



Office for Democratic Institutions and Human Rights

REPUBLIC OF TURKEY
PARLIAMENTARY ELECTIONS
12 June 2011

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

30 March – 1 April 2011



Warsaw
13 April 2011

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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

A formal invitation to observe the 12 June 2011 parliamentary elections was extended to OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) by the authorities of the Republic of Turkey on 6 April, in line with OSCE commitments. In anticipation of such an invitation, OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Turkey from 30 March to 1 April. The NAM included Beata Martin-Rozumiłowicz, Deputy Head of the OSCE/ODIHR Election Department, Nicola Schmidt, OSCE/ODIHR Senior Election Adviser, and Tatyana Bogussevich, OSCE/ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the parliamentary elections. Based on this assessment, the NAM was to recommend whether to deploy an OSCE/ODIHR election-related activity for the forthcoming elections and, if so, what type of activity best meets the identified needs. Meetings were held with officials from the Ministry of Foreign Affairs, Ministry of Interior (MoI), the Constitutional Court, Parliament, Supreme Board of Elections, political parties, media, civil society and representatives of the diplomatic community. A list of meetings is included as an annex to this report.

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

II. EXECUTIVE SUMMARY

The 12 June parliamentary elections will be conducted to elect the 550 members of Turkey's unicameral parliament. A broad range of political parties and independent candidates are expected to run. OSCE/ODIHR NAM interlocutors anticipate the campaign to be dynamic and to draw significant public interest. Many also expect the elections to be hard-fought and potentially divisive, due to continued polarization between the governing party and the opposition.

These elections follow a referendum held in September 2010, which resulted in the adoption of a comprehensive package of constitutional amendments. It was noted that the governing party intends to launch a process of drafting a new constitution after the 2011 parliamentary elections.

The legal framework for the conduct of elections was amended in recent years, addressing some previous recommendations by OSCE/ODIHR, including the right of political parties to receive copies of polling station protocols and a revision of the prohibition on using languages other than Turkish in campaigning. However, certain restrictive elements that were deemed problematic by OSCE/ODIHR in previous

elections have not undergone significant revisions and continue to constrain particularly the activities of media and political parties. In light of the large number of recent and pending amendments to the legal framework, OSCE/ODIHR NAM interlocutors' understanding varied as to which of these amendments would be applicable for the upcoming elections.

Elections will be administered by a four-tiered structure, comprising the Supreme Board of Elections (SBE), Provincial Election Boards (PEBs), District Election Boards (DEBs) and Ballot Box Committees (BBCs). The election administration is primarily composed of senior judges, but allows for the representation of political parties and is solely composed of their representatives at the BBC level. The SBE enjoys broad public confidence and was generally assessed by OSCE/ODIHR NAM interlocutors as performing its duties in a professional and efficient manner. However, the SBE's decision not to introduce voting at diplomatic and consular representations abroad drew considerable and critical comments across the board.

Voter lists for the elections are prepared by the SBE, based on extracts from a nationwide electronic civil registration system that links voters' registered residence with a unique personal identification number. A number of issues were raised by OSCE/ODIHR NAM interlocutors with regard to the voter registration system, including concerns related to the short period of public scrutiny. .

The media environment is diverse, yet several legal provisions restrict the freedom of expression. Political parties contesting the elections are entitled to use free airtime on Turkish Radio and Television Corporation (TRT) to present their electoral platforms. For the first time, parties and candidates will be able to purchase broadcasting time for political advertisements. Compliance with media-related regulations is monitored by the Radio and Television Supreme Council (RTSC). RTSC's reports are reviewed by the SBE, which has the authority to impose sanctions for violations. A number of OSCE/ODIHR NAM interlocutors expressed concern over a perceived deterioration of the media environment, cases of prosecution of journalists in connection with their professional activities, pressure on media outlets and journalists, and self-censorship.

