



Office for Democratic Institutions and Human Rights

**REPUBLIC OF TURKEY
PARLIAMENTARY ELECTIONS
3 November 2002**

OSCE/ODIHR ASSESSMENT REPORT



**Warsaw
4 December 2002**

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OSCE/ODIHR Assessment Mission
Final Report

I. EXECUTIVE SUMMARY

The 3 November elections for the Turkish Grand National Assembly (TGNA) demonstrated the vibrancy of Turkey's democracy. A large number of parties campaigned actively throughout the country, offering the electorate a broad and varied choice. The sweeping victory of opposition parties showed the power of the Turkish electorate to institute governmental change.

The elections were held under election laws that establish a framework for democratic elections in line with international standards. Significant constitutional and legal reforms instituted over the past two years have further improved the overall legal framework under which the elections were carried out.

At the same time, the broader legal framework and its implementation establish strict limits on the scope of political debate in Turkey. Non-violent expression of political views beyond these limits is still restricted by a variety of laws and is rigorously enforced. Several parties faced action aimed at closing them down during the current elections, notably the Justice and Development Party (AK), the winner of the elections. Many candidates were also banned from running, including AK's leader and leaders of several other parties, generally as a result of past convictions for non-violent political speech. These restrictions on free speech and the practice of dissolving political parties and banning candidates stand in stark contrast to the otherwise pluralist election system in Turkey, as well as its international commitments.

Parties must win at least 10% of the vote to enter the TGNA; this is an exceptionally high threshold by European standards. Only two of the 18 parties running passed the threshold. As a result, 45% of the electorate cast votes for parties that will not be represented in the TGNA, and a party that drew less than 35% of the total vote will control almost two thirds of the seats in the TGNA. To avoid such distortions, the authorities should consider reviewing the level of the threshold. Other aspects of the law that might be reviewed are the absence of any judicial appeals against the decisions of the Supreme Board of Elections, and the absence of procedures for voting abroad.

There is a high level of public confidence in the integrity of the election process and particularly in the Supreme Board of Elections. The election administration includes political parties at the polling station, county and provincial levels, further increasing

public confidence. The system is open and transparent. The voting and counting procedures include a number of strong safeguards against fraud.

There is no provision in the law for international observers or for domestic non-partisan observers, although in practice the latter may freely enter polling stations during voting and counting.

The election campaign was short but active. Parties campaigned in a calm and peaceful atmosphere. Although there were a substantial number of cases of harassment reported by some political parties and by human rights groups, there was a general consensus that the situation had improved markedly compared with previous elections.

The media provided active and varied coverage of the elections, offering voters adequate information on which to base their decisions. The media is bound by the same limits on freedom of expression as candidates and parties. All media were required to provide fair and equitable election coverage. Several television stations were taken off the air for periods of up to six days for violating these requirements. This rather drastic sanction is the only penalty currently available to regulators; consideration should be given to introducing additional but lesser penalties.

The ODIHR wishes to thank the Ministry of Foreign Affairs, the Permanent Mission in Vienna, the Supreme Board of Elections and other Turkish authorities for their openness, co-operation, and assistance to the Election Assessment Mission. The ODIHR stands ready to assist the Government and civil society, if requested, to continue to improve the election process.

II. BACKGROUND TO THE ELECTION ASSESSMENT MISSION

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) was invited by the Turkish Ministry of Foreign Affairs on 18 September to consider sending an observation mission to the 3 November parliamentary elections in Turkey. This was the first time the ODIHR had been invited by the Turkish authorities to observe an election, a welcome development. The ODIHR accepted the invitation, in line with its new program of assessing electoral practices in established democracies as well as in countries in transition. However, because of the relatively short notice, because these were early elections not on the ODIHR's calendar for 2002, and due to the consequent budgetary and personnel constraints, it deployed only a small, short-term mission with limited objectives. The mission aimed at a general overview of the election process, with a focus on legislative and organizational issues.

