



Office for Democratic Institutions and Human Rights

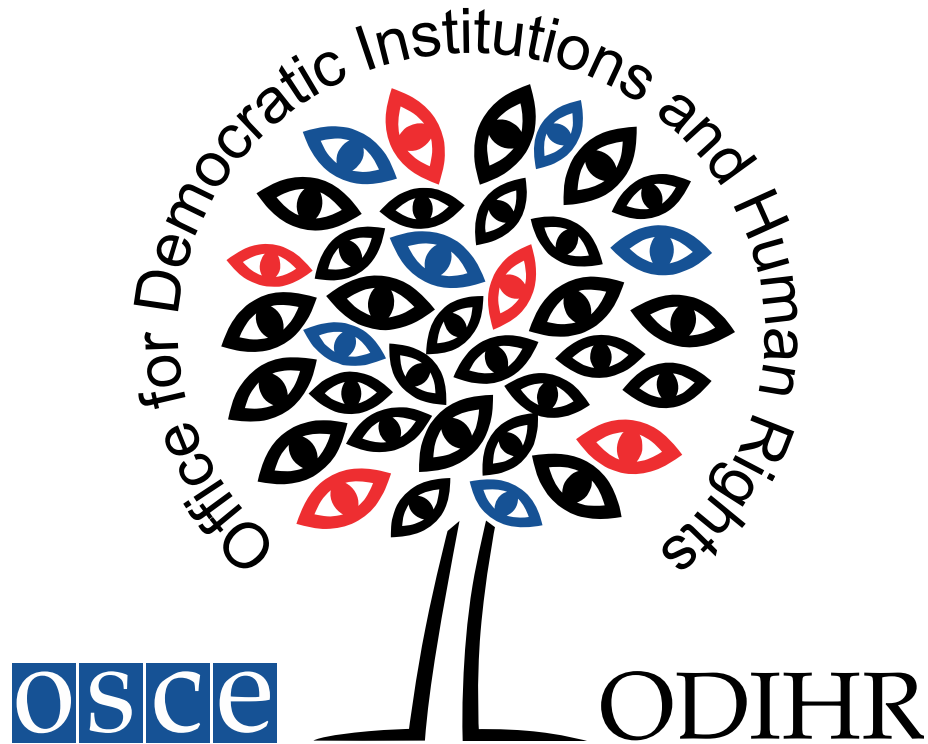
TÜRKIYE

GENERAL ELECTION

2023

ODIHR NEEDS ASSESSMENT MISSION REPORT

5 – 8 December 2022



Warsaw
17 February 2023

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**TÜRKIYE
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ODIHR Needs Assessment Mission Report

I. INTRODUCTION

In anticipation of an invitation from the Turkish authorities to observe the 2023 general election, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 5 to 8 December 2022. The NAM included Ulvi Akhundlu, Deputy Head of the ODIHR Election Department, Ana Rusu, ODIHR Senior Election Adviser, and Keara Castaldo, ODIHR Election Adviser. The ODIHR NAM was joined by Tim Knoblaue, Deputy Head of the OSCE Parliamentary Assembly's Vienna Office.

The purpose of the NAM was to assess the pre-electoral environment and preparations for the election. Based on this assessment, the NAM recommends whether to deploy an ODIHR observation activity for the forthcoming election and, if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions and with representatives of the judiciary, political parties, media, and civil society, as well as the resident international community. A full list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs for its assistance and co-operation in organizing the NAM. ODIHR would also like to thank each of its interlocutors for taking the time to meet with the NAM and for sharing their views.

II. EXECUTIVE SUMMARY

The 2023 general election follows the implementation of significant constitutional amendments adopted in 2017, which came into force with the 2018 early presidential and parliamentary elections, converting the government from a parliamentary to presidential system. All ODIHR NAM interlocutors anticipated a high level of voter engagement and participation in the election. Türkiye's Action Plan for Human Rights commits to the continued reform of electoral legislation and the empowerment of democratic participation. Several international organizations have, however, raised concerns about the respect of civil and political rights. Recently, a number of opposition politicians have been subject to prosecution, in some cases resulting in judgments from the European Court of Human Rights calling for their immediate release from detention.

The electoral legal framework was most recently revised in March 2022 by Law no. 7393, which introduced several amendments to various electoral and political party laws. The amendments included several notable changes, such as lowering the electoral threshold for parliamentary elections, revising the methods of determining parliamentary seat allocation and political party eligibility, and updating campaign limitations for public officials, procedures for the appointment of electoral boards and certain aspects of voter registration. Many ODIHR NAM interlocutors described a rushed legislative process which lacked meaningful parliamentary debate or public consultation prior to enactment, and raised concerns related to the impact of several amendments. Representatives of the ruling party stated that informal discussions took place prior to the adoption of the amendments and that sufficient public information was available about their planned adoption.

The structure of the election administration corresponds to the administrative boundaries of the country, with a Supreme Electoral Council (SEC) overseeing the conduct of elections at the national

level, and provincial- and district-level boards managing various aspects of implementation of the election process. None of the 11 SEC members are women. Several ODIHR NAM interlocutors raised serious concerns related to a recent change in the criteria and appointment procedure of judges to election boards, claiming that this may decrease trust in the election process. Positively, a new amendment requires that voters have access to special ballot templates in polling centers, in line with a previous ODIHR recommendation on facilitating the autonomous voting for persons with visual impairments.

Citizens over 18 years of age have the right to vote, except for citizens declared legally incompetent or banned from public service by court, prisoners convicted of intentional crimes regardless of the severity, and active military personnel, which ODIHR has previously criticized as disproportionate and contrary to international obligations. While appreciating existing opportunities for review of voter lists, ODIHR NAM interlocutors raised some concerns related to their maintenance and transparency. Interlocutors welcomed certain inclusive practices such as special voter lists for out-of-country voters and for eligible imprisoned and detained voters, and for mobile voting.

