



Office for Democratic Institutions and Human Rights

REPUBLIC OF TURKEY

PRESIDENTIAL ELECTION

10 August 2014

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

7-9 May 2014



Warsaw
3 June 2014

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**REPUBLIC OF TURKEY
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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an official invitation from the authorities of the Republic of Turkey to observe the 10 August 2014 presidential election and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) from 7 to 9 May. The NAM included Dr. Beata Martin-Rozumiłowicz, Head of the OSCE/ODIHR Election Department, Ms. Tatyana Bogussevich, OSCE/ODIHR Senior Election Adviser, and Mr. Steven Martin, OSCE/ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and preparations for the presidential election. Based on this assessment, the NAM should recommend whether to deploy an OSCE/ODIHR election-related activity for the forthcoming election, 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, Constitutional Court, Constitutional Commission, Presidential Administration, and Supreme Board of Elections, as well as with representatives of political parties, media, and civil society. A list of meetings is included as an annex to this report.

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

II. EXECUTIVE SUMMARY

The upcoming presidential election, scheduled for 10 August, will be the first direct election of the president by popular vote. The president will be elected with an absolute majority of valid votes. If no candidate receives the majority of the votes, a second round of voting takes place two weeks later between the two candidates receiving the most votes in the first round.

The amended legal framework addresses some previous OSCE/ODIHR recommendations. It now provides for voting abroad, contains more detailed regulations on campaign finance, and permits campaigning in languages other than Turkish. Notwithstanding, some OSCE/ODIHR recommendations appear unaddressed, including remaining restrictions on voting rights for conscripts and some categories of prisoners; a lack of a possibility to appeal against decisions of the Supreme Board of Elections (SBE), and an absence of legal provisions for international and citizen election observation.

The upcoming election will be organized by four levels of the election administration: the SBE, Provincial Electoral Boards, District Electoral Boards and Ballot Box Committees. The election administration is partially formed from the judiciary, which thus oversees the process to some extent. While OSCE/ODIHR NAM interlocutors expressed a certain level of confidence in the election administration, concerns were raised over some lack of transparency of its activities and the inability to appeal decisions regarding election complaints.

Citizens over eighteen years of age have the right to vote, although certain restrictions on eligibility are imposed. Voter registration is managed by the SBE through a central voter registration system. Interlocutors met with by the OSCE/ODIHR NAM generally expressed trust in the voter register. Some concerns were raised with regard to the accuracy of voter lists whereby non-eligible voters could potentially be included in the lists.

To participate in the election, candidates require support from members of parliament or a parliamentary party. Many OSCE/ODIHR NAM interlocutors pointed out that such a nomination process is likely to limit the number of candidates and limits possibilities for the participation of independent candidates. As of the OSCE/ODIHR NAM, no candidates had yet been endorsed or nominated by the political parties.

The campaign period commences on the day the candidate list is finalized on 11 July. An active and possibly tense campaign is expected, which will likely continue to focus on national issues raised during the recent local elections such as recent anti-government protests and alleged corruption involving state officials. OSCE/ODIHR NAM interlocutors did not raise concerns as to the ability of candidates to campaign freely, although some noted possible intimidation of voters and the potential misuse of administrative resources by the governing party.

The law establishes a framework for campaign finance regulation. Candidates are not entitled to public funding and are only permitted to receive donations from citizens. Provisions include various disclosure and reporting requirements with the SBE as the regulatory body tasked to oversee compliance, although no interim reporting prior to the election is foreseen.

Turkey's media environment includes a wide range of television broadcasters and print media. Freedom of expression is protected by law, although the legal framework includes a number of restrictive provisions. OSCE/ODIHR NAM interlocutors expressed concern over existing pressure on broadcast and print media outlets and on individual journalists, which challenges media independence.

Media coverage of electoral campaigns in the broadcast media is regulated by law and supplemented by SBE regulations. The OSCE/ODIHR NAM was informed that the SBE had yet to publish guidelines on media coverage for the upcoming election, including on the allocation of free and paid airtime. There exists some ambiguity as to whether media entitlements will be allocated to individual candidates or political parties. Compliance with media regulations, including during the election campaign, is overseen by the Radio and Television Supreme Council. The Council is responsible for monitoring and evaluating media broadcasts in accordance with SBE guidelines and provides reports to the SBE on media compliance.