Despite some concerns raised, the majority of OSCE/ODIHR NAM interlocutors expressed confidence in the overall integrity of the electoral process. Many underscored the professionalism of the election administration, the genuine political pluralism, the vibrancy of civil society, the maturity of the system and the existence of well-functioning institutions that ensures the due conduct of elections. They were largely ambivalent over whether the presence of international observers in large numbers during the upcoming elections could be of significant added value. At the same time, interlocutors were of the opinion that the process could benefit from an assessment by international observers and expressed interest in a targeted, issue-based review of the electoral framework and practices.

Based on its findings and taking into account the fact that interlocutors did not raise serious and systematic concerns with regard to election day procedures, the OSCE/ODIHR NAM recommends that an Election Assessment Mission (EAM) be deployed to follow the upcoming parliamentary elections. The OSCE/ODIHR EAM could focus its assessment on issues related to pre-election campaign, voter registration, campaign finance, work of the media, women's participation and representation, as well

as on the impact of recent and pending legal amendments on the conduct of the process. In line with standard practice for EAMs, the OSCE/ODIHR would not undertake comprehensive and systematic observation of election day. It would, however, seek to visit several regions of the country to follow the election process.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

On 3 March 2011, the Turkish parliament set the date for parliamentary elections for 12 June. The OSCE/ODIHR previously assessed two elections in Turkey, in 2002 and 2007. In its report on the 22 July 2007 early parliamentary elections, OSCE/ODIHR concluded that the electoral process was characterized by pluralism and a high level of public confidence, underscored by the transparent, professional and efficient performance of the election administration.¹ Several aspects of the election process were assessed critically, including a restrictive legal framework, a high threshold for party representation in parliament, a lack of legal provisions for election observation and insufficient regulations on campaign finance.

In 2007, three political parties cleared the 10 per cent electoral threshold for parliamentary representation. The Justice and Development Party (AKP)² gained the largest number of mandates, 341, allowing it to form a majority government and to elect its candidate as president in August 2007.³ The Republican People's Party (CHP) obtained 99 seats and became the main opposition party, followed by the Nationalist Movement Party (MHP) with 70 seats. 26 independent candidates were also elected, 20 of which represented the pro-Kurdish Democratic Society Party (DTP) and formed their own political group. However, the Constitutional Court banned the DTP in December 2009; most of the deputies subsequently joined a successor Peace and Democracy Party (BDP) and again formed a parliamentary group. The remainder of seats was split among smaller parties and independent candidates.

The political discourse in Turkey has been dominated by a pro-Islamist vs. secular divide. In this context, the decisive victory of AKP in the last elections raised questions of a possible deviation from secular traditions. In September 2010, a referendum initiated by the AKP took place and resulted in the adoption of a number of important constitutional changes. The authorities presented these as bringing the Constitution into compliance with European Union standards, improving respect for individual and human rights, increasing access of the public to courts, limiting the power of military courts, and paving the way for reform of the judiciary. Opponents of the referendum, including the main opposition parties, regarded the adopted amendments as a disguised attempt by the governing party to enhance its authority, including over the judiciary.

Following the referendum, the AKP announced that it plans to launch a process of drafting a new constitution after the 2011 parliamentary elections. Their stated intention

¹ OSCE/ODIHR Final Report on 22 July 2007 early parliamentary elections available at: www.osce.org/odihr/elections/turkey/29181.

² The abbreviations used for political parties are based on their names in Turkish.

³ Prior to the 2007 national referendum, the president was indirectly elected by the parliament.

is to review the 1980 constitution currently in force and to eliminate inconsistencies that have resulted from frequent amendments in recent years. The authorities have stated that they envisage a broad and inclusive process of public consultations on drafts and plan to seek input from across the political spectrum.

B. LEGAL FRAMEWORK

The legal framework for the conduct of parliamentary elections includes the Constitution and a range of special laws.⁴ Since the 2007 elections, nearly all election-related laws were reviewed, addressing some previous OSCE/ODIHR recommendations. Among other things, provisions related to disclosure and scrutiny of political party finances were further detailed, clearer regulations on media obligations and the use of printed campaign materials were introduced, parties were granted the right to receive copies of protocols at all polling stations, and the restriction on the use of the Kurdish language in campaign activities was partially eased (see section on Campaign and Campaign Financing).