Presidential candidates must be at least 40 years of age and have a higher education, and candidates to parliament must be at least 18 years of age with a primary education. Existing limitations on candidacy rights, such as exclusions on the basis of disability or minor criminal offenses, have previously been raised by ODIHR as overly restrictive. Law no. 7393 introduced stricter eligibility requirements for political parties to participate in parliamentary elections, which have been described by ODIHR and the Council of Europe's Venice Commission as excessive and discriminatory. No requirements exist for ensuring greater representation of women on candidate lists, though a few parties met by the ODIHR NAM highlighted internal policies such as voluntary quotas. Many interlocutors pointed out the need for further efforts to support the inclusion of women candidates, including through legislation.

Authorities met by the ODIHR NAM expressed their commitment to the security and integrity of the electoral process. All interlocutors, including among opposition parties and civil society, anticipated an active and competitive campaign environment with opportunities for diverse modes of outreach to the electorate. However, many interlocutors described legal and practical shortcomings in the oversight of election campaigns, and expressed concerns that contestants could experience unequal treatment by national and local oversight authorities in the enforcement of campaign rules and political finance regulations. While some political parties met by the ODIHR NAM described efforts to promote the participation of underrepresented groups in party structures and in the campaign process, other interlocutors described these efforts as inconsistent overall. Some concerns were raised related to potential violent and sexist rhetoric against women candidates in online platforms.

Political parties may be privately financed through donations and membership fees, and certain eligible parties receive public funding based on prior election results. Presidential candidates can receive donations from private citizens at an individual limit for each round and are not entitled to public funding. There are no limits on party or candidate campaign expenditures. Several gaps remain in the regulation of campaign finance, including an absence of proactive monitoring foreseen in the electoral legislation and a lack of timely disclosure requirements. The law does not require any interim financial reports before the elections, nor the timely publication of contestant financial reports, measures that were previously included among ODIHR recommendations.

During election campaigns, media are obligated by law to present impartial coverage and equal access to contestants, and paid political advertising is permitted on public and private channels. While the Constitution provides for the freedom of expression, multiple laws, including media

legislation, the penal code and anti-terror laws, regulate the content, dissemination and monitoring of public information. Defamation remains a criminal offence despite a previous ODIHR recommendation. Many ODIHR NAM interlocutors raised concerns related to a new package of amendments to various media laws adopted in October 2022, which included criminal penalties for “overtly disseminating false information to mislead the public”, positing that the amendments may result in increased self-censorship.

The electoral legislation does not provide for citizen and international observation of the election process, despite prior ODIHR recommendations to conform with OSCE commitments on election observation. The ODIHR NAM appreciated its co-operation with multiple state institutions in conducting its activities and was assured by all authorities that access to election-related procedures would be facilitated if a potential ODIHR election observation activity was deployed. Political parties and independent candidates can designate observers to follow election day proceedings.

Broad legal standing is afforded to file complaints against decisions of election boards. However, the Constitution precludes any appeals of decisions of the SEC, including decisions related to constitutionally-protected rights and the final election results, which ODIHR has previously criticized as limiting the opportunity for effective remedy. Several ODIHR NAM interlocutors expressed concern regarding the efficacy of lodging election-related complaints, such as a lack of legal mechanisms and a general distrust in the independence of the judiciary.

All ODIHR NAM interlocutors acknowledged the value of an external scrutiny of the electoral process and most encouraged a long-term ODIHR observation activity throughout the country to follow the preparations and oversight of the presidential and parliamentary elections, including the conduct of election-day procedures and results reporting. In discussions with stakeholders, the ODIHR NAM noted that concerns were raised with respect to national and local oversight of the campaign and its media coverage, the transparency of various administrative and election-day procedures, and respect for electoral rights and remedy for election-related disputes. Certain positive steps have been taken to address prior ODIHR recommendations, but most remain unaddressed.

On this basis, ODIHR recommends the deployment of an Election Observation Mission to assess the 2023 general election. In addition to a core team of experts, ODIHR would request the secondment of 28 long-term observers from OSCE participating States to follow the election process countrywide, as well as 350 short-term observers to follow election-day proceedings. In line with ODIHR’s standard methodology, the Mission would include a media monitoring element.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

The 2023 general election follows the implementation of significant constitutional amendments adopted in 2017, which came into force with the 2018 early presidential and parliamentary elections, converting the government from a parliamentary to presidential system. All ODIHR NAM interlocutors anticipated a high level of voter engagement and participation in the election, noting that the centenary of the Turkish republic in 2023 lends particular weight to political debates about the country’s future.

In the 2018 early elections, the ruling Justice and Development Party (*Adalet ve Kalkınma Partisi*, “AK Parti”) and its coalition partner the Nationalist Movement Party (*Milliyetçi Hareket Partisi*, “MHP”) secured a majority to form a government, and President Recep Tayyip Erdoğan was elected

with 52.59 per cent of the vote. Local elections were held on 31 March 2019 for city and district mayors and for provincial and district councilors, in which the opposition “Nation Alliance” of the Republican People’s Party (*Cumhuriyet Halk Partisi*, “CHP”) and the Good Party (*İyi Parti*) gained mayoral seats in Ankara, Antalya and Istanbul, in addition to sustaining control of other major cities such as Izmir. The opposition victory in the Istanbul mayoral race was contested in multiple legal challenges and recounts, and in response to a complaint from the ruling party, the election results were annulled and the election repeated, with the Nation Alliance again winning the subsequent poll. On 14 December 2022, Istanbul mayor Ekrem İmamoğlu of CHP was sentenced to more than two years’ imprisonment, together with a political ban which would preclude him from holding political office pending the outcome of an appeals process, for insulting members of the Supreme Election Council. The court’s decision is not yet final and legal proceedings are ongoing.

Since the 2019 local elections, a number of mayors elected from the Peoples’ Democratic Party (*Halkların Demokratik Partisi*, “HDP”) were dismissed following terrorism-related charges and replaced by the government with appointed trustees. The European Court of Human Rights (ECtHR) has issued judgments against Türkiye in 2020 and 2022 in relation to the detention of multiple HDP members, including the party co-leaders and 12 additional members of parliament.¹ In March 2021, the chief public prosecutor of the Court of Cassation filed a lawsuit with the Constitutional Court requesting the closure of HDP, alleging ties to the Kurdistan Workers’ Party (PKK), which is designated as a terrorist organization by Türkiye, the European Union, and several other countries. The lawsuit requested a five-year ban on the political participation of several hundred members of the HDP.² In January 2023, the Constitutional Court ordered that the party’s state funding account be temporarily blocked, while a decision in the case remains pending. HDP filed an objection to this interim decision of the Constitutional Court.