A five-person ODIHR Election Assessment Mission led by Peter Eicher (USA) visited Turkey from 29 October through 4 November. The Mission met with government officials, the Supreme Board of Elections and lower level election officials, the Constitutional Court, the Supreme Board of Radio and Television, political parties, media

outlets and journalists, human rights groups, independent experts and representatives of the diplomatic community. The Mission remained in Ankara, with the exception of one member visiting Istanbul briefly for meetings with key media outlets, and some brief visits to a few polling stations outside Ankara proper, but within its general environs.

Because of the short duration of the Mission and its small size, it was not in a position to assess all aspects of the electoral process or to verify independently many of the issues, comments and allegations brought to its attention. The limited geographical scope of the Mission – particularly unfortunate in a country as large and varied as Turkey – did not allow for an assessment of how the electoral process may have differed in different regions of the country. Likewise, a few brief visits to polling stations in the Ankara area were not a sufficient basis upon which to draw conclusions in regard to the process of voting, counting and aggregation on election day.

III. BACKGROUND TO THE ELECTIONS

On 31 July 2002, the Turkish Grand National Assembly (TGNA) voted to hold early parliamentary elections on 3 November 2002. This decision followed several months of political turmoil within the Assembly, during which support for the three-party coalition which had governed Turkey for the past three years gradually eroded.

The elections took place in a period of significant constitutional and legal reform in Turkey, during which human rights and fundamental freedoms have been substantially strengthened. Since the last elections in 1999, the government adopted a major constitutional reform package in October 2001, a new civil code in November 2001, and three additional legal reform packages in February, March, and August 2002. The adoption of these reforms was to a large extent in the context of the government's efforts to meet the Copenhagen political criteria for future membership in the European Union.

Several other factors also set the political framework for the elections. Since the previous elections, Turkey underwent a serious economic downturn, which continues to affect many sectors of the population. This was a major issue in the campaign and was reflected in the apparent disaffection of the voters for all parliamentary parties. The capture in early 1999 of Abdullah Öcalan, leader of the outlawed Kurdistan Workers Party (PKK), and the subsequent end of active hostilities by the PKK led to a less highly charged political atmosphere, particularly in the southeast. In addition, the question of Islamist influence in politics remained an election issue.

IV. LEGISLATIVE FRAMEWORK

The legislative framework for the 3 November elections included the Constitution, the Law on Basic Provisions on Elections and Voter Registers, and the Parliamentary Election Law (hereafter referred to as the "election laws"), the Law on Political Parties,

the Law on the Establishment of Radio and Television Enterprises and their Broadcasts, the Law on the Supreme Board of TV and Radio, many provisions of the penal code and other legislation affecting freedom of expression, freedom of assembly and other political rights. Much of this legislation has been recently amended as part of the reform process. Up until it went out of session in early October, the TGNA continued to consider additional changes to the election laws. During the election campaign, some political parties advocated further changes to the election laws as part of their electoral platforms.

The election laws provide a framework for the conduct of democratic elections in line with international standards.

A. ELECTION SYSTEM

The TGNA consists of 550 deputies elected from 85 election districts, based on Turkey's provinces. Each province has at least one deputy; the remaining deputies are distributed according to the size of the population. Provinces which have 1-18 deputies are a single election district, while provinces with 19-35 deputies form two districts and Istanbul, with more than 35 deputies, forms three districts.

Deputies to the TGNA are elected through a proportional system, using the d'Hondt method to calculate mandates. There is a "double barrier" that political parties must pass to be registered and elected. First, a party must be organized in at least half of the provinces in the country and one third of the districts within each of these provinces. Second, parties must obtain at least 10% of the votes cast nationwide in order to enter the TGNA. These barriers are a significant hurdle for all political parties and especially for any regionally based parties.

Independent candidates may also stand for election. They are awarded seats if, under the d'Hondt method of seat allocation, they obtain a sufficient number of votes in the district in which they are running.

