

**INTERIM REPORT**  
**06 – 26 May 2015**

**28 May 2015**

**I. EXECUTIVE SUMMARY**

- On 5 January, the Supreme Board of Elections (SBE) announced the parliamentary elections for 7 June. 550 members of parliament will be elected for four year terms under a proportional representation system in 85 multi-member constituencies with closed political party lists and independent candidates. To qualify for seat allocation, parties must surpass a 10 per cent threshold of valid votes. Twenty parties with 9,861 candidates and 165 independent candidates were registered for the elections.
- The campaign is highly visible and focuses mainly on socio-economic issues, the Kurdish-Turkish peace process and the change to a presidential system of governance. The parties are contesting the elections in a highly polarized election environment. The President has attended a series of public events widely covered by the media. The start of the campaign has been marked by numerous attacks on parties' offices, the majority of which have affected the Peoples' Democracy Party.
- The elections are administered by a four-tier structure including the SBE, Provincial Election Boards, District Election Boards and Ballot Box Committees. Eligible political parties have representatives as non-voting members on the higher boards and members on the lower boards. The election administration performs its duties within key legal deadlines. Meetings of the SBE are closed to the public. The legislation lacks provisions for citizen or international observers.
- The total number of registered voters in the country is 53,741,838, and 2,866,940 voters are registered from abroad. The final voter lists were issued by the SBE on 8 April following a public display period. The SBE announced that 73,988,955 ballots will be printed. Out-of-country voting in 54 countries lasts from 8 to 31 May. Voters registered abroad can also cast their ballot at 33 customs points until 7 June.
- OSCE/ODIHR LEOM interlocutors expressed concerns over direct interference of media owners and public officials, limiting the freedom of media. Political parties will be granted free airtime during the last seven days of the campaign but election debates are not foreseen. Compliance with media regulations during the campaign is overseen by the Radio and Television Supreme Council and the SBE.
- The SBE's decisions are not subject to judicial review. Several complaints lodged with the SBE challenge the President's campaign activities as a breach of his constitutional obligation for impartiality and the media's extensive coverage as a breach of regulations guaranteeing equal opportunities. The SBE dismissed all such complaints. Several individual petitions alleging violations of a range of electoral rights have been lodged with the Constitutional Court. The court does not have any legal deadline for consideration of such cases before election day.

## II. INTRODUCTION

Following an invitation from the authorities of the Republic of Turkey and based on the recommendation of a Needs Assessment Mission (NAM) conducted from 14 to 17 April, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established a Limited Election Observation Mission (LEOM) on 6 May.<sup>1</sup> The LEOM is headed by Ambassador Geert-Hinrich Ahrens and consists of a core team of 11 experts based in Ankara and 18 long-term observers who are deployed throughout the country. Mission members are drawn from 18 OSCE participating States. In line with ODIHR's methodology, the OSCE/ODIHR LEOM will not carry out systematic or comprehensive observation of election day activities. Mission members will, however, visit a number of polling stations to follow election day procedures.

## III. 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 have 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 elections.

The President and AKP are advocating for a change of the Turkish governmental system from a parliamentary system to a presidential one, which is opposed by other political parties. Twenty political parties are contesting these elections, offering the electorate a wide choice.

## IV. THE ELECTORAL SYSTEM AND LEGAL FRAMEWORK

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. A redistribution of seats was undertaken by the SBE in 2015, based on current population distribution statistics.<sup>2</sup> The system of seat allocation raises concerns regarding the equality of the vote, as a significant differential of registered voters to seats exists.<sup>3</sup>

Criteria for parties without parliamentary groups to participate in elections require a full list of candidates and organizational structures in half of the provinces.<sup>4</sup> To qualify for parliamentary seat allocation, political parties must surpass a 10 per cent threshold of valid votes. The OSCE/ODIHR, the European Court of Human Rights (ECtHR) and some other European institutions, previously recommended that the threshold be lowered to increase political pluralism. In December 2014, the Republican People's Party (CHP) submitted a bill to lower the threshold to three per cent, but it failed to pass. In 2014, three non-parliamentary parties lodged petitions with the Constitutional Court challenging the electoral 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.

