution guarantees gender equality, however, there are no legal obligations for the political parties to nominate female candidates. On a positive note, some parties implemented gender quotas. Overall, approximately 28 per cent of candidates on party lists were female. Less than one per cent of District Electoral Board (DEB) members were women and only one woman is represented on the SBE.

International observers were accredited for these elections. The law, however, does not create the legal basis for the effective implementation of citizen and international observation as per paragraph 8 of the 1990 OSCE Copenhagen Document, previous PACE recommendations, and Section II.3.2 of the Code of Good Practice. Two citizen observer groups were denied accreditation by the SBE.

In the limited number of polling stations visited by international observers, election day was well organized. A few localized security incidents should be investigated. In order to carry out their key role, citizen observer groups mostly registered on behalf of parties and were present in most polling stations visited. The counting and tabulation processes were noted as generally transparent, although some important procedural errors were observed. In some instances, international observers were denied access to DEBs. The SBE did not publish preliminary results. Broadcasters published them earlier than 21:00, which, although contrary to the Law on Basic Provisions, provided voters with important information.

PRELIMINARY FINDINGS

Background

On 5 January, the Supreme Board of Elections (SBE) announced the parliamentary elections for 7 June. The last parliamentary elections took place in 2011, resulting in a third successive victory for the Justice and Development Party (AKP), which has held a majority in the Turkish Grand National Assembly (parliament) since 2002. In August 2014, the then Prime Minister Recep Tayyip Erdoğan won the first direct presidential election.

The outgoing 550-member parliament is composed of the AKP with 311 seats, the Republican People's Party (CHP) with 125 seats, the Nationalist Movement Party (MHP) with 52 seats and the Peoples' Democratic Party (HDP) with 29 seats. The Anatolia Party, the Democratic Regions Party, the Electronic Democracy Party, the Centre Party, the Nation and Justice Party all held one seat each. A total of 13 independent members were represented and 15 seats were vacant.

These parliamentary elections were widely viewed as an important political event, with a potential of changing the political system from a parliamentary to a presidential. The HDP participated as a party in the elections for the first time as its representatives in the outgoing parliament were elected as independent candidates. Twenty political parties took part in these elections, offering the electorate a wide choice.

Legal Framework and Electoral System

The legal framework is generally conducive to conduct democratic elections, if implemented fully and effectively. The framework has largely remained unchanged since the last parliamentary elections, leaving a number of previous OSCE/ODIHR and PACE recommendations unaddressed.¹ It includes a number of gaps and ambiguities, including absence of provision for citizen and international observation, lack of judicial review of SBE decisions, absence of regulations on recounts and invalidation of results, and insufficient campaign finance regulations.

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. Some SBE decisions exceeded its regulation-making authority, lacked a clear legal basis, were inconsistent with the law, or interpreted the law in a manner inconsistent with democratic principles.

The Constitution, adopted under military rule, entrenches fundamental rights and the superiority of international law over domestic legislation, however, it concentrates 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. Freedoms of association, assembly and expression, key to holding democratic elections, and some electoral rights, are unduly restricted in the Constitution and in the broader legal framework.² In particular, the fact that defamation of the President is a criminal offence restricts freedom of speech and campaigning. In a positive step, recent amendments to the legal framework addressed some previous OSCE/ODIHR and PACE recommendations. In 2014, the LPP was amended to decrease the threshold for political parties to qualify for state funding.³ The Law on Basic Provisions was revised in 2014 to allow campaigning in any language.⁴

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. Seat redistribution was undertaken by the SBE in early 2015, based on current population distribution statistics.⁵ The system of seat allocation established in the law results in a significant differential of registered voters to seats across constituencies, 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.⁶

Political parties must meet stringent requirements in order to participate in elections, including the submission of a full list of candidates and organizational structures in at least half of the provinces.⁷ Joint candidate lists are not permitted. Under the law, political parties are prohibited from promoting a

¹ [See all previous OSCE/ODIHR reports on Turkey.](#)

² The drafting of a new constitution to broadly guarantee fundamental rights and freedoms stalled in October 2013.

³ The threshold was lowered from seven to three per cent of votes received in the most recent elections.