Some 29 per cent of members of the outgoing parliament are under the age of 45.³ Women hold leadership positions in some political parties, but are generally underrepresented in national and local politics. Women constitute some 17 per cent of members of the outgoing parliament and only 1 of 17 ministers; likewise, only 3 per cent of mayors, 2 per cent of village heads, and 11 per cent of local councilors are women.⁴

Several international organizations have raised concerns related to the exercise of a number of civil and political rights in Türkiye.⁵ In March 2021, Türkiye adopted a national Human Rights Action Plan, outlining principles, goals and targets to be implemented over a two-year period. Among

¹ In its December 2020 judgment in [Selahattin Demirtas v. Turkey](#) (application no. 14305/17), the Court described a political motivation for the continued detention of HDP co-leader Selahattin Demirtas. In its November 2022 judgment in [Yüksekdağ Şenoğlu and others v. Türkiye](#) (application no. 14332/17 and others), the Court described the detention of HDP co-leader Figen Yüksekdağ Şenoğlu and 12 additional HDP MPs as arbitrary and in violation of their right to elected office.

² The March lawsuit was rejected by the Constitutional Court for deficiencies. A second indictment filed in June 2021 was accepted and the case is under review.

³ According to statistics compiled by the Inter-parliamentary Union.

⁴ Statistics compiled by [UN Women](#).

⁵ These include limitations on the freedoms of assembly, association, and expression, and on the rights of due process and the independence of the judiciary. See the [25 February 2021 letter of the Council of Europe’s Commissioner for Human Rights](#) and the [4 March 2021 reply of the Minister of Interior](#); the [July 2021 Opinion of the Council of Europe’s Venice Commission](#) on Law No. 7262 On The Prevention of Financing of the Proliferation of Weapons of Mass Destruction; the 2022 and 2020 judgments of the ECtHR in 20 judgment [Kavala v. Turkey](#) (application no. 28749/18); the [October 2018 joint statement](#) of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the [February 2020 statement of the CoE Commissioner for Human Rights](#).

numerous activities outlined, the Plan indicates that “Necessary changes will be made to the legislation on political parties and elections with a view to empowering democratic participation”.⁶

Major earthquakes on 6 February 2023 resulted in substantial loss of life and infrastructural damage across south-eastern Türkiye. On 6 February a seven-day period of national mourning was declared and on 8 February a three-month state of emergency was introduced by a presidential decision in ten affected provinces to facilitate the conduct of rescue and relief operations. The decision was approved by the parliament on 9 February.

B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

Elections are regulated by the 1982 Constitution, 1961 Law on Basic Provisions for Elections and Voter Registers, 1983 Law on Parliamentary Elections, 2012 Law on Presidential Elections, 1983 Law on Political Parties and 1983 Law on Meetings and Demonstrations. Türkiye is a party to major international and regional human rights instruments related to the conduct of democratic elections.⁷ The Constitution holds that international obligations take precedence over national legislation.

Members of the 600-seat unicameral parliament are elected for a five-year term through a proportional system in 87 multi-member constituencies with closed party lists and independent candidates. The president is directly elected for up to two five-year terms, and may serve an additional term if the parliament decides to call new elections during the second presidential term. Presidential candidates can be nominated by one or more political parties or may stand independently. If no candidate receives an absolute majority of valid votes in the first round, a second round is held two weeks later between the two candidates with the most votes.

In March 2022, the AK Parti and MHP introduced and the parliament approved Law no. 7393, which introduced several significant changes to the electoral legal framework. These changes included a revised formula for parliamentary seat allocation and a lower parliamentary threshold, as well as changes to eligibility criteria for political parties to contest elections and to procedures for the appointment of electoral boards and for the update of voter registration records.

A notable and positive provision in Law no. 7393 lowered the threshold for parliamentary eligibility from 10 to 7 per cent of votes nationwide,⁸ in line with previous ODIHR recommendations to lower the threshold, although it remains among the highest in the OSCE region.⁹ Legal changes enacted in 2018 enabled political parties to form alliances that would be jointly subject to the national threshold, which was described by ODIHR and the Council of Europe’s Venice Commission at the time as a positive step to mitigate the effects of the high threshold. However, under the new amendments, seats are allocated directly to all individual parties, including those within an alliance,

⁶ See page 23 of the [2021 Action Plan on Human Rights](#).

⁷ These include the 1965 Convention on the Elimination of All Forms of Racial Discrimination, 1966 International Covenant on Civil and Political Rights, 1979 Convention on the Elimination of All Forms of Discrimination Against Women, 2003 Convention Against Corruption, and the 2006 Convention on the Rights of Persons with Disabilities. Türkiye is a member of the Council of Europe’s Venice Commission and Group of States Against Corruption (GRECO) and is a party to the 1950 European Convention for Human Rights and the 2001 Convention on Cybercrime. Türkiye has neither signed nor ratified the Council of Europe’s Framework Convention for the Protection of National Minorities.

⁸ The threshold does not apply to independent candidates.

⁹ Article 67 of the Constitution stipulates the main principles of the electoral system being fair representation and stability of government.

and to independent candidates, according to the *D'Hondt* method.¹⁰ Many ODIHR NAM interlocutors questioned the effectiveness of the lowered threshold in conjunction with the revised allocation formula, and claimed these changes were designed to benefit the electoral outcomes of the ruling coalition.¹¹ Authorities met by the ODIHR NAM described the new formula as more directly representative.