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

<sup>2</sup> The number of seats per constituency ranges from two 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 Muş claiming the statistics used for the seats distribution had been manipulated. The request was rejected by the SBE.

<sup>3</sup> The lowest number of registered voters per seat is in Bayburt province with 27,059 voters, and the highest number in a constituency in Izmir with 120,877 voters.

<sup>4</sup> In addition, parties are required to have organizational structure in one third of the districts within the provinces. The Rights and Reality Party was not registered by the SBE due to insufficient organizational structure.

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, the 1983 Law on Political Parties (LPP) and regulations and decisions issued by the SBE. The Constitution establishes fundamental civil and political rights, though it concentrates on bans and prohibitions for the protection of the state rather than broad entrenchment of rights. Fundamental freedoms, as well as some electoral rights, are to some extent restricted in the Constitution and broader legislative framework.

The electoral legal framework is generally conducive to conduct democratic elections, although it includes a number of gaps and ambiguities, including insufficient campaign finance regulations and absence of provisions for citizen and international observation. The framework includes a number of recent amendments regarding fundamental freedoms, such as a 2014 amendment to the Law on Basic Provisions which allows campaigning in any language or dialect.<sup>5</sup> The 2015 amendments to the Law on Meetings and Demonstrations establish greater restrictions on public meeting participants and authorize law enforcement to use in effect disproportionate force.

## V. THE ELECTION ADMINISTRATION

The parliamentary elections are administered by a four-tier election administration: SBE, 81 Provincial Election Boards (PEBs), 1,067 District Election Boards (DEBs) and 174,240 Ballot Box Committees (BBCs).<sup>6</sup> 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.<sup>7</sup> Eligible political parties can appoint non-voting members to the SBE. Currently, the non-voting members are representatives from AKP, CHP, Nationalist Movement Party (MHP), Peoples' Democracy Party (HDP) and the Felicity Party (SP).<sup>8</sup>

The PEBs are located in each province and consist of the three most senior judges in the province for two-year terms. The four political parties, which 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 district; four members are nominated by political parties and two are civil servants.<sup>9</sup> The BBCs are required to be composed of seven members, five nominated by political parties, and two civil servants. The chairperson is chosen by lot amongst all members. According to the SBE, some smaller BBCs will have less than seven members and some will have one chairperson responsible for more than one BBC.

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<sup>5</sup> The provision is legally applicable for the first time during these elections.

<sup>6</sup> The number of BBCs may change by 5 June depending on the final number of BBCs to be established in penitentiary institutions.

<sup>7</sup> Six SBE members are elected from and by the Supreme Court. Five are elected from and by the Council of State. One of the SBE members is female.

<sup>8</sup> 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 HDP as it has a parliamentary group.

<sup>9</sup> The four political parties that have an organizational structure in the district, and 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.

The SBE meetings are not open to the public. The SBE announced that a total of 73,988,955 ballots will be printed by 25 May. Some OSCE/ODIHR LEOM interlocutors raised concerns regarding a significant surplus of printed ballots.<sup>10</sup>

Out-of-country voting in 54 countries lasts from 8 to 31 May; however, the number of days allocated for polling varies depending on the number of registered voters. Voters registered abroad can also cast their ballot at 33 customs points until 7 June. Out-of-country ballots are to be transported to a central counting centre in Ankara. Some party observers have questioned the security of sensitive materials in certain out-of-country locations and expressed concerns regarding the transportation of the ballots to Ankara.<sup>11</sup> The procedures, however, allow for party observers to be present during the transportation of election materials.