Interlocutors noted that additional amendments were being discussed in parliament at the time of the OSCE/ODIHR NAM, including further adjustments to the procedures for reviewing political party finances by the Constitutional Court with a possible role given to the Court of Accounts. Article 67 of the Constitution prohibits the application of amendments to the legal framework one year before elections and OSCE/ODIHR NAM interlocutors had different views regarding which of the latest and expected amendments would be applicable for the upcoming elections.

Some of the restrictive elements of the legal framework that were deemed problematic during the assessment of previous elections by OSCE/ODIHR have not undergone significant revision. A range of articles of the Penal Code, Law No. 3713 ‘On Anti-Terrorism’, Law No. 6112 ‘On the Establishment of Radio and Television Enterprises and Broadcasting’ (hereafter, Law on Broadcasting) and the Law on Political Parties continue to prohibit, in a disproportionate manner, activities that might be perceived as insulting ‘Turkishness’, the republic or state bodies and institutions, national and moral values of the community and reforms and principles of Atatürk, inciting enmity or hatred among the population and promoting terrorist organizations.

These provisions continue to constrain activities of the media and of political parties, in particular, as shown in a number of cases filed against Turkey with the European Court of Human Rights (ECtHR) on freedom of expression, association, and assembly. Among recent cases, the ECtHR ruled in *HADEP and Demir v. Turkey* that the dissolution of a party on the grounds of activities aimed against the integrity of the state was in violation of Article 11 of European Convention for Human Rights (ECHR), as in this case the Court considered that the interference with the applicant’s freedom of association had not been necessary in a democratic society.⁵ In *Kılıçgedik and Others v. Turkey*, the ECtHR ruled that the legal basis for banning membership in political parties imposed on members of a dissolved party due to the party's or members' alleged links with a terrorist

⁴ These include: Law No. 2389 ‘On Parliamentary Elections’, Law No. 298 ‘On Basic Provisions on Elections and Voter Registers’ (hereafter, Law on Basic Provisions), Law No. 2820 ‘On Political Parties’, and Law No. 2911 ‘On Assemblies and Marches’.

⁵ Judgment on *HADEP and Demir v. Turkey*, application no. 28003/03, 14 December 2010, available at www.echr.coe.int.

organization was too wide to be considered proportionate to the legitimate aims pursued. It therefore found a violation of Article 3 of ECHR Protocol No. 1.⁶

On 26 January 2011, the Parliamentary Assembly of the Council of Europe (PACE) expressed concern with regard to the delayed implementation by Turkey of ECtHR decisions and pointing to “major systemic deficiencies” that cause repeated violations of the ECHR.⁷ In its March 2011 resolution, the European Parliament (EP) called on Turkish authorities to adjust legislation to comply with previous ECtHR decisions.⁸

Voting is compulsory in Turkey and failure to exercise this civil duty entails a fine of 20 Turkish lira (approximately 9 Euro). The OSCE/ODIHR NAM was informed, however, that this provision is rarely enforced.

C. ELECTION SYSTEM

The unicameral Turkish Grand National Assembly (parliament) comprises 550 members, and is elected for a 4-year term under a proportional representation system with regional candidate lists and a 10 per cent national threshold. The territory is divided into 85 electoral constituencies.⁹ In the run-up to these elections, the SBE reviewed some of the constituency boundaries and redistributed the number of seats on the basis of registered voters from the 2007 parliamentary elections. Changes affected some 35 provinces.

The legislation contains a number of restrictions on the right to vote and to stand for office. Conscripts, students in military schools and people convicted of committing “deliberate crimes”¹⁰ are not allowed to vote. The list of disqualifications from candidacy includes legal incapacitation, ongoing military service, limitation on public service as confirmed by court, as well as certain criminal convictions, even if cleared or pardoned.