⁴ The provision is legally applicable for the first time during these elections. The LPP still includes a provision prohibiting the use of any language other than Turkish in political activities.

⁵ 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 provinces of Bayburt and Mus claiming the statistics used for the seat distribution had been manipulated. The application included an analysis between population statistics used by the SBE and voter register statistics issued by the Ministry of Interior. On 13 May, the request was rejected by the SBE.

⁶ In Bayburt province there are 27,059 registered voters per seat and in a constituency in Izmir 120,877 registered voters per seat. See also paragraph 21 of the 1996 United Nations Human Rights Committee (UNHRC) General Comment No. 25 to Article 25 of the International Covenant on Civil and Political Rights (ICCPR).

⁷ In addition, an organizational structure in at least one third of the districts within those provinces is required. The Rights and Reality Party was not registered to compete by the SBE due to an insufficient organizational structure.

number of political ideologies, including non-secularism, separatism, and the existence of minorities. These restrictions undermine the freedoms of association and expression, and limit political pluralism.

To qualify for seat allocation, political parties must surpass the national electoral threshold of 10 per cent of valid votes cast. The threshold is a subject of public discussion. In December 2014, the CHP submitted a bill to lower the threshold to three per cent, but it failed to pass. In 2014, three non-parliamentary parties lodged separate petitions with the Constitutional Court challenging the threshold. On 5 March 2015, the court refused jurisdiction in the cases on grounds that challenges to legislation cannot be the subject of individual petitions. The OSCE/ODIHR, PACE and the European Court of Human Rights (ECtHR) previously recommended that the threshold be lowered to increase political pluralism.⁸

Election Administration

The conduct of elections was organized in a generally professional manner. The elections were administered by a four-tier election administration: SBE, 81 Provincial Election Boards (PEBs), 1,067 District Election Boards (DEBs) and 174,220 Ballot Box Committees (BBCs). The SBE is a permanent, 11-member body composed of judges elected for 6 years with the overall authority and responsibility for the conduct of the elections.⁹ Eligible political parties can appoint non-voting members to the SBE. Currently, the non-voting members are representatives from AKP, CHP, MHP, HDP and the Felicity Party (SP).¹⁰

The PEBs are located in each province and consist of the three most senior judges in the province, appointed for two years terms. The four political parties that received the highest number of votes in the province in the last general elections, can each nominate a non-voting member to the PEB. The DEBs have seven members chaired by the most senior judge in the district; four members are nominated by political parties and two are civil servants.¹¹ The BBCs are required to be composed of seven members, five nominated by political parties, and two civil servants. The Law on Basic Provisions specifies that the chairperson should be chosen by lot. However, these procedures were not followed in several DEBs that appointed the chairpersons directly.¹²

The SBE printed a total of 73,988,955 ballots. Books of 405, 390 and 200 ballots were printed and distributed for BBCs in villages, neighbourhoods (*Mahalle*), and out-of-country BBCs, respectively. The SBE determined the number of ballots to be printed and distributed by taking into consideration the legal provisions and practices from previous elections. As referred by the SBE, the Law on Local Administration Elections stipulates that the quantity of printed ballots should not exceed the number of registered voters by more than 15 per cent, and the Law on Basic Provisions and the Law on Parliamentary Elections stipulate that each polling station should be provided with a book of 400 ballots. The decision to print and distribute books of 405 and 390 ballots to all in-country BBCs,

⁸ 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 be lowered to ensure political pluralism.

⁹ Six SBE members are elected from and by the Supreme Court. Five are elected from and by the Council of State. One SBE member is female.

¹⁰ The Law on Basic Provisions provides that the four political parties that received the highest number of votes in the last general elections and political parties having groups in the Parliament may nominate non-voting representatives to the SBE. The HDP did not participate as a party in the last general elections; however, the SBE interpreted this provision to include the HDP as it has a parliamentary group.

¹¹ The four political parties having organisational structure in the district and having received the highest number of votes in the last general elections may nominate members. Among the 7,259 DEB staff members, 416 are female and 6,843 are male.