## VI. VOTER REGISTRATION

Turkey has a passive voter registration system. The SBE maintains a permanent voter list linked to the civil and address registry operated by the Ministry of Interior. According to the SBE, the total number of registered voters in country is 53,741,838 with an additional 2,866,940 voters registered from abroad. A special voter lists for the eligible voters in penitentiary institutions will be finalized by 5 June. The SBE compiles voter lists and forwards them to DEBs for public review, which lasted from 14 to 27 March. A total of 366,673 changes were made in country and 38,276 entailed the registration for 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. The ECtHR has twice ruled that the ban on convicted prisoner's voting rights is too broad and must be proportionate to the crime committed.<sup>12</sup> To date, the court's 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 and permitting all convicts outside of prison to vote, whether their sentence is fully executed or not.<sup>13</sup>

## VII. REGISTRATION OF CANDIDATES

Citizens over the age of twenty-five who have legal capacity and primary education are entitled to contest the elections. Ineligible to contest the elections are citizens who have not completed compulsory military service, legally banned from public service, or who have been convicted of a broad range of crimes, including minor offences.

Political parties and independent candidates who intended to contest had to submit their application by 4 April. Following the public display and contestation period on 24 April, the SBE announced that 20 political parties with 9,861 candidates and 165 independent candidates have been registered for

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<sup>10</sup> A SBE decision, establishes the maximum number of voters per BBCs from 360 to 380 voters in neighborhoods and 400 voters in villages. Books of ballots with 390 or 405 ballots will be provided to the BBCs including the ones with significantly smaller number of voters

<sup>11</sup> On 13 May following a request from HDP, the SBE issued a communication to the Ministry of Foreign Affairs asking consulates to reinforce the security measures for storage of sensitive material.

<sup>12</sup> See judgments: [Soylar v. Turkey, application no. 29411/07](#) from 17 September 2013 and [Murat Vural v. Turkey, application no. 9540/07](#) from 21 October 2014.

<sup>13</sup> The Constitution establishes that international law shall prevail over domestic legislation.

the elections.<sup>14</sup> The SBE decided that a number of nominees were ineligible due to non-performance of military service or past convictions.<sup>15</sup> An electoral deposit is required for independent candidates, which is refundable if the candidate is elected.<sup>16</sup> Individuals must resign from public service and certain official posts to run in the election.<sup>17</sup> Two nominees lodged individual petitions with the Constitutional Court challenging the SBE's rejection of their candidacy.

## VIII. CAMPAIGN ENVIRONMENT

The Law on Basic Provisions provides for a framework for campaign conduct aimed at ensuring a level playing field. The law includes detailed provisions on misuse of administrative resources and certain official positions for campaign purposes.<sup>18</sup> Application of certain campaign regulations began on 10 March. However, the official campaign period starts only ten days prior to election day and ends on 6 June 18:00. During this period, stricter campaign regulations apply and there is a broader application of equitable campaign principles.

The campaign is highly visible with banners, billboards, posters, mobile speaker systems, street and door-to-door campaigning. The main topics of the campaign are the socio-economic situation, the Turkish-Kurdish peace process, transformation of the political system towards presidential as advocated by the President, as well as the President's involvement in the campaign. The four largest political parties in the outgoing parliament are most vocal in the campaign, having numerous and well-attended events all over the country. Though legal prohibitions exist, the main political parties are campaigning abroad.<sup>19</sup>

So far, the OSCE/ODIHR LEOM has observed 22 campaign events. The general tone of the campaign is confrontational, with speakers expressing harsh criticism of their opponents.<sup>20</sup> In addition to Turkish, Kurdish, Arabic and Syriac languages are used in the campaign.<sup>21</sup> A high number of HDP party offices have been attacked; other parties' offices have also been targeted. On 18 May, two bombs exploded at HDP branch offices in Adana and Mersin. A candidate from AKP and one from CHP were wounded in separate armed attacks, on 23 and 26 May, respectively. The police have launched investigations in all cases.

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<sup>14</sup> Out of the total number of candidates from the party lists 7,140 are male and 2,721 are female.