Most ODIHR NAM interlocutors criticized the rapid adoption of these amendments without substantial parliamentary debate and in the absence of public consultations.¹² At least one political party filed a complaint, which remains pending, with the Constitutional Court regarding the substance of certain amendments.¹³ In meetings with the ODIHR NAM, representatives of the ruling party stated that informal discussions took place prior to the adoption of the amendments and that sufficient public information was available about their planned adoption.

Parliamentary constituencies generally correspond to the administrative boundaries of the 81 provinces.¹⁴ At the start of each year, the Population Registration Agency publishes population data, with which the SEC calculates the number of deputies to be elected from each constituency. In March 2021, President Erdoğan issued two decrees which revised the boundaries of the Diyarbakır, Giresun, Muş and Ordu provinces. The revised distribution of mandates per constituency based on 2022 population data will be published by the SEC in the beginning of 2023.

C. ELECTION ADMINISTRATION

The structure of the election administration corresponds to the administrative boundaries of the country, with a Supreme Electoral Council (SEC) overseeing the conduct of elections at the national level, and provincial- and district-level boards managing various aspects of implementation of the election process.¹⁵ The SEC and these regional boards comprise or are chaired by senior judges.¹⁶ Political parties with parliamentary groups and the four parties that received the highest number of votes in the previous parliamentary elections may have non-voting representatives in the SEC, if

¹⁰ Previously, seats were allocated in a two-stage process, first by allocating seats according to the *D'Hondt* method within electoral districts among the alliances, parties that ran individually, and independent candidates, and afterward distributing the seats allocated to an alliance among its participating parties.

¹¹ In their 2022 Joint Opinion, ODIHR and the Venice Commission noted that, “[a]lthough all methods of seat allocation result in a certain number of votes being wasted, the use of a single-stage allocation, when combined with the high electoral threshold, risks operating in clear disfavour of smaller parties belonging to an electoral alliance, thus limiting the impact of the creation of this alliance [...] Against the background of the principle of equal opportunity, which is one of the fundamental principles of electoral law, the Venice Commission and ODIHR encourage the Turkish authorities to observe the effects of the application of the amended allocation method with a specific focus on smaller parties”.

¹² See also paragraph 24 of the [2022 ODIHR and Venice Commission Joint Opinion on Amendments to the Electoral Legislation by Law no. 7393](#): “The brevity of the debates in the plenary session of Parliament and the statements by representatives of opposition parties that most of their proposals to the bill were not taken into consideration indicate that the Law does not represent a political consensus. Interlocutors also noted a pattern of amending the electoral legislation prior to each electoral cycle, without due procedural safeguards, which could undermine the credibility of the electoral process and the stability of the legal framework”.

¹³ The CHP informed the ODIHR NAM that it submitted a request to the Constitutional Court to review the constitutionality of Articles 5, 6, 11 and 12 of the new law.

¹⁴ Certain large provinces contain more than one constituency, specifically Ankara (3 constituencies), Bursa (2), Istanbul (3), and Izmir (2).

¹⁵ PEBs announce constituency candidate lists, tabulate district-level results and decide on complaints against decisions of District Election Boards (DEBs). DEBs tabulate results at district level and decide on complaints related to BBCs.

¹⁶ Each of the 81 provinces has a PEB composed of three senior judges who serve two-year terms. DEBs serve two-year terms and are chaired by the most senior judge in the district, and comprise two civil servants as well as representatives of the four political parties that received the most votes in the district.

they are eligible to participate in the elections. Political parties determined and announced by the SEC which have an organization in that province or district, and meet the conditions set forth in the law, are entitled to have one non-voting representative each in the provincial and district election boards. Political parties have the right to appoint a member of the district election board, according to the previous voting results of the respective district. Election-day procedures in polling centers are managed by ballot-box committees (BBCs), which comprise public employees and political party representatives.¹⁷ None of the 11 SEC members are women. ODIHR has previously recommended that legal or administrative measures be taken to promote the inclusion of women in election management bodies.¹⁸

The March 2022 amendments revised the criteria and process of appointing judges to chair DEBs and PEBs, such that the chairs are selected by lottery from among all first-tier judges in the respective province or district, instead of automatically assigning the position to the most senior judge.¹⁹ ODIHR NAM interlocutors raised serious concerns related to the change in appointment procedure, claiming that the change had not been sufficiently founded and that the previous approach was less vulnerable to attempted interference or pressure.²⁰ The SEC informed the ODIHR NAM that the change was the will of the parliament, describing the lottery as a fair means of selection with no adverse effect on the impartiality of the election administration. Since the adoption of the amendments, all provincial and district election boards were reappointed, to which some parties filed objections.²¹

The law prescribes that voters requiring assistance in casting a ballot due to physical disability may request assistance from a relative who is a registered voter in the same constituency, or from any registered voter, and that the same person may not assist more than one voter. ODIHR NAM interlocutors welcomed the new legal requirement that voters have access to special ballot templates in polling centers, in line with a previous ODIHR recommendation on facilitating the autonomous voting for persons with visual impairments. The SEC website provides certain accessibility features, including adjustable text formats and shortcut keys for navigating the website without a mouse.

D. VOTER REGISTRATION

Citizens over 18 years of age have the right to vote, except for citizens declared legally incompetent or banned from public service by court, prisoners convicted of intentional crimes regardless of the severity, and active military personnel. ODIHR has previously criticized these blanket restrictions on voting rights as disproportionate and at odds with OSCE commitments and other international obligations and standards. Following decisions of the European Court of Human Rights in 2013 and 2014 that found the restriction on prisoner voting rights to be too broad, the SEC has partially

¹⁷ BBCs consist of seven members: two public employees, one of which is selected as chair by a lottery, and representatives of the five political parties that received the most votes in the district. ODIHR has previously observed that the selection of the chair was not consistently performed by lottery, as required by law, and rather by the district governor or DEB.

¹⁸ During the 2018 early election, ODIHR reported that “[o]f the 14,075 members of PEBs and DEBs, only 12 per cent were women, and of the 1,106,000 members of BBCs, 24 per cent were women, while 19 per cent of BBC chairpersons were women”.

¹⁹ The lottery is conducted by the judicial commission of the respective first-instance court. For the Ankara election board, the SEC indicated that some 300 judges were eligible in the lottery.