¹² The OSCE/ODIHR LEOM was informed that procedures were not followed in the DEBs in Bartın, Kırşehir, Zonguldak, Kırklareli, Tunceli, Beyoğlu, Pertek, and Cihanbeyli.

including those with small number of voters resulted in a surplus of 17,380,177 of ballots compared to the total number of voters.¹³

Prior to election day, many interlocutors expressed concerns regarding the trust in the election administration at all levels, partly due to a lack of transparency. Meetings of the electoral boards were not open to the public and not all SBE decisions were posted on its website, despite earlier OSCE/ODIHR recommendations. The SBE published an election calendar comprising election administration activities only until election day. Thus, deadlines for complaints, announcement of results and other key events were not publicized.

Out-of-country voting in 54 countries was conducted from 8 to 31 May. In addition, voters registered abroad were able to vote at custom points until 7 June. Out-of-country ballots were transported to a counting centre in Ankara, and ballots from custom points were counted in the nearest DEB.

Trainings for chairpersons and one additional member of BBCs were conducted by the DEBs in a generally organized manner. Training materials were prepared by the SBE and consisted of a video featuring the procedures, manuals and sample forms. Political parties organized trainings for their BBC members. According to the SBE, 606,082 voters with disabilities were registered and assistance for these voters permitted reallocation to accessible BBCs.

The SBE prepared voter information spots in Turkish; however, the spots were not available in other languages. A civil society organization submitted two requests to the SBE asking to provide voter education spots in the Kurdish language. These requests were rejected by the SBE Chairperson and subsequently again by the SBE.¹⁴

Voter Registration

Turkey has a passive voter registration system. The SBE maintains a permanent central voter register linked to the civil and address registry operated by the Ministry of Interior. Overall, the voter registration system is well developed. The total number of eligible voters was 53,741,838 in-country and 2,866,940 out-of-country.

Citizens over 18 years of age have the right to vote, except active conscripts, students in military schools and prisoners convicted of committing intentional crimes, regardless of the seriousness of the crime. The ECtHR has ruled twice that the ban on convicted prisoner's voting rights is too broad and must be proportionate to the crime committed.¹⁵ This restriction is also at odds with the OSCE commitments, the Code of Good Practice, and other international obligations.¹⁶ To date, the decisions have not been implemented. However, on 23 February, the SBE issued a decision that partially implements the court's decisions by applying international law to permit all convicts outside of prison to vote, whether their sentence is fully executed or not.

¹³ Approximately 14 per cent of the BBCs in the country had less than 200 voters and received 405 or 390 ballots.

¹⁴ Following the SBE's decision, on 28 April, the organization lodged applications with the Ombudsperson and the National Human Rights Institute claiming language discrimination in the SBE's implementation of voter education.

¹⁵ [Soyler v. Turkey, application no. 29411/07](#), 17 September 2013 and [Murat Vural v. Turkey, application no. 9540/07](#), 21 October 2014.

¹⁶ Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will "guarantee universal and equal suffrage to adult citizens," while paragraph 24 provides that restrictions on rights and freedoms must be "strictly proportionate to the aim of the law." Paragraph 14 of the 1996 UNHRC General Comment No. 25 to Article 25 of the ICCPR states that grounds for deprivation of voting rights should be "objective and reasonable." See also Section I.1.1d of the Code of Good Practice.

The voter lists were finalized by the SBE on 8 April after a two-week public display period in DEBs and online.¹⁷ Voters are required to vote at their places of residence, with exceptions for BBCs members and police officers on duty at BBCs. According to the legislation, voting is compulsory for parliamentary elections, however, there are no provisions for voting at places of temporary stay for people in medical facilities and women's shelters, and for seasonal workers.

Candidate Registration

Citizens over the age of 25 years who have legal capacity and primary education are entitled to contest the elections. Citizens who have not completed compulsory military service, have been legally banned from public service, or have been convicted of a broad range of crimes, including minor offences, even if pardoned are ineligible to contest the elections.¹⁸ These requirements and criteria for restoration of candidacy rights are incompatible with the fundamental right to stand for election entrenched in several international documents.¹⁹

Candidate registration was generally inclusive. Following the nomination period and the period of public display and contestation, on 24 April, the SBE announced that 20 political parties with 9,861 candidates and 165 independent candidates were registered. On a positive note, some parties implemented gender quotas. Overall, some 28 per cent of candidates on party lists were female. A number of nominees from various parties were determined by the SBE to be ineligible due to non-performance of military service and past convictions. An electoral deposit is required for independent candidates, refundable if the candidate is elected.²⁰ This is inconsistent with international good practice.²¹

Campaign Environment

The Law on Basic Provisions provides a framework for regulating campaign conduct, aimed at ensuring a fair and equitable campaign. The law establishes two periods with different application of campaign rules. During the official campaign period which started on 28 May, and ended on 6 June at 18:00, stricter regulations and broader equitable campaign principles applied.²² 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 the campaign.