<sup>15</sup> The SBE does not maintain statistics on candidates deemed ineligible. The rejection of one nominee due to a conviction was confirmed on 29 April by the SBE on appeal despite criminal court-issued documentation that he maintained his candidacy rights.

<sup>16</sup> The deposit is currently 10,167 Lira (approximately EUR 3,500). At least two candidates were rejected due to an inability to pay the deposit.

<sup>17</sup> Judges, prosecutors and army officials who resign cannot resume their office if not elected. In one case, the SBE officially denied a request of a nominee for guidance on whether or not he was required to resign from a specific position. One nominee was rejected by the SBE due to non-resignation.

<sup>18</sup> Article 65 of the Law on Basic Provisions includes specific prohibitions on the activities of the Prime Minister, Ministers and members of parliament.

<sup>19</sup> 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.

<sup>20</sup> OSCE/ODIHR LEOM observed the use of confrontational campaigning on 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 Vatan Party rally in Ankara; and on 22 May during SP rally in Samsun.

<sup>21</sup> OSCE/ODIHR LEOM observed use of other languages in campaign events in Adana, Diyarbakir, Izmir, Van and Mardin.

The President, alongside public officials, has attended a number of public events throughout the country, mostly to inaugurate public works, during which achievements of the current government were emphasized.<sup>22</sup> The President has appealed for a change to a strong presidential system and criticized opposition parties while calling for support of the ruling party generally avoiding directly mentioning the AKP. Several complaints have been filed against the involvement of the president in the electoral campaign (see *Complaints and Appeals*). The Constitution obliges the President to sever his relations with the party and to pledge to perform the functions without bias. The President has grounded his right to speak publicly about the political future of the country on the basis of being directly elected by popular vote.

There is limited regulation and transparency over campaign finance, which is overseen by the Constitutional Court. Political parties are required to declare campaign contributions and expenditure within their annual reports.

## IX. THE MEDIA

The media environment is characterized by numerous broadcast and print outlets. However, mainstream media ownership is concentrated in a few companies. OSCE/ODIHR LEOM interlocutors expressed concerns over direct interference of media owners, public officials and political entities, which undermines editorial independence and contribute to self-censorship.

The legal framework includes undue restrictions on freedom of expression, as detailed in the Constitution, the Criminal Code, the Anti-Terrorism Act and the Internet Law. The coverage during the campaign period in the broadcast media 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 are obliged to ensure accuracy and impartiality during broadcasting. Election debates among party leaders are not foreseen.

During the last seven days of the campaign, political parties contesting the elections are granted free airtime on the public broadcaster, the Turkish Radio and Television Corporation (TRT). All parties are entitled two slots of ten minutes. Additional minutes of different lengths are granted to all parties with a parliamentary group, and to the governing and the main opposition party.<sup>23</sup> Independent candidates do not qualify for free airtime. Paid advertising is allowed throughout all media.

Compliance with media regulations is overseen by the Radio and Television Supreme Council (RTSC), which monitors national broadcasters and submits weekly reports to the SBE.<sup>24</sup> The SBE has the authority to consider media complaints and to issue sanctions to national broadcasters, while DEBs have jurisdiction over local broadcasters. As of 25 May, the SBE issued 96 decisions on violations based on RTSC reports; 32 of these were dismissed, 55 resulted in warnings and 9 in

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<sup>22</sup> The Adana DEB denied a request for the President to use a specific public venue on 29 May due to a party having already been allocated the space; on appeal, the PEB on 21 May overturned the decision in favour of the President.

<sup>23</sup> The AKP is entitled to 50 minutes of free airtime, CHP 40 minutes, MHP and HDP 30 minutes, other parties 20 minutes.

<sup>24</sup> 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.

program suspensions.<sup>25</sup> In addition, several political parties and members of the parliament lodged complaints including a challenge to the media coverage received by the President to the SBE and the Constitutional Court; all complaints have been rejected or are still pending (see *Complaints and Appeals*).