The majority of OSCE/ODIHR NAM interlocutors expressed a certain level of confidence in the electoral process and referenced the country's long-standing tradition of democratic practices. However, they also raised particular concern with the new legal framework and its possible gaps and shortcomings, and noted a recent weakening of general public confidence in the authorities, particularly following the recent local elections. Some previous OSCE/ODIHR recommendations remain unaddressed and most OSCE/ODIHR NAM interlocutors stated that they would welcome an OSCE/ODIHR observation activity for the upcoming election, with some having emphasized the necessity of the OSCE/ODIHR's longer-term presence. A number of aspects could merit attention by an OSCE/ODIHR election observation activity, including the

new legal framework; campaign finance provisions; the conduct of the electoral campaign; and the work of the media.

On this basis, the OSCE/ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM) to observe the 10 August presidential election. In addition to a core team of analysts, the OSCE/ODIHR NAM recommends the secondment of 20 long-term observers from OSCE participating States. In line with OSCE/ODIHR's standard methodology, the LEOM would include a media monitoring element. While the mission would visit a limited number of polling stations on election day, systematic observation of election day proceedings is not envisaged.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Turkey is a parliamentary republic with executive power exercised by the Council of Ministers, headed by the prime minister, and legislative power vested in the Turkish Grand National Assembly (parliament). The president serves as the head of state and holds certain limited functions and authority related to the legislative, executive, and judicial fields.

In 2007, a constitutional referendum on electoral reform led to amendments stipulating that the president will be directly elected through popular vote.¹ The upcoming election will be the first direct election of the president. On 7 March, the Supreme Board of Elections (SBE) announced the election for 10 August.

In recent months, a range of issues have impacted Turkey's political environment. This includes a wave of anti-government protests taking place across the country and ongoing investigations of alleged corruption involving state officials. Other elements include discussions of a Kurdish-Turkish peace process and the civil war in neighbouring Syria.

The Justice and Development Party (AKP)² is the largest parliamentary party and holds 313 seats in the 550-member parliament. The other parties include the Republican People's Party (CHP) with 131 seats, the Nationalist Movement Party (MHP) with 52 seats, the Peoples' Democratic Party (HDP) with 27 seats, and the Peace and Democracy Party (BDP) with 2 seats.³

Local elections were held on 30 March 2014. They were contested by all parliamentary parties and seen as a test of confidence for the prime minister and the governing AKP. The elections reportedly focused on national-level concerns over those at the local level and were seen as shaping the issues and discussions ahead of the presidential election.

¹ Previously, the president was selected through indirect elections by the parliament.

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

³ The remaining 14 seats are held by independent members of parliament. Figures are according to the Turkish Grand National Assembly: <http://www.tbmm.gov.tr>.

The OSCE/ODIHR has previously assessed three elections in Turkey.⁴ In its report on the 12 June 2011 parliamentary elections, the OSCE/ODIHR concluded that “the existence of a solid framework and of experience in the conduct of democratic elections is clear. Certain issues, however, could stand to be further addressed. The Constitution and implementing legislation continue to unduly limit the freedom of expression, freedom of association and electoral rights.”

B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

Presidential elections are primarily regulated by the Constitution, the Law on Presidential Elections, and the Law on Basic Provisions on Elections and Voter Registers (Law on Basic Provisions).⁵ The legal framework is supplemented by regulations and decisions of the SBE.

Following a constitutional referendum on electoral reform in October 2007, the Law on Presidential Elections was adopted on 19 January 2012. For matters not addressed in this law, provisions in other relevant legislation are applicable. OSCE/ODIHR NAM interlocutors raised some concern that the legislation regulating presidential elections lacked comprehensiveness and left a number of issues, in particular the role of political parties in the presidential election, unaddressed.