Contestants were generally able to campaign freely and did so extensively, however, there were several isolated cases of cancellation or restrictions of rallies of opposition parties in favour of events

¹⁷ Changes to the voter lists after 8 April are only possible in exceptional cases.

¹⁸ 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 for 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.

¹⁹ Paragraph 15 of General Comment No. 25 to Article 25 of the ICCPR states that "Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation". Paragraph 7.5 of the 1990 OSCE Copenhagen Document provides that participating States will respect the right of citizens to seek political or public office without discrimination. Further paragraph 24 provides that restrictions on rights and freedoms must be "strictly proportionate to the aim of the law." See also Section II.1.b of the Code of Good Practice.

²⁰ For these elections, the deposit was 10,167 Lira (approximately EUR 3,500); at least two candidates were rejected by the SBE due to an inability to pay the deposit.

²¹ Section I.1.1.3 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.

²² In the 10-day campaign period, all public ceremonies and speeches on government works are prohibited and the Prime Minister, Ministers and MPs use of public vehicles and participation in protocol meetings and ceremonies while on campaign tours are banned. Public servants cannot participate in campaign tours.

organized for the President or the Prime Minister.²³ Some parties voiced dissatisfaction with the allocation of campaign space and reported damage or removal of their campaign materials, including by the local authorities. In mid-May, the Kirikkale and Ankara Criminal Courts ruled that certain MHP posters insulted the President and provoked hatred as prohibited under the Criminal Code. The courts ordered all provincial governors and the General Directorate of the Police to remove all such posters. In addition, on 2 June, the President launched a civil lawsuit against the CHP Chairperson for slander for statements made against him in a campaign speech.

The campaign was vibrant with different outdoor activities used by the contestants who also extensively used social media. The campaign environment was marked by active engagement on substantive issues by the contestants, involving a large number of voters in campaign events. Polarization between the ruling party and other contestants was notable and confrontational campaign rhetoric was often observed.²⁴ The overriding issue in the campaign was the proposed change of the governmental system towards presidential, as advocated by the President and the AKP and opposed by other contestants. Socio-economic issues, the Kurdish-Turkish peace process and the on-going situation in the Middle East were also widely debated. In addition to Turkish, in some instances Kurdish, Arabic, Syriac and Zaza languages were used in the campaign.²⁵

In total, the OSCE/ODIHR LEOM observed 45 campaign events. The four largest political parties in the outgoing parliament were most vocal, having numerous and well-attended events throughout the country. Though legally prohibited, several parties campaigned abroad.²⁶

The campaign was tainted by a high number of attacks on candidates and party offices.²⁷ On 18 May, two bombs exploded at HDP branch offices in Adana and Mersin. One AKP candidate and one CHP candidate were wounded in separate armed attacks, on 23 and 26 May, respectively. On 4 June, in Erzurum, 38 persons were injured during a targeted disruption to the HDP rally. On 5 June, two bombs exploded at the HDP's rally in Diyarbakir; three people died and over 100 were injured. The police launched investigations in all of these cases.

Under the Constitution, the President is obliged to be non-partisan and perform his duties without bias.²⁸ The President, as head of state, together with local officials, attended an extraordinary number of public events, however, these events were used as opportunities to campaign in favour of the ruling party and to criticize opposition figures.²⁹ The President's campaigning continued during the 10-day

²³ The Felicity Party cancelled its rally in Uşak on 27 May due to a presidential event scheduled afterwards. The rally of the Felicity Party in Sakarya, planned and authorized by the DEB for 9 May, was forced to be rescheduled to 19 May due to an event by the Prime Minister. The authorized rally by the Patriotic Party in Adana for 29 May was restricted due to a presidential event.