On 15 May 2015, OSCE/ODIHR LEOM commenced a qualitative and quantitative monitoring of five national television stations and four daily newspapers.<sup>26</sup>

## X. 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.<sup>27</sup> The Constitution establishes that SBE decisions are final and not subject to judicial review. Eligible to appeal are parties, voters, partisan observers, and candidates. Lodging of campaign-related complaints is not regulated in the legislation.<sup>28</sup> Clear timeframes for submission and adjudication of some but not all types of electoral disputes are established in the law. Complaint and appeal proceedings at electoral boards are not open to observers or the media and not all decisions are publically available.<sup>29</sup>

The SBE received a series of complaints lodged by various opposition parties and MPs challenging the President's involvement in the campaign.<sup>30</sup> To date, the SBE rejected all such complaints on grounds it did not have sanctioning authority over the President and that regulations do not include the possibility to monitor media's coverage of the President's activities.<sup>31</sup>

Starting in 2012, individual petitions on violations of fundamental rights can be lodged with the Constitutional Court.<sup>32</sup> To date, the court has not ruled on whether SBE's decisions that violate electoral rights are subject to the individual petition process. Various election-related individual petitions filed to the Constitutional Court are pending decision. Five petitions relate to campaigning by the President, his use of state resources in the campaign, and the media's coverage. One petition, filed by a civil society organization, challenges SBE's decision denying it permission to observe the elections. Other court petitions relate to breaches of active and passive suffrage rights. There is no special deadline for the court's consideration of election-related petitions and under the court's prioritization policy election cases are not given high priority and may be decided after the electoral period.

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<sup>25</sup> Not all decisions were published by the SBE. Most sanctions issued to broadcasters are related to AKP advertisements for non-compliance with: campaign regulations, unbalanced coverage and/or violations of the rules for publishing opinion polls.

<sup>26</sup> TV stations: *TRT1, CNN Turk, NTV, ATV* and *Samanyolu TV*. Newspapers: *Zaman, Hurriyet, Sabah* and *Sozcu*.

<sup>27</sup> PEB decisions related to the formation of DEBs and BBCs and DEB and PEB decisions on voter registration are final and cannot be appealed.

<sup>28</sup> A SBE decision dated 23 February provides that DEBs are responsible for monitoring the campaign during the last ten days of the campaign, starting 28 May, and the local authorities are responsible prior to 28 May.

<sup>29</sup> 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.

<sup>30</sup> The common ground of the complaints is the President's campaigning in favour of the ruling party and against opposition parties, as a contravention of the constitutional obligation for impartiality while in office, and challenging the media's extensive coverage of these events as a breach of broadcasting regulations on equal opportunities. To date, eight such complaints were lodged; all but one challenged the media's coverage.

<sup>31</sup> SBE decision on five such complaints included a dissenting opinion of SBE members that 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.

<sup>32</sup> The breached rights must be protected by both the Constitution and the European Convention on Human Rights.

## **XI. CITIZEN AND INTERNATIONAL OBSERVERS**

The rights of citizen and international observers are not established by the law. The Law on Basic Provisions provides for monitoring of the election process only by representatives of political parties and independent candidates' observers. Some civil society organizations will collaborate with political parties to observe under their accreditation. The counting process is open to the public.

Two civil society organizations applied to the SBE for accreditation to observe the elections. Accreditation was denied on lack of legal basis.<sup>33</sup> Nevertheless, these civil society groups announced that they have intention to observe the election process.

## **XII. OSCE/ODIHR LEOM ACTIVITIES**

The OSCE/ODIHR LEOM commenced its work on 6 May with an opening press conference in Ankara. The Mission has been welcomed by the Ministry of Foreign Affairs and has met with other government authorities, notably the SBE, as well as representatives of political parties, media and civil society.

The OSCE/ODIHR will join effort with the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE), which will deploy observer delegations for election day observation.

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

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Human Rights Association (IHD) and the Association for Monitoring Equal Rights; IHD lodged a complaint against the SBE decision to the Constitutional Court.