The legislation also sets a number of requirements for political parties to contest elections, including organizational structure in at least half of the provinces and organization of a party congress six months prior to elections, or having a parliamentary group in the outgoing parliament. To qualify for seat allocation, political parties must present a full list of candidates in more than half of the provinces and pass the electoral threshold. Independent candidates may stand upon making an electoral deposit and are awarded seats if they receive sufficient votes in their district.

At 10 per cent, the electoral threshold remains high. In the case of *Yumak and Sadak v. Turkey*, the ECtHR ruled that this threshold did not amount to a violation of the right to

⁶ Judgement on *Kılıçgedik and Others v. Turkey*, Applications no. 4517/04, 4527/04, 4985/04, 4999/04, 5115/04, 5333/04, 5340/04, 5343/04, 6434/04, 10467/04 and 43956/04, 14 December 2010, available at www.echr.coe.int.

⁷ PACE Resolution 1787(2011) on the implementation of ECtHR judgments; available at <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/ERES1787.htm>.

⁸ European Parliament resolution of 9 March 2011 on Turkey’s 2010 progress report; available at www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0090+0+DOC+XML+V0//EN.

⁹ The number of deputies elected from each electoral district ranges from 1 in Bayburt district to 30 in one of the districts in Istanbul. According to the SBE, the average number of persons represented by a deputy is 150,000.

¹⁰ “Deliberate crimes” are a certain category of crimes, as defined in the Penal Code.

free elections, but advised the Turkish authorities to engage in an open public discussion with the aim of lowering it.¹¹ The recommendation to consider lowering the threshold was also made by OSCE/ODIHR, PACE and EP.¹² The majority of OSCE/ODIHR NAM interlocutors found the threshold excessive, impacting the parliament's representativeness. The authorities maintained that the threshold is necessary to ensure political stability.

D. ELECTION ADMINISTRATION

Elections in Turkey are held under the general administration and supervision of the judiciary. The upcoming elections will be administered by a four-tiered structure comprising the SBE, PEBs, DEBs and BBCs. The three highest levels of the election administration are permanent¹³ and consist of or include senior judges. Political parties are entitled to appoint members and substitutes to DEBs and BBCs, as well as representatives to the upper levels of the election administration, including the SBE.¹⁴ Decisions of each level of the election administration can be appealed to the next higher level, while the SBE is the final instance for appeals at all levels. Its own decisions can not be appealed to courts.¹⁵

The SBE, as the highest electoral authority, enjoys broad public confidence. It was assessed by a number of OSCE/ODIHR NAM interlocutors as performing its duties in a professional and efficient manner and having a solid record of conducting technically well-organized elections. The SBE's decision, however, not to introduce voting at diplomatic and consular representations abroad drew considerable and critical comments across the board.¹⁶ The SBE assessed that Turkish representations abroad were not prepared to organize voting uniformly, including because permissions to open polling stations at diplomatic and consular representations could not be obtained in time from all host countries. It maintained provisions for the establishment of polling stations for voters registered as residing abroad at border crossing customs points. Twenty-four such polling stations will be established allowing for early voting starting from 10 May by voters included in foreign country resident voter lists and traveling to or from Turkey in the period before elections. In order to prevent multiple voting, voters are marked as such

¹¹ Judgment on *Sadak and Yumak v. Turkey* case, application no. 10226/03, 30 January 2007; available at www.echr.coe.int.

¹² *Op.cit.* OSCE/ODIHR Final Report on 22 July 2007 early parliamentary elections; PACE Resolution 1380(2004), 'Honoring of Obligations and Commitments of Turkey', points 6 and 23.ii, available at <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta04/ERES1380.htm>; EP Report on Turkey's 2007 Progress Report, 25 April 2008, available at www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2008-0168+0+DOC+PDF+V0//EN.

¹³ The mandate of the SBE is six years and of PEBs and DEBs – two years.

¹⁴ Article 17 of the Law on Basic Provisions stipulates that among parties running in elections, the four top-scoring parties in the last parliamentary elections and parties with a group in the parliament can assign one main and one alternate representative to the SBE.