²⁴ The OSCE/ODIHR LEOM observed the use of confrontational campaigning in the following rallies: on 16 May during CHP rally in Adana, AKP rally in Bursa and MHP rally in Konya; on 17 May during AKP rally in Istanbul and HDP rally in Adana; on 19 May during the Patriotic Party rally in Ankara; on 22 May during SP rally in Samsun; on 31 May during MHP rally in Istanbul, CHP rally in Ankara, and AKP rally in Diyarbakir.

²⁵ The OSCE/ODIHR LEOM observed the use of other languages in Adana, Diyarbakir, Izmir, Van and Mardin.

²⁶ The four largest parliamentary parties had campaign activities abroad: the Prime Minister and AKP Chairperson in Germany on 3 May; the CHP Chairperson in Germany on 25 April; the MHP Chairperson in Germany on 26 April; the HDP Co-chairs in Switzerland on 18 April, in France on 1 May and in Austria on 25 and 26 April.

²⁷ According to the statistics provided by the Ministry of Interior covering the period from 1 January to 24 May, a total of 84 attacks on party premises and 49 physical attacks on party members or candidates were registered.

²⁸ Articles 101 and 103 of the Constitution oblige the President to sever his relations with his party and to pledge to perform his functions without bias. The President justified his right to speak publicly about the political future of the country on the basis of being directly elected by popular vote.

²⁹ For example, on 31 May, the President appeared in a two-hour interview on *TRT1*, essentially campaigning on behalf of the AKP. The President generally avoided directly mentioning the AKP in his speeches.

official campaign period.³⁰ This practice contravenes campaign rules in the legal framework and is at odds with paragraph 5.4 of the 1990 OSCE Copenhagen Document.³¹

On 30 May, a large public event commemorated the 562nd anniversary of the conquest of Istanbul. Speeches by the President and the Prime Minister, (introduced as the AKP Chairperson), praised the current AKP government.³² Prior to the event, the SBE decided, contrary to the law, that the organization of the event was not prohibited.³³ On 19 May, the MHP lodged a request with the SBE to prevent the President from participating in the event and all other outdoor public meetings during the last 10 days of the campaign. The SBE denied the request.

The legislation does not contain comprehensive regulations of campaign financing. It only imposes certain restrictions on the amount and nature of donations. Political parties are required to declare their campaign funds solely through annual party financial reports submitted to the Constitutional Court. Donations and spending of parties and candidates during the campaign were not publicly available. The lack of timely and public disclosure limits the overall transparency and accountability of the campaign finance framework.³⁴

Media

The media environment is vibrant, with a wide range of broadcast and print outlets, and an ever-increasing importance placed on online and social media. However, mainstream media ownership is concentrated in a few companies, which limits media pluralism. A number of these companies have significant non-media investments and partly rely on governmental contracts, which was noted by some interlocutors as limiting their criticism of the ruling party.

The legal framework encompasses undue restrictions on the freedom of expression, as detailed in the Constitution, the Criminal Code, the Anti-Terrorism Act and the Internet Law.³⁵ OSCE/ODIHR LEOM interlocutors expressed concerns over direct interference of public officials and political entities towards media deemed to be critical of the ruling power.³⁶ During the election period some media faced increasing pressure and intimidation, including restriction to access and cover institutional events, and threats to ban media outlets.³⁷

The conduct of broadcast media during the election period is regulated by the Law on the Establishment of Radio and Television Enterprises and their Media Services (Law on Broadcasting), the Law on Basic Provisions and SBE decisions. Media regulations require all broadcasters to ensure

³⁰ The OSCE/ODIHR LEOM observed these events in Adana and Istanbul on 29 and 30 May, and in Erzurum and Manisa on 1 and 4 June.

³¹ Paragraph 5.4 of the 1990 OSCE Copenhagen Document provides for “a clear separation between the State and political parties; in particular, political parties will not be merged with the State” and Section I.2.3a of the Code of Good Practice.

³² The OSCE/ODIHR LEOM was informed of various allegations of students and public employees being instructed by their superiors to attend campaign events of the AKP; a case was filed on this matter with a Chief Public Prosecutor in Istanbul on 29 May.