²⁰ Many interlocutors claimed that large number of first-tier judges were appointed by the current government, whereas the tenure of many of the senior-most judges predates the current government. Interlocutors also described a general lack of trust in the system of judicial appointments.

²¹ Two parties informed the ODIHR NAM that they had filed objections to the Constitutional Court related to the reappointment of the election boards, which took place less than one year after the adoption of the new appointment procedures.

addressed the Court's rulings in regulations issued in 2018.²² However, the recent revisions to the electoral legislation did not update this policy.

The SEC maintains a permanent central voter register on the basis of personal data from a civil and address registry updated by the Ministry of Interior (MoI) as well as data on ineligible voters provided by the Ministries of Justice and Defense. According to the SEC, the voter register currently contains the records of 63,305,105 eligible voters.²³ In order to vote, all voters must have a registered address, which forms the basis for their inclusion in district-level voter lists. DEBs may reassign voters to polling centers other than those corresponding to their address, a practice which some ODIHR NAM interlocutors raised concerns with due to the significant number of such changes during the 2018 election.²⁴ Positively, Law no. 7393 contained amendments which provide for retaining a voter's record at their last confirmed address if their current address is removed from the address database or if a request for a registration change is rejected, replacing a previous practice of automatically excluding such records from the voter list.²⁵

Voter lists are published for scrutiny at local *muhtar* offices and other public spaces determined by the DEB for two weeks during the election period. Political parties may request copies of the voter lists and may directly submit objections to the SEC, while voters may submit objections or requests for changes on their own records or those registered at their address to the respective DEB.

While appreciating existing opportunities to review voter lists, some interlocutors raised concerns about the maintenance and transparency of the voter register. While the SEC has the legal authority to conduct routine audits of the register, representatives informed the ODIHR NAM that it has not conducted such an audit in any recent elections, as corrections to voter lists are based on regular scrutiny from political parties and from individual voter requests.

During the 2018 elections, special voter lists were compiled for out-of-country voters and for eligible imprisoned and detained voters, and mobile voting was introduced for homebound voters, which ODIHR NAM interlocutors welcomed as inclusive practices.²⁶ ODIHR previously recommended that special voting lists or centers could be considered for persons in hospitals and in women's shelters.

E. PARTY AND CANDIDATE REGISTRATION

In order to be eligible to participate in parliamentary elections, political parties must have established party branches in at least half of provinces and in one-third of districts in each province, and to have convened party conferences at least 6 months prior to election day. Law no. 7393 amended the Law on Political Parties to extend this requirement, by specifying that eligible parties must have held at least two consecutive national, provincial and district congresses. The amendments simultaneously

²² See SEC decision no. 01133 of 28 December 2018. See [Söyler v. Turkey](#), application no. 29411/07, 17 September 2013 and [Murat Vural v. Turkey](#), application no. 9540/07, 21 October 2014.

²³ For the forthcoming general election, the SEC anticipates that some 195,500 ballot boxes in-country and some 675 abroad, with the final number to be established by the relevant diplomatic representations. The SEC also plans to organize mobile ballot boxes, as in previous elections.

²⁴ According to the SEC, 120,724 voters corresponding to 1,090 ballots boxes, mostly in rural areas, were merged or relocated due to security reasons or geographic difficulties.

²⁵ Paragraph 61 of the 2022 ODIHR and Venice Commission Joint Opinion notes that the Law on Basic Provisions has yet to be harmonized with these amendments.

²⁶ In 2018, out-of-country voters could cast a ballot in-person at 3,379 BBCs in 60 countries from 7 to 19 June. Ballots cast abroad were counted by 1,165 BBCs at a specially-designated DEB in Ankara. According to the SEC, an estimated 3,215,107 eligible voters reside abroad.

eliminated a previous alternate condition, which had enabled participation on the basis of having a political group, i.e. at least 20 MPs, in the Grand National Assembly of Türkiye, irrespective of the fulfillment of the provincial party branches or the congresses. ODIHR and the Council of Europe's Venice Commission have criticized these narrowed circumstances for party eligibility as excessive and discriminatory.²⁷ Parties representing the interests of regions, ethnic groups, specific persons, families, classes or communities, sects or religious orders are prohibited.

Presidential candidates must be at least 40 years of age and have a higher education, and candidates to parliament must be at least 18 years of age with a primary education.²⁸ Citizens may not stand for election if they have been deprived of legal capacity or barred from public service by a court decision, including on the basis of intellectual or psycho-social disability, if they are neither exempt nor deferred from military service, or if they have been convicted of a broad list of crimes, including minor criminal offences, even if pardoned.²⁹ ODIHR has previously criticized existing limitations on candidacy rights as overly restrictive.

Presidential candidates may be nominated by one or more parties that received at least five per cent of votes in the last general election.³⁰ Independent presidential candidates must submit supporting signatures of 100,000 voters after submitting a deposit amount established during each election, refundable to those registered. Parliamentary candidates may be nominated by political parties on closed party lists or stand independently, the latter by paying a deposit refundable only to those elected.³¹ Parties must submit candidate lists in at least half of the provinces. ODIHR previously recommended that procedures for collecting support signatures be simplified, and that consideration be given to refunding the electoral deposit for independent candidates to parliament that receive a certain number of votes.

There are no legal requirements for the inclusion or placement of women in candidate lists. During previous elections, certain parties implemented voluntary gender quotas in their submitted lists. Many interlocutors described a need for stricter legislative steps to encourage the inclusion of women in political parties and election campaigns.

²⁷ Paragraph 15 of the 2022 ODIHR and Venice Commission Joint Opinion states that “the single condition favours larger and well-established political parties, while on the contrary making it difficult for smaller and newer parties to establish themselves and find their way to the Parliament [...] The detrimental effect of the provision [requiring consecutive party congresses] on the electoral participation of newly created parties cannot be assessed as satisfying the requirement of necessity in a democratic society to comply with the limitation criteria for Articles 11 of the ECHR and Article 3 of Protocol 1 to the ECHR, as developed in the ECtHR case-law. Therefore, the provision appears to entail a discriminatory effect with respect to the freedom of association and participation in political life, contrary to international standards, as well as to prior ODIHR recommendations”.