Voting is compulsory and failure to vote is punishable by a fine of 5 million Turkish Lira, the equivalent of slightly over 3 Euros.

B. ELIGIBILITY OF CANDIDATES AND PARTIES

The overall legal framework includes provisions that can restrict potential candidates, as well as political parties, from participation in the elections. The laws were implemented in a manner that did, in fact, prevent candidates and parties from running. Article 76 of the Constitution sets out a long series of restrictions on eligibility to become a deputy; among them a prohibition on candidacy for anyone sentenced to a prison term of one year or more for a long list of offenses – such as "involvement in ideological or anarchistic activities" or "provoking enmity among the people on the basis of social class" – even if they are subsequently pardoned. Article 11 of the Parliamentary Election Law codifies these restrictions.

These and other provisions of law were used in the course of these elections to bar a number of candidates. Most notably, one of the most popular politicians in the country, Recep Tayyip Erdoğan, former mayor of Istanbul and leader of the Justice and Development Party (AK) – which won overwhelmingly in the 3 November polls – was banned from running. The ban resulted from his 1998 conviction under Article 312 of the Penal Code for inciting hatred on religious differences by having recited a poem at a political rally. Article 312 has since been amended in a way that would suggest that Erdoğan's action is no longer a criminal offence; however, his conviction continued to bar his candidacy. Erdoğan was also forced to step down as a “founding member” of the AK Party.

Several other prominent politicians were also prevented from running, including Murat Bozlak, former Chairman of the People's Democracy Party (HADEP); Necmettin Erbakan, former Prime Minister and former Chairman of the banned Virtue Party; and Akin Birdal, former leader of the Socialist Democracy Party and former Chairman of the Human Rights Association of Turkey.

Beyond the banning of candidates, the Chief Public Prosecutor initiated legal proceedings to dissolve a number of political parties. Most notable was the case against the AK Party, the winner of the elections. A separate case against HADEP prompted the party to withdraw from the elections and merge with the Democratic People's Party (DEHAP). Cases were also before the Constitutional Court to dissolve the Turkish Socialist Party and the Party of Rights and Freedoms (HAK-PAR).

The final authority on eligibility of candidates is the Supreme Board of Elections (SBE), an administrative panel made up of judges. In all, about 60 candidates were refused registration by the SBE for non-compliance with legal requirements. Only the Constitutional Court can dissolve political parties, but it may do so as a court of first instance upon the application of the prosecutor. In both cases, the penalties may not be further appealed domestically. The absence of opportunity for appeal of a judicial decision – and especially the absence of appeal from an administrative decision – is contrary to Turkey's OSCE commitments.¹

In March 2002, Article 101 of the Law on Political Parties was amended to introduce a lesser sanction than dissolution in response to transgressions by a party. The Constitutional Court now has the option of stripping parties of some or all of their public financial subsidies, rather than dissolving the parties, for violations of electoral rules or other laws. In light of the gravity of dissolution of a political party, the establishment of an alternative, less drastic sanction is welcome.

Dissolving a party does not automatically result in its elected deputies losing their seats in the TGNA. Moreover, it has been fairly common for dissolved parties to reconstitute

¹ Vienna Document (1989) paragraph 13.9; Moscow Document, paragraphs 18.2, 18.3 and 18.4; Copenhagen Document paragraphs 5.10 and 5.11.

themselves under a new name and resume operations, as was done by HADEP, as well as by various Islamist parties in recent years.