³³ Article 64 of the Law on Basic Provisions prohibits public ceremonies during the 10-day official campaign period. Article 6 exempts ceremonies for national holiday, however the day in question is not a national holiday.

³⁴ The Council of Europe’s Group of State’s Against Corruption (GRECO) in its [Interim Compliance Report](#) from 4 February 2015, noted the majority of past recommendations have not yet been implemented.

³⁵ See a [statement by the OSCE Representative on Freedom of the Media from 15 December 2014](#).

³⁶ On 19 May, the newspaper *Hurriyet* published an open letter addressed to the President replying to his harsh criticisms against the Dogan Media Group over *Hurriyet* reporting on an Egyptian court ruling on 16 May.

³⁷ On 31 May, the President publicly threatened and subsequently lodged a criminal complaint against the Editor-in-chief of *Cumhuriyet*, following the publication of a critical video. As of 7 June, a total of 22 journalists are in prison.

impartiality, truthfulness and accuracy during broadcasting. Comprehensive guidelines and definitions to implement these principles in the election period are lacking.

The Radio and Television Supreme Council (RTSC) was responsible to oversee compliance by the media with the existing regulations and to submit weekly reports on detected violations to the SBE. However, the seemingly partisan functioning of the RTSC undermines its independence.³⁸ The RTSC members nominated by opposition parties publicly voiced their dissatisfaction over the RTSC's lack of transparency and inaction towards the extensive coverage by some national broadcasters in favour of the AKP and the President. The SBE has the authority to consider media complaints and to sanction national broadcasters. As of 5 June, the SBE had considered 126 RTSC reports, which resulted in the issuing warnings to 40 television channels and programs suspensions in 16 television channels.³⁹ Nevertheless not all decisions were published and broadcasters were not informed in a timely manner, which questioned the effectiveness of the sanctions.

OSCE/ODIHR LEOM media monitoring showed that the election coverage was often polarized along partisan editorial lines.⁴⁰ Broadcast media largely covered the election period with live broadcasts of campaign rallies. Debates among political party leaders were not held. This narrowed the space for an open debate among contestants. In line with the law, the public broadcaster, TRT, granted free airtime to all political parties to convey their messages, with those parties having a parliamentary group benefiting from additional airtime. All parties took advantage of this opportunity.

The *TRT1*, in its newscasts, offered largely biased coverage in favour of the ruling party, which benefited from 46 per cent of the airtime. The *NTV* and *ATV* in their editorial coverage and live broadcast of campaign events offered wide coverage to the AKP, 32 and 34 per cent, respectively. *CNN Turk* offered more coverage to the CHP and the HDP, 30 and 27 per cent respectively, while the MHP and AKP received 18 and 12 per cent, respectively. *Samanyolu TV* offered limited but fairly balanced coverage of the contestants; however, the tone of the coverage towards the ruling party was often negative. The AKP largely invested in paid advertising purchasing 51 per cent of the total paid political advertising on all channels monitored. The AKP was the only party to purchase paid advertising on *ATV* and had 91 per cent of the advertising on *TRT1*. The CHP, to a lesser extent, also invested in paid advertising, purchasing 19 per cent of total paid advertising.

During public speeches, the President often referred to electoral contestants. The President benefited from extensive coverage on *TRT1*, *ATV* and *NTV*: 40, 46 and 30 per cent, respectively, of their editorial coverage of political and institutional actors. Several political parties and MPs lodged complaints to the SBE and the Constitutional Court, including a challenge to the media coverage received by the President; all complaints were rejected or are still pending (see *Complaints and Appeals*).

Complaints and Appeals

In general, appeals against decisions of lower level election boards can be lodged with the higher level boards, up to the SBE.⁴¹ Those eligible to appeal include parties, voters, partisan observers, and candidates. Since citizen observer groups have not legal status as observers, they are not entitled to file complaints. Lodging of campaign-related complaints is not regulated in the legislation and the SBE did

³⁸ The RTSC consists of nine members elected by the parliament; five are nominated by the AKP, two by the CHP and one member each by the MHP and HDP.