¹⁵ The OSCE/ODIHR previously recommended allowing for some form of judicial review of SBE decisions. The OSCE/ODIHR NAM was informed that the legislation was amended recently to provide for the possibility of an individual appeal to the Constitutional Court; however, this change will not enter into force before the elections.

¹⁶ Interlocutors of the OSCE/ODIHR NAM estimated that some 2,5 million eligible voters reside abroad. The OSCE/ODIHR NAM was also informed that in 2008 the Constitutional Court ruled against the introduction of postal voting as this would require the adoption of a range of adjustments to the legal framework.

in the online voter register to which all border crossing polling stations are connected and their passports are stamped.

For the upcoming elections, the SBE introduced a number of novelties. For the first time, transparent ballot boxes will be used. Voters' fingers will no longer be marked with indelible ink; the SBE's assesses the current voter registration system as guarding against the possibility of multiple voting. The SBE also stated that it undertakes efforts to ensure the accessibility of polling stations to voters with disabilities, a concern that was raised with the OSCE/ODIHR NAM by some interlocutors.

OSCE/ODIHR NAM interlocutors expressed overall confidence in the integrity of the electoral process, including election day procedures at the level of polling stations. However, certain concerns were shared by some opposition political party and civil society representatives regarding the transfer of results from BBCs to DEBs on election night in rural areas, and their entry into the electronic tabulation system at DEBs, fearing possible manipulations. The SBE stated that these concerns should be alleviated by recent amendments entitling political party representatives to receive copies of BBC result; however, limited to representatives of three parties chosen by lot by the respective BBC. The SBE also plans to grant parties access to the data entry process at DEBs. ,

E. VOTER REGISTRATION AND IDENTIFICATION

A new civil registration system, "Mernis", was introduced at the end of 2007. This nationwide electronic system managed by the MoI links voter's 11-digit personal identification number with a unique address declared by a voter as his/her place of residence. The MoI stated that all changes in the civil and residency status of citizens are reflected in the central database automatically and that duplicate records are technically improbable.

During election periods, the SBE extracts the information on citizens of voting age from the "Mernis" system and passes the apportioned voter lists to DEBs to be posted for public review. During the two-week period of public scrutiny, voters are entitled to request changes to the lists, which are decided upon by DEBs and can be appealed to the SBE. In addition to this public review process, the SBE allows voters to check their records through its website. Changes to voter lists are not allowed after 31 March and voters changing address after this deadline have to vote at their previous place of residence.

On election day, voters are allowed to exercise their right to vote upon presentation of their personal identification number. This number is included not only in official identification documents, but also in bank statements, commercial contracts and utility bills, all of which can be accepted as proof of voter identity on election day provided they include or are accompanied by a document that contains the voter's name and a photograph. Despite the fact that personal identification numbers are in use since 2000, the MoI estimated that approximately 1 per cent of the population still does not have the number and might, therefore, be unable to vote. To alleviate this problem, the MoI carries out a public information campaign on television encouraging citizens to follow simple procedures to obtain the number ahead of the elections.

A number of issues were raised by OSCE/ODIHR NAM interlocutors with regard to the current voter registration system. They stated that they had observed cases of multiple registrations under one address in previous elections, as well as instances of citizens registered in the “Mernis” system but not included in voter lists. Allegations were also made that the number of voters included in voter lists for the upcoming elections is lower than during the 2010 constitutional referendum, raising doubt about its accuracy. Some concerns were also expressed with regard to the short period of public review. In addition, many OSCE/ODIHR NAM interlocutors were critical of the fact that the “Mernis” system is under the aegis of the MoI and opined that voter registration should be administered entirely by the SBE as a judicial body to remove any suspicion of possible political influences.

F. CAMPAIGN AND CAMPAIGN FINANCING

The pre-election campaign for the upcoming elections started on 14 March and will finish on 11 June at 18:00. The amended legislation contains detailed regulations related to the conduct of campaign rallies, placement and distribution of printed materials, as well as the campaign in the media. Specific provisions aimed at ensuring the equality of opportunities of electoral contestants apply to the last 10 days of the pre-electoral campaign.