²⁸ The eligible age for parliamentary candidates was lowered with the 2017 constitutional changes, in a positive step for promoting the political inclusion and participation of youth.

²⁹ The list of crimes is non-exhaustive and includes those who have been sentenced to a prison term of at least one year for intentional offences and those convicted for embezzlement, corruption, bribery, theft, fraud, forgery, breach of trust, fraudulent bankruptcy, smuggling, conspiracy in official bidding or purchasing, disclosure of state secrets, and involvement in acts of terrorism or incitement and encouragement of such activities, even if they have been granted an amnesty. The Judicial Records Law, states that convicts' candidacy rights may be restored after a minimum three-year period after full execution of the sentence, proof of “living a good life” and no new convictions for any crime. Following a 15-year period, convicts' criminal records are expunged.

³⁰ A group of six opposition parties (“Table of 6”) announced plans to nominate a joint presidential candidate.

³¹ The deposit amount is calculated each election based on “an amount equivalent to the monthly gross sum of all payments made to civil servants”.

F. ELECTION CAMPAIGN

The legal framework establishes two periods for campaigning: the electoral period, which begins 55 days prior to the election and during which limited regulations apply, and the official campaign period, which lasts for only 10 days prior to the election and carries stricter requirements.³²

Authorities met by the ODIHR NAM expressed their commitment to the security and integrity of the electoral process. All interlocutors, including among opposition parties and civil society, anticipated an active and competitive campaign environment with opportunities for diverse modes of outreach to the electorate. However, a number of interlocutors described legal and practical shortcomings in the oversight of election campaigns, and expressed concerns that contestants could experience unequal treatment by national and local oversight authorities, including in the allocation of public space for campaign purposes, and in the enforcement of campaign rules and political finance regulations.

Law no. 7393 repealed references to the “prime minister” from certain campaign prohibitions in parliamentary elections related to campaigning by public officials and the misuse of office and state resources, reflecting in the law the shift from a parliamentary to presidential system of government after the 2017 constitutional changes. However, the provisions did not introduce an explicit reference banning an incumbent president from campaigning using state resources or in conjunction with official functions.³³ The authorities informed the ODIHR NAM that existing restrictions are intended to apply to incumbent presidents due to analogous provisions in other laws and in regulations of the SEC.³⁴ ODIHR and the Venice Commission have recommended that the applicability of such restrictions to the president be explicated in the legislation.³⁵

Some political parties met by the ODIHR NAM described efforts to promote the participation of underrepresented groups in party structures and in the campaign process, including women, persons with disabilities, and youth, such as waiving membership fees, instituting internal guidance or voluntary quotas on representation in candidate lists, or considering these groups in party programmes. Several interlocutors emphasized that such outreach varies across parties and could be significantly improved and mainstreamed. Additional concerns were raised concerning potential instances of violent and sexist rhetoric against women candidates on social networking platforms.

G. CAMPAIGN FINANCE

Political parties that received at least three per cent of votes in the previous parliamentary elections are entitled to annual public funding on a proportional basis, as well as campaign funding for scheduled elections. Parties may be privately financed from membership fees and individual donations. Donations from public legal entities, state and public organizations and foreign sources are prohibited. As of 2023, an individual may donate up to TRY 221,592.12 annually to a party.³⁶ There are no limits on parties’ annual and campaign-related expenditures. Some ODIHR NAM interlocutors expressed the view that the threshold for public funding should be decreased.

³² ODIHR has previously recommended that all campaign rules, including on preventing the misuse of administrative resources and on media coverage, should apply from the calling of elections.

³³ Prior to the repeal of the non-partisan nature of the office of the president, campaigning by the president had been prohibited.

³⁴ Specifically Law (no. 6271) on Presidential Elections and [SEC Decision no. 2018/331](#).

³⁵ In paragraph 66 of the June 2022 Joint Opinion on Law no. 7393.

³⁶ One Turkish *Lira* (TRY) is equivalent to approximately 0.051 Euro.

Parties declare their campaign funds solely through annual financial reports submitted to the Constitutional Court, which do not include incomes and expenditures incurred by candidates or third parties.³⁷ The Court of Accounts conducts initial audits of the annual reports and shares its findings for inspection by the respective political parties, who have a two month period to submit comments or provide additional information. The Court's audit findings are then submitted to the Constitutional Court for final review.³⁸ The Constitutional Court has no deadline to publish the final audit reports, which are shared directly with the respective political party and with the Office of the Chief Public Prosecutor of the Court of Cassation in relation to the party's registration.³⁹ Possible sanctions for breaches of party finance rules include warnings, imprisonment from three months to three years, recording undocumented expenses as revenue to the treasury, and dissolution of the party.⁴⁰

Presidential candidates must submit property declarations to the SEC together with their nomination papers, and within 10 days of the announcement of the final results must submit a campaign finance report on incomes and expenditures. Candidates can receive donations from private citizens at an individual limit for each round and are not entitled to public funding. Donations from legal entities and foreign sources are prohibited, as are bank loans. No limit exists on contestant campaign expenditures. Donations over a certain amount and all expenditures must be made through a designated bank account. Unspent donations and those over the permissible limit must be transferred to the State Treasury. The Court of Accounts conducts audits of presidential candidate financial reports submitted to the SEC, as with political party reports.

The electoral legislation does not envisage proactive monitoring of campaign financing, and does not require the submission or publication of any interim financial reports during the election period, despite previous ODIHR recommendations. Independent candidates do not file designated reports, but declare any campaign-related funds through personal tax declarations.

Some ODIHR NAM interlocutors described limited private donations owing to a lack fundraising attitudes in Turkish politics; others described potential fear among individuals to openly support and donate to presidential candidates following the 2016 coup attempt. A few interlocutors noted that women often face more obstacles financing election campaigns, due to a lack of access to and support from political party funds and a lack of capital to self-finance.