Nevertheless, the prevalence of the practice of banning candidates and dissolving parties runs counter to the spirit of recent reforms in Turkey and is not consistent with Turkey's obligations under the OSCE Copenhagen Document.² *The Practice undermines an otherwise vibrant and pluralist democratic election system and should be ended or radically reformed. At a minimum, given the gravity of dissolving political parties or banning candidates, the government should establish a judicial appeals procedure for all cases that could result in these sanctions.*

C. COMPLAINTS AND APPEALS OF ELECTORAL DECISIONS

The election laws establish a hierarchy for dealing with complaints concerning the application of the election laws and regulations. The decisions of each level of the election administration (see below) can be appealed to the next higher level. At the top of this chain is the Supreme Board of Elections (SBE), which is the final arbiter of appeals of all levels. Under the Constitution and the election laws, the decisions of the SBE are definitive and may not be further appealed or brought before a court. The purpose of this provision is to ensure that election disputes are resolved quickly and definitively, and that election results are not delayed by drawn-out court cases. The system has had the desired effect, as complaints were resolved quickly and efficiently.

The SBE, composed of senior judges, is *inter alia* responsible for investigating and ruling on complaints, including against its own decisions. This sets up a potential conflict of interest, under which complainants might legitimately question whether the SBE would be in a position to provide an impartial and effective remedy. To its credit, the SBE enjoys an image of impartiality and a very high degree of confidence among political parties. Nevertheless, it is both good practice and an OSCE commitment to provide for judicial review of administrative decisions, as noted above. *The government should therefore consider the possibility of establishing a provision for judicial appeal of decisions of the SBE.* A law to this effect could be written to include short and strict deadlines, to ensure that election results are not unduly delayed by an appeals process.

The SBE dealt with about 200 complaints. Among these, the largest number included challenges against candidacies (approximately 50) and complaints against the media (approximately 30). There is no record of the number and types of complaints lodged at lower levels of the election administration.

² See especially paragraph 7. Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which Turkey is a party, protects freedom of association. In cases related to Turkey, the European Court of Human Rights has ruled that Turkey's dissolution of parties has not always met the Convention's standard of being "necessary in a democratic society", i.e. proportionate to the aim of national security and public safety.

D. THE 10% THRESHOLD

As noted above, the election system includes a 10% national threshold for political parties to enter the TGNA. According to official interlocutors, this system was designed to prevent an overly fragmented Parliament and thus to promote political stability. Prior to this election, it was argued that the 10% threshold was not unreasonable, since in the 1999 elections five parties were able to pass the barrier and enter the Parliament, and multiple parties have also passed the threshold in previous elections.

However, the threshold has not necessarily succeeded in achieving its goals of avoiding fragmentation and promoting political stability. Parties often fragment after they enter the TGNA. For example, while five parties passed the threshold in the 1999 elections, as a result of fragmentation there were 11 parties in the TGNA by the time of the 2002 elections. As for promoting political stability, the 2002 elections were early elections, brought on by the collapse of the coalition government; this was the fourth time in a row that Turkey held early TGNA elections.

A 10% threshold is unusually high in Europe. One result of such a high threshold in an election featuring 18 political parties was that an extremely large proportion of the electorate cast their votes for parties which are not represented in the new Parliament. A full 45% of votes were “wasted” in this fashion. Such a high number distorts the essential purpose of a proportional system. Thus, the victorious Justice and Development Party will control almost two-thirds (363 of 550) of the seats in the TGNA, although it won less than 35% of the votes. The high national threshold also virtually eliminates the possibility of regional or minority parties entering the TGNA. *The Turkish authorities should examine whether the 10% threshold is achieving its desired purposes and should consider lowering the threshold.*

E. RESTRICTIONS ON FREE EXPRESSION

Many laws include restrictions on free expression. For example, Article 159 of the Penal Code provides possible prison sentences for “insult to the State and to State institutions and threats to the indivisible unity of the Turkish Republic”. Article 312 of the Penal Code, mentioned above, was used to bar candidates for incitement of religious hatred. Articles 7 and 8 of the Anti-Terrorism Law include penalties for separatist propaganda or “propaganda in connection with” a terrorist organization that can encourage the use of terrorist methods. Article 169 of the Penal Code, “support for illegal organizations”, has also been used in recent months to prosecute individuals for non-violent speech. Recent amendments to some of these laws as a result of the reform process may result in improvements in conditions for freedom of expression. Nevertheless, continuing restrictions and prosecutions had an effect on the election campaign, limiting the parameters of allowable legal debate.