According to the SBE, 27 political parties will be eligible to stand in the upcoming elections. Nominations of candidacies must be submitted until 11 April to be approved by the SBE by 25 April following the public display and the contestations period.¹⁷ Some political parties have internal regulations on the promotion of participation of women and their inclusion in candidate lists and have gender-related clauses in their party statutes. A number of political parties plan to contest the upcoming elections through independent candidates, due to their expectations that they will not clear the electoral threshold. Formation of electoral blocs, as such, is not allowed.

OSCE/ODIHR NAM interlocutors anticipate the campaign to be dynamic and to draw significant public interest. At the same time, many expect the elections to be hard-fought and divisive due to evident polarization between the governing party and the opposition. Referring to previous elections, opposition parties expressed concerns that the equality of campaign opportunities might not be fully ensured and that some contestants might resort to illegal practices such as misuse of state administrative resources, particularly in south-east of the country.

The prohibition to use any language other than Turkish in political campaigning, which was regarded as problematic during previous elections,¹⁸ has been partially reviewed. Article 58 of the Law on Basic Provisions which used to read that “it is strictly prohibited to use any language other than Turkish in campaign broadcasts on radio and television, and in other campaign activities” now states that “it is fundamental to use Turkish” in campaign activities. OSCE/ODIHR NAM interlocutors had varied understanding of the new formulation, especially in light of the retained prohibition on the use of other

¹⁷ The legislation allows parties to conduct primaries to select candidates for inclusion in party lists; however, only AKP informed the OSCE/ODIHR NAM of its intra-party democracy mechanisms in this regard.

¹⁸ *Op.cit.* OSCE/ODIHR Final Report on 22 July 2007 early parliamentary elections, p. 20.

languages in Article 81 of the Law on Political Parties.¹⁹ The majority of them, however, welcomed this change. Some interlocutors also welcomed broadcasting in languages other than Turkish, including Kurdish and Arabic, provided by designated channels of TRT.

The legislation does not contain specific regulations on campaign financing. Political parties declare their campaign-related incomes and expenditures through general party financial reports to the Constitutional Court by 30 June of each year. Independent candidates disclose their campaign-related incomes and spending through individual tax declarations. While the legislation imposes some restrictions on the amount and nature of donations, there are no limitations on general party and campaign-related spending.

The Constitutional Court stated that in the review of financial reports it focuses primarily on checking their compliance with reporting requirements and with parties' internal regulations as reflected in their statutes. It does not, however, necessarily verify the submitted data and source documents or review them for undisclosed incomes and expenditures. Lack of compliance with party finance regulations can result in sanctions ranging from a warning to dissolution of a political party, depending on the gravity of a violation. Some OSCE/ODIHR NAM interlocutors opined that the party financing regulations do not ensure sufficient transparency of party accounts.

G. MEDIA FRAMEWORK AND ENVIRONMENT

Turkey's media landscape is vibrant and diverse, with a broad range of national and local broadcasters, regarded as the primary source of public information. A strong print media also operates throughout the country. The coverage of electoral campaigns in the broadcast media is regulated by the Law on Broadcasting, Law on Basic Provisions, and detailed regulations adopted by the SBE for each election. Among general principles for broadcasting, media are obliged to ensure accuracy, impartiality and objectivity of reporting. The regulatory framework also includes a number of restrictive provisions and obliges media to comply with an extensive list of prohibitions, many of which are vaguely formulated (see section B on Legal Framework).

In line with the Law on Basic Provisions, political parties contesting the elections are granted free airtime on TRT during the last seven days of the campaign.²⁰ Following recent amendments to the legislation, contestants will also be allowed to place paid political advertisements.