H. MEDIA

The Constitution provides for the freedom of expression, and multiple laws, including media legislation, the penal code and anti-terror laws, further regulate the content and dissemination of public information.⁴¹ During election campaigns, broadcast media are obligated by law to present impartial coverage and equal access to contestants. Presidential candidates and eligible political parties are entitled to two free ten-minute campaign slots on public channels during the final week of the campaign. Paid political advertising is permitted on public and private channels. Several ODIHR NAM interlocutors noted that broadcast and print media outlets are often dependent on state advertising or are owned by state-affiliated entities, and raised doubts about the impartiality of election-related coverage.

³⁷ Independent candidates declare their campaign funds through personal tax declarations.

³⁸ Procedures for the audit of political finance reporting are regulated by the Law (no. 2820) on Political Parties, Law (no. 6085) on the Court of Accounts, and Law (no. 6216) on the Constitutional Court.

³⁹ Final audits of party financial reports for fiscal year 2021 have not yet been published.

⁴⁰ Breaches and corresponding sanctions pertaining to violations of the penal code are the jurisdiction of the public prosecutor.

⁴¹ Including multiple media laws, the penal code, and anti-terror legislation.

The OSCE Representative on Freedom of the Media has previously raised concerns related to strict regulation and monitoring of the information space in Türkiye, both in traditional media and online, and numerous cases of criminal prosecution and imprisonment of journalists, as well as citizens on charges related to online activity.⁴² The Criminal Code contains broad defamation provisions, including for offending the Turkish state or officials, which ODIHR has previously recommended be revised. Regulations adopted in July 2020 require social networking platforms to remove content that is reported by the government or individual users as offensive. In January 2022, President Erdoğan issued a decree directing media entities and institutions to eliminate content that contravenes Turkish values and culture, citing Articles 41 and 58 of the Constitution, and to take necessary action to prevent its dissemination. Several NAM interlocutors raised concerns about the potential for internet access to be restricted on the upcoming election day or in the days prior limiting the dissemination of information about the campaign and election proceedings.

In May 2022, AK Parti and MHP introduced amendments to various media laws and to the Criminal Code that were ultimately adopted on 13 October as Law no. 7418.⁴³ New provisions include a punishment of between one and three years of imprisonment for disseminating false information with the intent of causing public concern related to the country's well-being, with the penalty to be increased by half if the perpetrator disseminates the information anonymously or on behalf of an organization. The Venice Commission has assessed that the language of this provision is overly broad and that the penalty is disproportionate for a crime of expression, and has raised concern with the timing of the adopted legislation in advance of the election period.⁴⁴ Many ODIHR NAM interlocutors expressed serious concerns related to potential self-censorship and restrictions in the information space resulting from this criminalization. Authorities informed the ODIHR NAM that the legislation was necessitated by significant disinformation threats, particularly in digital services and social networking platforms.

The Radio and Television Supreme Council (RTÜK) is the primary regulatory body with authority to monitor and examine national television and radio broadcasters, as well as online service providers, during the election period for compliance with legal requirements and decisions of the Supreme Election Council. The Law on Audiovisual Media envisages that the RTÜK is comprised of members elected by the parliament for six-year terms on the basis of nominees from parliamentary groups. One member nominated by HDP remains in pre-trial detention since 2020. The RTÜK informed the ODIHR NAM that its monitoring is largely based on complaints, which can be submitted electronically by e-mail or a form on its website. Details regarding identified violations are not published, but the findings of the Supreme Council Expert's report, the type and severity of violations, and sanction decisions are included in the Supreme Council's decisions and published on its website.⁴⁵

The Communications Directorate, established by executive decree in July 2018 in the office of the president, manages promotional efforts for the state and is "tasked with informing the public with accurate information and following propaganda activities against Türkiye", and publishes

⁴² See the [7 May 2018](#), [8 June 2020](#), and [29 September 2021](#) statements of the OSCE RFOM.

⁴³ The law amends the Press Law, Law on Governing Relations between Employers and Employees in the Journalism Profession, Electronic Communications Law, Internet Law, and the Criminal Code.

⁴⁴ In its [October 2022 Urgent Opinion](#) on the draft law, the Commission acknowledged the legitimate aim of addressing misinformation and other global threats to the public information sphere, but expressed "serious doubts regarding the necessity in a democratic society of the criminal response to 'false or misleading information envisaged with the draft amendment'", and raised concern with "the potential consequences of such provision, namely, (i) the chilling effect and the risk of self-censorship, notably (ii) in times of elections". See also the [10 October 2022 statement of the OSCE RFoM](#).

⁴⁵ Annual reports are available on the [RTÜK website](#).

information about media sources that have distributed false information. The Directorate informed the ODIHR NAM that it has no oversight role related to elections.

I. CITIZEN AND INTERNATIONAL OBSERVERS

The electoral legislation does not provide for citizen and international observation of the election process, despite prior ODIHR recommendations to conform with OSCE commitments on election observation. The ODIHR NAM appreciated its co-operation with multiple state institutions in conducting its activities and was assured by all authorities that access to election-related procedures would be facilitated if a potential ODIHR election observation activity was deployed.

Political parties and independent candidates can designate observers to follow voting and counting procedures at polling stations and tabulation procedures at DEBs.⁴⁶ Observers may follow the transport and receipt of election materials from the polling station to the DEB. Certain regulations exist on the placement of observers.⁴⁷

J. COMPLAINTS AND APPEALS

Broad legal standing is afforded to file complaints against decisions of election boards to the respective superior board.⁴⁸ However, the Constitution precludes any appeals of decisions of the SEC, including decisions related to constitutionally-protected rights and the final election results, which ODIHR has previously criticized as limiting the opportunity for effective remedy.⁴⁹ The Constitutional Court informed the ODIHR NAM that, while it does not have authority to review decisions of the SEC, it can audit decisions of lower electoral boards pertaining to constitutionally-protected rights in national elections. Other election-related complaints are regulated according to various rules on filing individual applications to courts. Several ODIHR NAM interlocutors described a lack of confidence in the efficacy of lodging election-related complaints, citing a lack of legal mechanisms and a general distrust in the independence of the judiciary.