³⁹ Most sanctions issued to broadcasters were related to the AKP advertisement for non-compliance with campaign regulations and other sanctions for unbalanced coverage and/or violations of the rules for publishing opinion polls.

⁴⁰ On 15 May, the OSCE/ODIHR LEOM commenced quantitative and qualitative media monitoring of five televisions: *TRT1*, *CNN Turk*, *NTV*, *ATV* and *Samanyolu TV*, and four newspapers: *Zaman*, *Hurriyet*, *Sabah* and *Sozcu*.

⁴¹ PEB decisions related to formation of DEBs and BBCs and DEB and PEB decisions on voter registration are final and cannot be appealed.

not clearly regulate oversight of the campaign process.⁴² Clear timeframes for submission and adjudication of some but not all types of electoral disputes are established in the law. Adjudication proceedings at electoral boards are not open to observers or the media, and not all decisions are publically available, or are published on an untimely basis, undermining transparency in the dispute resolution process.⁴³ Various OSCE/ODIHR LEOM interlocutors expressed a lack of trust in the election administration and courts to impartially handle complaints.

The SBE received 13 complaints lodged by various opposition parties and MPs challenging the President's involvement in the campaign. The common ground of the complaints was the President's campaigning in favour of the ruling party and against opposition parties, in breach of the constitutional obligation for impartiality, and challenging the media's extensive coverage of these events as a breach of broadcasting regulations on equal opportunities.⁴⁴ The SBE rejected all such complaints on the ground that it does not have sanctioning authority over the President and that regulations do not include the possibility to monitor the media's coverage of the President's activities, which denied stakeholders an effective remedy in election disputes and negatively affected the fairness of the electoral process.⁴⁵

Few complaints were lodged with lower level electoral boards, mostly related to posting of campaign material. Several appeals against PEB decisions regarding allocation of rally places for use by the President were submitted by political parties to the SBE. A DEB decision denying the President use of a rally venue allocated to the Patriotic Party was overturned by the PEB on appeal.⁴⁶ On further appeal, the SBE, on 25 May, decided the venue be shared by the President and Patriotic Party, a decision without legal basis as the President was not an electoral contestant, which unduly restricted the party's right to freely campaign.⁴⁷ Disregarding the SBE's decision, the DEB gave the venue exclusively to the President citing security concerns if the venue was shared. On appeal to the PEB, the DEB's decision was upheld and on further appeal, the SBE on 28 May again decided the venue was to be shared.⁴⁸

Under Article 79 of 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 Code of Good Practice.⁴⁹

A 2010 constitutional amendment established the right to lodge individual petitions to the Constitutional Court for violations of fundamental rights and freedoms within the scope of the European Convention on Human Rights (ECHR), and guaranteed by the Constitution.⁵⁰ These are the

⁴² There are ambiguities in SBE Regulation 236 regarding which authorities are responsible for overseeing particular campaign matters and during which periods of time.

⁴³ The SBE decides on a case-by-case basis whether to publish decisions on complaints and appeals. Decisions on appeals and objections on candidate registration are not published on the SBE website. Decisions are posted between 7 and 10 days after the date of decision. The OSCE/ODIHR LEOM was able on request to receive from the SBE copies of complaints and decisions and verbal information about decisions before they were published.

⁴⁴ All but two of these complaints challenged the media's coverage.

⁴⁵ SBE decisions on eight such complaints included a dissenting opinion of SBE members. It noted the President's on-going campaign activities are inconsistent with his constitutional duty to remain impartial and requested the SBE to call on RTSC to take under review the media's coverage of the President's campaign events.

⁴⁶ The DEB decision, dated 18 May, denied the President a rally venue in Adana for 29 May due to the allocation of the venue for that date to the Patriotic Party and on grounds that under the law, identified venues are for exclusive use of electoral contestants during the 10-day campaign period.

⁴⁷ The SBE referred to SBE Regulation 236 which states that in case more than one political party and independent candidate apply for the same public meeting area in the same date and hour for campaign purposes, the venue is to be shared and the sequence of the campaign events shall be determined by lottery.

⁴⁸ The SBE decided that the Patriotic Party could use the venue from 19:30 – 21:52.