Compliance with media regulations is overseen by the Radio and Television Supreme Council (RTSC),²¹ a nine-member broadcasting authority appointed by the parliament. The OSCE/ODIHR NAM was informed that the RTSC continuously monitors 45

¹⁹ Article 81 of Law on Political Parties prohibits the use of any other language than Turkish 'in written material and publications, in statutes and programs, at party conferences and meetings in the public or closed space, at rallies or in their campaign'. It also prohibits 'using or distributing flags, posters, records, sound and movie tracks, leaflets and announcements' in other languages.

²⁰ Parties are entitled to two 10-minute slots on radio and television each. Additional airtime is granted to parties with a parliamentary group (10 minutes), the party in power or senior partner in a coalition government (20 minutes), minor partners in the coalition (15 minutes) and the main opposition party (10 minutes). Independent candidates do not qualify for free airtime.

²¹ The abbreviation for the institution in Turkish language is RTÜK.

television channels and 40 radio stations with nationwide coverage. In addition, the RTSC has the authority to review complaints related to coverage by local and regional broadcasters. During election periods, RTSC submits weekly reports to SBE, which has the authority to apply sanctions for violations.

A number of OSCE/ODIHR NAM interlocutors expressed concern over a perceived deterioration of the media environment, cases of prosecution of journalists in connection with their professional activities, pressure on media outlets and journalists, and self-censorship among Turkish media. Concerns were also expressed that the restrictive legal provisions continue to be frequently used to limit freedom of expression. The detention of a number of journalists in connection with their reporting linked to an alleged coup that is currently being investigated was particularly underscored.

On 4 April 2011, the OSCE Representative on Freedom of the Media (RFoM) appealed to Turkish authorities to bring the country's media legislation in line with OSCE commitments on media freedom. This appeal followed the release by the OSCE RFoM of a study showing that 57 journalists are imprisoned in Turkey and the number of ongoing trials that can result in imprisonment of journalists is estimated to be from 700 to 1000.²² The 9 March 2011 EP resolution also urged the Turkish authorities to review media-related legislation with the aim of upholding freedom of expression.²³ The ECtHR recently ruled in *Dink v. Turkey* that there had been a violation of freedom of expression in the case of the murdered journalist, who was earlier found guilty of denigrating Turkish identity and because of this conviction became a target for extreme nationalists. The Court concluded that Turkey's 'positive obligation' to protect Mr. Dink's freedom of expression had not been complied with.²⁴

In the context of elections, opposition political parties expressed concern that the alleged control by the government over influential media groups could result in biased reporting, self-censorship, and lack of access. These parties also claimed that they receive significantly less coverage on TRT compared to the governing party.

H. DOMESTIC AND INTERNATIONAL OBSERVERS

While the legislation allows for observation of the electoral process by representatives of political parties and independent candidates and stipulates that the vote count is public, it does not contain any specific provisions permitting observation by international and domestic civil society observers and therefore as per previous OSCE/ODIHR reports not fully compliant with the OSCE Copenhagen document. OSCE/ODIHR previously recommended that in order to remove any possible uncertainty, the legislation should be amended to provide for the access of international and civil society observers to all stages of the electoral process.²⁵

OSCE/ODIHR NAM interlocutors were largely ambivalent over whether the presence of international observers in large numbers during the upcoming elections could be of

²² Press release by the OSCE Representative on Freedom of the Media, 4 April 2011; available at www.osce.org/fom/76374.

²³ *Op.cit.* European Parliament resolution of 9 March 2011 on Turkey's 2010 progress report.

²⁴ *Dink v. Turkey*, applications no. 2668/07, 6102/08, 30079/08, 7072/09 and 7124/09, 14 September 2010, available at www.echr.coe.int.

²⁵ *Op.cit.* OSCE/ODIHR Final Report on 22 July 2007 early parliamentary elections, p.6.

significant added value. The SBE assured the OSCE/ODIHR NAM that, in the eventuality of a decision to conduct an election-related activity, international observers deployed by the OSCE/ODIHR would be granted unimpeded access to the process.