IV. CONCLUSIONS AND RECOMMENDATIONS

All ODIHR NAM interlocutors acknowledged value to an external scrutiny of the electoral process and most encouraged a long-term ODIHR observation activity to follow the preparations and oversight of the presidential and parliamentary elections, including the conduct of election-day procedures and results reporting. In discussions with stakeholders, the ODIHR NAM noted that concerns were raised with respect to national and local oversight of the campaign and its media coverage, the transparency of various administrative and election-day procedures, and respect for electoral rights and remedy for election-related disputes. Certain positive steps have been taken to address prior ODIHR recommendations, but most remain unaddressed.

⁴⁶ Persons who are ineligible to be a political party member according to the Law on Political Parties may not be designated as an observer.

⁴⁷ A maximum of five political party observers, selected via lottery by the BBC, may attend the counting procedures at the table, while other observers, such as those nominated by independent candidates, may view the counting procedures from a designated space. A maximum of three observers designated by independent candidates are selected by lottery by the BBC to attend the ballot box during voting, and by the DEB to observe the tabulation, while other observers nominated by independent candidates must be situated elsewhere in the respective sites.

⁴⁸ Eligible voters, political party leaders or representatives, designated observers, candidates, and members of parliament may contest decisions of lower election boards.

⁴⁹ Authorities informed the ODIHR NAM that in addition to SEC decisions being definite per the Constitution, judicial review of SEC decisions is unnecessary as the SEC is comprised of judges.

On this basis, ODIHR recommends the deployment of an Election Observation Mission to assess the 2023 general election. In addition to a core team of experts, ODIHR would request the secondment of 28 long-term observers from OSCE participating States to follow the election process countrywide, as well as 350 short-term observers to follow election-day proceedings. In line with ODIHR's standard methodology, the Mission would include a media monitoring element.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs

Kıvılcım Kiliç, Ambassador, Director-General for Multilateral Political Affairs
Halime Ebru Demircan, Deputy Director-General for the Council of Europe and Human Rights
Gülden Özgediz Karakaya, Chief of Section
Murat Kemaloğlu, Second Secretary

Ministry of Interior

Mehmet Ersoy, Deputy Minister of Interior
Selçuk Aslan, General Director of Provincial Administration
Dr. Sezer Işıktaş, Head of EU Affairs and Foreign Relations Department
Akif Pektaş, Head of Security Department, Directorate General of Provincial Administration
Levent Yazıcı, Head of Department of Addresses, Directorate General of Civil Registration and Citizenship Affairs
Doc. Dr. Alb. Engin Avci, Head of Department, Directorate of Public Order, Turkish Gendarmerie
Ahmet Eksin, Deputy Head of Security Department, Turkish National Police
Kemal Turan Acar, EU Expert

Ministry of Justice

Kasım Çiçek, Director-General for Foreign Relations and EU Affairs
Abdullah Aydın, Deputy Director-General for Foreign Relations and EU Affairs
Hakan Topuçar, Head of Department for Foreign Relations and EU Affairs
Didem Uyar Ustali, Rapporteur Judge
Nimet Mediha İşıtaman, Translator
Tahir Akca, Head of Department, Directorate General for Legislation
Yasemin Sağlam, Rapporteur Judge, Directorate-General for Legislation
Dr. Handan Oruç Ömeroğlu, Rapporteur Judge, Directorate-General for Prisons and Detention Houses
Tolga Başbozkurt, Rapporteur Judge, Department of Human Rights

Supreme Electoral Council

Erhan Çiftçi, Vice-President
Yusuf Şafak, Director-General for Election Services
Şeref Şik, Deputy Director-General for Electoral Register
M. Murat Özeren, Deputy Director-General for Electoral Register
M. Hayri Bayrakçioğlu, Deputy Director-General for Electoral Register
Sarp Sertcan, Head of Department
Halit Filiz, Head of Department

Constitutional Court

Kadir Özkaya, Vice-President
Yücel Arslan, Deputy Secretary General
Ayhan Kiliç, Chief Rapporteur
Gülbin Aynur, Rapporteur
Burak Firat, Rapporteur
Fatih Çağrı Ocaklı, Director of International Relations

Radio and Television Supreme Council

Osman Karadaş, Vice-President
İbrahim Uslu, Deputy President

Orhan Özdemir, Deputy President
Osman Arvas, Acting Head of International Relations Department
Bahadır Büyükçelik, Expert

Turkish Radio and Television Corporation

Ahmet Görmez, TRT News Co-ordinator

Political Parties

Yılmaz Tunç, Deputy Chair, AK Parti
Onursal Adıgüzel, MP, CHP
Tekin Bingöl, Deputy Chair, CHP
Engin Özkoç, Deputy Chair, CHP
İlay Aksoy, Deputy Leader, Demokrat Partisi
Neslihan Çevik, Spokesperson, Demokrat Partisi
Yalçın Taze, General Vice President, Demokrat Partisi
İdris Şahin, Deputy Head, Spokesperson, Demokrasi ve Atılım (DEVA) Partisi
Meral Danış Bektaş, Co-Chair, HDP
Mehmet Tiryaki, MP, HDP
Hişyar Özsoy, MP, HDP
İsmail Tatlıoğlu, MP, İYİ Parti
Muhammed Levent Bülbül, Deputy Chair, MHP

Civil Society Organizations

Önder Algedik, Election Security Platform for Fair Elections
Deniz Hanım, Election Security Platform for Fair Elections
Şenol Köksal, Election Security Platform for Fair Elections
Öztürk Bey, Chair, Human Rights Association (IDH)
Hande Turan, Vice President, Vote and Beyond (Oy ve Ötesi)
Emre İlkan Saklıca, Teyit.org
Erinç Sağkan, President, Union of Turkish Bar Associations
Sibel Suiçmez, Vice-President, Union of Turkish Bar Associations

International Community

Representatives of diplomatic missions of OSCE participating States⁵⁰

⁵⁰ The ODIHR NAM invited representations of all OSCE participating States resident in Türkiye.