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 available legal mechanisms to protect these rights must be exhausted prior to lodging an individual petition.

first parliamentary elections during which the new legal mechanism was in force. To date, the court has not ruled on whether violations of electoral rights in parliamentary elections as protected by the ECHR and the Constitution can be the subject of individual petitions taking into consideration the constitutional finality of SBE decisions. Prior to election day, 16 election-related petitions were lodged with the Constitutional Court. Eight petitions relate to campaigning by the President, his use of state resources in the campaign, and the media's coverage of these events. One petition filed by a civil society organization challenged the SBE's decision denying it permission to observe the elections.⁵¹ Other petitions relate to breaches of active and passive suffrage rights. All decisions were pending as of election day, denying timely remedy in electoral disputes.⁵²

Citizen and International Observers

The rights of citizen and international observers are not established by law. However, for these elections three international organizations were accredited. At the same time, two civil society organizations were denied accreditation by SBE due to of lack of legal basis for citizen observation.⁵³ The law, however, does not create the legal basis for the effective implementation of citizen and international observation as per paragraph 8 of the 1990 OSCE Copenhagen Document, previous PACE recommendations, and Section II.3.2 of the Code of Good Practice.⁵⁴

The Law on Basic Provisions provides for monitoring of the election process only by representatives of political parties and independent candidates. Several citizen observers groups monitored various stages of the election process and some undertook efforts to observe election day either through political parties or independently.

Election Day

In the limited number of polling stations visited by international observers, election day was well organized. A few localized security incidents, mostly related to party and citizen observers, should be investigated. In order to carry out their key role, citizen observer groups mostly registered on behalf of parties and were present in most of the visited polling stations. In several BBCs, the number of ballots differed from the number indicated. Procedures to accommodate voters with disabilities were often not sufficient.

The counting and tabulation processes were noted as generally transparent, although some procedural errors were observed. In the few instances where tabulation of results was observed at the DEB level, processing procedures were efficient. Nevertheless, in some instances DEBs were overcrowded. As well, changing of BBC protocols at the DEB level was observed. Moreover, in some instances, international observers were denied access in DEBs. Results protocols from the BBCs were scanned and uploaded to the SBE at DEB level, and accessible to political parties only.

⁵¹ The petition references Turkey's commitment to provide for citizen observation under the 1990 OSCE Copenhagen Document and international electoral rights and the "double standard" in accrediting international observers but not citizen observers.

⁵² There is no special deadline for the Constitutional Court's consideration of election-related petitions and under the court's prioritization policy election cases are not given high priority.

⁵³ The organizations were the Association for Monitoring Equal Rights and the Human Rights Association.

⁵⁴ Paragraph 8 of the 1990 OSCE Copenhagen Document 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 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."

The SBE did not publish preliminary results. Broadcasters, including the public broadcaster, published them earlier than 21:00 which, although contrary to the Law on Basic Provisions, provided voters with important information.

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

MISSION INFORMATION & ACKNOWLEDGEMENTS

Ankara, 8 June 2015 – The OSCE/ODIHR LEOM opened in Ankara on 7 May. It includes 12 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, 96 observers were deployed, including 57 parliamentary observers from the OSCE PA, 36 from the PACE, and 36 long-term observers and experts from the OSCE/ODIHR. In total, there were observers from 32 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.

For further information, please contact:

- Ambassador Geert-Hinrich Ahrens, Head of the OSCE/ODIHR LEOM Ankara (+90 539 924 61 51);
- Thomas Rymer, OSCE/ODIHR Spokesperson (+48 609 522 266), or Vladimir Misev, OSCE/ODIHR Election Adviser, in Warsaw (+48 669 672 290);
- Richard Solash, OSCE PA Director of Communications (+45 601 08 380), or Andreas Baker, OSCE PA Director of Elections (+45 601 08 126);
- Bogdan Torcatoriu, PACE Secretariat (+33 388 413 282).

OSCE/ODIHR LEOM Address:

Word Trade Center Ankara, 12th floor, Tahrir Caddesi 30
06700 Cankaya, Ankara, Republic of Turkey

Tel: +90 312 465 0513, Fax: +90 312 466 0032, Email: office@odihr-turkey.org

Website: <http://www.osce.org/odihr/elections/turkey>