Under Article 58 of the Law on Basic Provisions on Elections and Voter Registers, it is strictly forbidden to use any language other than Turkish in electioneering. As part of its

reform process, a number of previous prohibitions on the use of other languages have been eliminated, and in August 2002 laws were changed to allow broadcasting and education in languages other than Turkish. The Democratic People's Party (DEHAP) asserted that the remaining restrictions interfered with its ability to communicate with many of the ethnic Kurdish voters who make up its primary base of support. A DEHAP candidate told the Election Assessment Mission that he had four cases against him for speaking Kurdish at election meetings or rallies. Three DEHAP supporters were reported to have been detained in Şırnak for having played Kurdish music in a DEHAP bus; they have been charged with supporting an illegal organization. Abdulmelik Firat, Chairman of the Rights and Freedom Party, was detained briefly for greeting a crowd in Kurdish during the election campaign. *The lifting of restrictions on the use of other languages than Turkish in the field of broadcasting and education should be extended to political campaigning.*

F. OTHER LEGISLATIVE ISSUES

A number of official and political party interlocutors, as well as independent analysts, expressed dissatisfaction with aspects of the Political Parties Law. The law includes a range of prohibitions on political parties, including provisions that have been used to dissolve parties. It also establishes conditions for party organization that centralizes power to a very great extent in the hands of party leaders at the expense of members and regional party organizations.

The Election Law provides for observers from political parties and independent candidates at the polling station and county levels, for both the voting process and the counting and tabulation. The election laws specify that counting, sorting, recording and listing of voting shall be done publicly. A good practice has been instituted under which political party observers are also permitted to observe at Provincial Election Boards and at the Supreme Board of Elections, although there is no specific legal provision to this effect. Likewise, polling stations are also open to observers from the general public although there is no specific legal provision to this effect. The law is silent on the question of international election observers. *To eliminate any uncertainty or uneven practices in regard to observers, and to bring the law into compliance with the OSCE Copenhagen Document (paragraph 8) the authorities should consider adopting a specific legal provision permitting non-partisan domestic observers and international observers to monitor all aspects of the elections.*

The election law does not have provisions enabling citizens residing outside of Turkey to vote by absentee ballot. A system has been instituted enabling voters to cast ballots up to a month early at polling stations established at border crossings and airports, as they enter or leave the country. Still, a large number of Turkish citizens living abroad were not able to participate in the elections unless they physically returned to Turkey. Election officials and Foreign Ministry representatives assert that Turkish Embassies and Consulates are not equipped to handle voting by the large number of Turks abroad. *Nevertheless, the*

authorities may wish to consider instituting a method for Turkish citizens abroad to participate in the elections, perhaps through early postal voting.

V. ELECTION ADMINISTRATION

Turkey has an independent, four-tier election administration:

- At the top level is the Supreme Board of Elections (SBE), a permanent administrative body with judicial authority which consists of seven members and four substitutes. All members are senior judges, six elected by the Plenary Assembly of the Court of Cassation and five members elected by the Plenary Assembly of the Council of State from among its members. The Chairman and the Vice Chairman are elected by the SBE members. Members of the SBE serve for a term of six years. As noted above, the SBE is responsible for the fair and orderly conduct of the elections, for issuing election regulations and instructions, carrying out investigations, taking final decisions on all irregularities, complaints and objections, and verifying the election returns; it enjoys a high level of public confidence.
- There are 85 Provincial Election Boards, each composed of three judges of the highest rank in the province. The judges serve for terms of two years. Political parties may also appoint non-voting representatives to the Boards.
- County Election Boards consist of a chairman, six regular and six substitute members. The Chairman appoints two members from amongst civil servants. The four political parties which received the highest number of votes in the county during the last election may each appoint a member and a substitute, provided they are running in the election. If these parties fail to provide nominations, other political parties running in the election – drawn by lot – may appoint the remaining members. The Chairman of the County Election Board is the highest ranked judge in the county.
- Ballot Box Committees are appointed by the County Election Boards and consist of a chairman, six principal and alternate members. The five political parties that gained the greatest number of votes on the last parliamentary elections in that county are allowed to appoint one principal and one alternate member. The remaining members are drawn by lot from the aldermen council where the ballot box committee is located. There are over 172,000 Ballot Box Committees, each responsible for up to 300 ballots. The relatively small number of voters per polling station results in an extremely high number of election officials – 1,206,000 officials for about 41,410,793 voters – but helps avoid crowding in polling stations and greatly speeds the counting process.