Turkey has a vibrant and active civil society. Civil society representatives informed the OSCE/ODIHR NAM of election-related activities that they are planning to carry out, including monitoring of participation of women, representatives of national minorities, youth and voters with disabilities in the electoral process, as well as the review of party statutes for gender mainstreaming. Some also envisage observation of election-day procedures and plan to appeal to the SBE for permission to be present at polling stations.

IV. CONCLUSIONS AND RECOMMENDATION

Despite some concerns raised, the majority of OSCE/ODIHR NAM interlocutors expressed confidence in the overall integrity of the electoral process. Many underscored the professionalism of the election administration, the genuine political pluralism, the vibrancy of civil society, the maturity of the system and the existence of well-functioning institutions that ensures the due conduct of elections. They were largely ambivalent over whether the presence of international observers in large numbers during the upcoming elections could be of significant added value. At the same time, interlocutors were of the opinion that the process could benefit from an assessment by international observers and expressed interest in a targeted, issue-based review of the electoral framework and practices. Among the aspects of the process that the interlocutors believed could be looked into by OSCE/ODIHR observers were the pre-electoral campaign, voter registration, campaign finance, work of the media, as well as women's participation and representation.

Based on the above findings and taking into account the fact that interlocutors did not raise serious and systematic concerns with regard to election day procedures, the OSCE/ODIHR NAM recommends that an Election Assessment Mission (EAM) be deployed to follow the upcoming parliamentary elections. The OSCE/ODIHR EAM could focus on the issues identified by the interlocutors, including the review of recent and pending amendments to the legislation and their impact on the conduct of elections. In line with standard practice for EAMs, the OSCE/ODIHR would not undertake comprehensive and systematic observation of election day. It would, however, seek to visit some regions of the country to follow the election process.

ANNEX: LIST OF MEETINGS

State authorities

Birnur Fertekligil, Deputy Undersecretary for Multilateral Political Affairs and Africa, Ministry of Foreign Affairs
Kaan Esener, Minister Plenipotentiary, Deputy Director General for Council of Europe and Human Rights, Ministry of Foreign Affairs
Ali Onaner, Head of the Human Rights Department, Ministry of Foreign Affairs
Birsen Göksu, Third Secretary, Ministry of Foreign Affairs
Mehmet Oğuz Kaya, Secretary General, Constitutional Court
Ayşegül Atalay, Rapporteur, Constitutional Court
Mustafa Çağatay, Rapporteur, Constitutional Court
Abdil Celil Öz, Director General for Provincial Administration, Ministry of Interior
Burhan Kuzu, Chairperson of the Constitutional Commission, Turkish Grand National Assembly
Mehmet Kürtül, Member of the Supreme Election Board

Political parties

Canan Kalsin, Deputy Chairperson of Justice and Development Party (AKP) and Deputy Chairperson of the Committee on Political Affairs and Security of OSCE PA
Mustafa Elitaş, Deputy Chairperson of Parliamentary Group of Justice and Development Party (AKP)
Muharrem İnce, Deputy Chairperson of the Parliamentary Group of the Republican People's Party (CHP)
Oktay Vural, Deputy Chairperson of the Parliamentary Group of the Nationalist Movement Party (MHP)
Hamit Geylani, Deputy Chairperson of Peace and Democracy Party (BDP) and member of the Constitutional Commission of the Parliament
Evren Çevik, Member of Foreign Affairs Commission of Parliament, BDP

Media organizations

Atila Tunga, Deputy Head of News and Sports Broadcasts, Turkish Radio and Television
Davut Dursun, President, Radio and Television Supreme Council

Civil society organizations

Murat Şengül, Secretary General, Turkish Democracy Foundation
Öztürk Türkdoğan, President, Human Rights Association
Seda Alp, President, and Nejat Taştan, Member, Equal Rights Association
Selma Acuner, Member of the Advisory Board, KADER
Ezgi Koçak, President, KADER Ankara
İlknur Üstün, Member, KADER

Diplomatic missions

Jolanda Kriskovicciene, Chargé d'Affaires, Embassy of Lithuania in Turkey
Michael Miller, Head of Political Section, Delegation of the European Union to Turkey