A particularly positive aspect of the election system is its high degree of transparency. The participation of political parties on Ballot Box Committees, County Election Boards and Provincial Election Boards – as well as the presence of additional party observers –

increases confidence in the election process. Polling results are posted outside of each polling station and each County Election Board for a period of one week. Political party representatives and observers for independent candidates may obtain an official copy of the results. Candidates and party representatives can also follow the aggregation of results at the provincial level. Final election results for each district must be announced promptly by the SBE, as they are received from the Provincial Election Boards. The State Statistics Institute must publish detailed results, down to the polling station level, within one year.

A number of other safeguards are also built into the voting system. Ballot envelopes are stamped both by the County Election Board and by the Ballot Box Committee. All ballot papers are stamped by the Ballot Box Committee before they are given to voters. Voting is done by stamping a special “yes” stamp next to the selected candidate or party; use of a stamp helps prevent manipulation or invalidation of ballots during the counting process. Voters’ fingers are marked with ink after they vote in order to prevent multiple voting. Most political parties appear to have great confidence in the integrity of the voting and counting process. The one exception to this noted by the Election Assessment Mission was DEHAP’s lack of confidence in the process in the southeast, which was shared by human rights groups.

All political parties are listed on a single, long ballot, showing the name of the party and its leader, and the symbol of the party. Each independent candidate, however, has his or her own separate, small ballot paper, giving the name of the candidate, but no symbol. Voters who wish to vote for an independent candidate must stamp the small ballot paper with a “yes” stamp, place it in the envelope, and dispose of the larger ballot. This procedure could compromise the secrecy of some votes, since the ballots are a radically different size and the type of ballot selected might be discerned by the bulk of the envelope. It can also lead to a greater number of invalidations, since the vote is considered invalid if both ballots are inserted into the envelope, even if only one is stamped “yes”. *The authorities should consider putting the names of independent candidates on the same ballot paper as political parties and allowing them to use a symbol.*

The election administration organized apparently effective voter education spots on television.

The system of voter registration is undergoing a change. Under the Law on Basic Provisions on Elections and Voter Registers, a general registration is carried out on the second Sunday of April every four years. On that day, “no one except the registrars shall be allowed to leave his/her location from 05:00 until ... registration is completed” (Article 36). The last time such a general registration was carried out was in 1997. The process was not repeated in 2001 because the election administration is in the process of switching to a system of continually updated computerized registers. However, an update of the voters list was undertaken during the summer of 2002.

Several interlocutors expressed concern to the Election Assessment Mission about the accuracy of the voter registers; the Mission, however, was not in a position to examine these concerns in detail. The election laws do provide transparency provisions that help ensure the accuracy and universality of the registers. For instance, political parties have access to the lists and can check their accuracy. In addition, voter lists are publicly displayed every year to allow for verification and correction. Voters can lodge objections or complaints about the lists. Nevertheless, despite these safeguards, the Supreme Board of Elections acknowledged that it had found about 127,000 double registrations in the 26 computerized voter lists compiled at the provincial level. Such problems should diminish as the new computerized system is extended nationally.

Interlocutors appeared satisfied that internally displaced persons could freely register and vote in their new places of residence in Turkey.

Election officials expressed a desire for a more computerized election system, for both the registration and the tabulation processes. They blamed a lack of resources for their inability to implement such systems. According to press reports, the SBE requested 52 trillion Turkish Lira to conduct the elections, but was allocated only 30 trillion (about Euros 19 million).

VI. THE ELECTION CAMPAIGN

The TGNA adopted a resolution on 31 July to hold early elections on 3 November 2002. However, the announcement was followed by several weeks of political maneuvering in the TGNA, during which a number of parties and politicians sought to delay the polls. As a result, some uncertainty surrounded the elections and many parties did not begin their campaigns in earnest until September. The campaign was thus unusually short.

Campaigning was carried out in a calm and peaceful atmosphere, with few incidents reported. The Election Assessment Mission was not in Turkey for a sufficient length of time to assess independently the nature of the campaign. According to a broad range of interlocutors, however, parties were generally able to campaign freely and actively.

The Election Assessment Mission received a number of credible reports of harassment of candidates and parties in various parts of the country, particularly in the southeast, but it was not able to independently verify the reports. A number of such reports were carried in the Turkish media and were issued by domestic and international human rights groups. For example, there were a number of reports of DEHAP supporters being detained by security forces, of pressure on village leaders to prevent villagers from supporting the party, and of alleged beatings of several domestic election observers and villagers. At the same time, however, both Turkish human rights groups and DEHAP itself asserted that the level of such harassment had decreased substantially in comparison with previous elections.

Harassment of some parties in the months leading up to the elections was also reported. HADEP was subject to numerous detentions and raids on party offices, before it merged with DEHAP for the elections. Two HADEP activists have reportedly “disappeared” in 2001 and are still missing. Human rights groups also reported harassment of the Rights and Freedoms Party, the Socialist Workers Party and the Party of Labour.

On 19 June 2002, upon the recommendation of the National Security Council, the TGNA decided to lift the State of Emergency in two provinces – Hakkari and Tunceli – but to prolong it for 4 months in Diyarbakır and Şırnak. The continuation of the State of Emergency in two provinces reportedly did not have a major effect on the ability of parties to campaign in those provinces.

VII. THE MEDIA FRAMEWORK

Due to time and resource constraints, the Election Assessment Mission could not include a systematic analysis of election coverage by the broadcast and print media. However, the Mission met with a variety of media outlets and regulatory bodies, and discussed media coverage with political parties and other interlocutors.

The election laws, the Law on the Establishment and Broadcasting of Radio and Television Enterprises and the Law on the Supreme Board of TV and Radio establish the basic framework for media coverage of the elections. Within this framework, the Supreme Board of Elections is tasked by law to set out principles and procedures relating to media coverage during the election period. The laws and regulations on election broadcasting specify that media coverage of the election period shall not be biased or partial and that there shall be equal opportunity for political parties.

The Supreme Board of Radio and Television (RTÜK) monitored all nation-wide election broadcasts, while the Ministry of Interior assisted RTÜK by monitoring local broadcasting. The RTÜK sent periodic evaluation reports to the SBE regarding the coverage of the campaign by the media. The Supreme Board of Elections was empowered to impose sanctions on national broadcasters, while Provincial Election Boards could sanction local radio and television. The RTÜK implemented the SBE decisions.

Each party has the right to broadcast at no cost two 10 minute speeches on radio and television; parties having a group in the TGNA may broadcast an additional 10 minute speech; and additional time is granted to the party in power (20 minutes), to other parties in a governing coalition (15 minutes), and to the major opposition party (10 minutes). No paid political advertising on radio or television is permitted.

According to the recently amended Law on the Establishment and Broadcasting of Radio and Television Enterprises and the regulations issued by the SBE, any broadcasts for or against a specific political party or candidate, as well as any broadcasts that may

influence the citizen's vote through any kind of program such as news, interviews or public opinion surveys, are prohibited during the seven days before voting. These restrictions also apply to print media, but do not appear to be strictly enforced.

The Press Council issued a statement critical of the seven-day restrictions, and a number of other interlocutors also expressed dissatisfaction to members of the Election Assessment Mission. The prohibition on coverage of political parties and candidates for seven days before an election is unusually long. *The authorities should consider shortening the period before elections during which political campaign coverage is not allowed.*

If the SBE determines that a television or radio station has violated the fairness provisions of the law, it first issues a warning. If the violation is repeated, the SBE may suspend the station for a period of 5 to 15 days. No lesser sanctions are available to the SBE. Approximately ten television and radio stations were suspended for periods as long as six days during the 2002 elections. It appears that these suspensions were justified on the basis of unfair coverage; the Election Assessment Mission received no complaints or other indications that the regulations were used to restrict information on issues, parties or candidates. Nevertheless, suspending broadcasting by a television or radio station is a drastic sanction that should be avoided entirely or used only as a last resort in the face of repeated or systematic violation of the law. *The authorities should consider a change in the law to end or strictly limit suspensions of broadcasters, while providing the SBE with other options such as requiring a public apology, requiring equal time for a response, or financial penalties.* A change of this nature would parallel recent changes to the RTÜK law.

Media coverage of elections is also affected by the various restrictions on freedom of expression included in Turkish law. In addition to the laws mentioned previously, the High Audio-Visual Board (RTÜK) Law prohibits broadcasts which violate the existence and independence of Turkey, the territorial and national integrity of the State, or the principles of Atatürk, or that could instigate terror, violence or ethnic discrimination. Most interlocutors asserted that recent easing of legal restrictions as part of the ongoing reform process resulted in improvements in freedom of expression, with fewer legal actions instituted against the media. However, journalists and publishers are aware of the remaining restrictions, and continue to exercise caution in their reporting on issues that could be deemed especially sensitive.

According to several interlocutors, a number of newspapers could not be distributed in the two provinces still subject to the State of Emergency, or in neighboring provinces.

In general, Turkey's many media outlets provided active and varied coverage of the campaign. They provided substantial information to enable voters to make an informed choice.

VIII. VOTING AND COUNTING

Members of the Election Assessment Mission visited a number of polling stations in the Ankara area on election day and also visited a County and a Provincial Election Board, as well as the SBE. The Mission was not able, however, to visit a sufficient number of polling and counting centers to draw any credible conclusions on the nature of the voting process. Human rights groups reported a number of serious irregularities on election day, particularly in the east, including enforced open voting in many villages, detentions, and the ejection of party observers from polling stations; the Election Assessment Mission was not in a position to verify these reports.

IX. ELECTION RESULTS

On 9 November, the Supreme Board of Elections announced the final election results. As noted above, only two parties passed the 10% threshold. The Justice and Development Party (AK) won 34.3% of the vote and was awarded 363 of the 550 seats in the TGNA. The Republican People's Party won 19.4% of the vote and was awarded 178 seats. Neither of these parties had been represented in the outgoing Parliament. Nine independent candidates were also elected.

The outgoing Prime Minister Bülent Ecevit's Democratic Left Party (DSP) drew only 1.2% of the vote, while his governing partners, the National Movement Party (MHP) and the Motherland Party (ANAP) drew 8.3% and 5.1% respectively. Other notable results included the True Path Party (DYP) 9.55%, The Youth Party (Genç) Party 7.25%, DEHAP 6.2% and the Felicity Party (Saadet) 2.5%.

Voter turnout was 78.9%.

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's main institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created in 1990 as the Office for Free Elections under the Charter of Paris. In 1992, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 80 staff.

The ODIHR is the lead agency in Europe in the field of **election** observation. It coordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following six thematic areas: rule of law, civil society, freedom of movement, gender equality, trafficking in human beings and freedom of religion. The ODIHR implements more than 100 targeted assistance programs, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR **monitors** participating States' compliance with OSCE human dimension commitments. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR [website](#), which also contains a comprehensive library of reports and other documents, including all previous election reports and election law analyses published by the ODIHR.