Under the new law, the president is elected by popular vote with an absolute majority of valid votes. If no candidate receives the majority of votes, a second round of voting takes place two weeks later between the two candidates receiving the most votes in the first round. Constitutional amendments reduced the president’s term of office from seven to five years, and permitted re-election for a second term.⁶

Since the 2011 elections, the legal framework has been amended and addresses some previous OSCE/ODIHR recommendations. It now provides for voting abroad, contains more detailed regulations on campaign finance and permits campaigning in languages other than Turkish. Notwithstanding, some OSCE/ODIHR recommendations appear unaddressed, including remaining restrictions on voting rights for conscripts and some categories of prisoners; a lack of a possibility to appeal against decisions of the SBE, and an absence of legal provisions for international and citizen election observation.

Additionally, some restrictive elements of the legal framework previously identified as problematic during OSCE/ODIHR election assessments continue to unduly limit the freedom of expression as well as electoral rights (see relevant sections below).

C. ELECTION ADMINISTRATION

The upcoming election will be organized by four levels of election administration: the SBE, Provincial Electoral Boards (PEBs), District Electoral Boards (DEBs) and Ballot Box Committees (BBCs).

⁴ All previous OSCE/ODIHR reports on Turkey are available at: <http://www.osce.org/odihr/elections/turkey>.

⁵ Other relevant legislation includes the Law on Peaceful Assembly and Demonstrations, Criminal Code, Anti-Terror Law, and various media-related laws.

⁶ In 2012, in response to an application, the Constitutional Court ruled that the current president could complete his seven-year term in office and subsequently stand for re-election.

The election administration, with the exception of BBCs, is partially formed from the judiciary, which thus oversees the process to some extent. While OSCE/ODIHR NAM interlocutors expressed a certain level of confidence in the election administration, concerns were raised over some lack of transparency of its activities and the inability to appeal decisions regarding election complaints.

The SBE is a permanent body tasked with overall authority and responsibility for the conduct of elections. The SBE is composed of seven members, plus four substitutes, appointed from and by the courts for a six-year term.⁷ PEBs are established in each province and consist of three members, plus substitutes, appointed from judges in the province based on seniority. DEBs have seven members selected through a mixed appointment process; DEBs are chaired by the most senior judge in the district and include four members nominated by political parties and two local civil servants, plus substitutes, who are appointed following an established selection process. Generally, each district has one DEB, although additional DEBs may be established in areas with higher populations. PEB and DEB members serve two-year terms. BBCs are constituted for each election and consist of seven members.⁸

Political parties can appoint representatives to higher levels of the election administration, including the SBE. These representatives participate in the operations and meetings of the SBE, but do not have the right to vote on decisions.

OSCE/ODIHR NAM interlocutors expressed a certain degree of confidence in the work of the election administration, although some questioned its ability to impartially decide on election complaints and expressed concern over the lack of transparency in its activities, which in part relates to the administration of recent local elections. The SBE is currently developing its electoral calendar for this election, which has yet to be published. Some political parties met with by the OSCE/ODIHR NAM expressed concerns with the lack of information provided thus far by the SBE on the upcoming election.

D. VOTER REGISTRATION

Citizens over eighteen years of age have the right to vote. However, restrictions exist for active conscripts, students in military schools and prisoners. The OSCE/ODIHR has previously noted that such restrictions should be reviewed to promote universal suffrage. In September 2013, the European Court of Human Rights (ECtHR) ruled that Turkey's ban on prisoners' voting rights contravened the European Convention on Human Rights (ECHR) related to the right to free elections.⁹ Voting is compulsory, although the OSCE/ODIHR NAM was informed that this provision is generally not enforced.

⁷ SBE members and substitutes are selected by and from the Council of State and the Court of Cassation (Supreme Court).

⁸ BBCs consist of five members nominated from political parties, one member from the respective local council, plus substitutes, and the BBC chairperson who is selected through a process by the respective DEB.

⁹ The case concerned a complaint brought by a citizen convicted for issuing cheques with insufficient funds who was not allowed to vote either in the 2007 general elections, while detained in prison, or in the 2011 general elections after his conditional release. The ECtHR found that the ban on convicted prisoners' voting rights in Turkey was automatic and indiscriminate and did not take into account the nature or gravity of the offence, the length of the prison sentence or the prisoner's individual conduct or circumstances. See judgement on *Söyler v. Turkey*, application no. 29411/07, 20 January 2014.

Turkey operates a passive voter registration system. The SBE manages voter registration through a central voter registration system, which is linked to an online civil registry. This registry is operated by the Ministry of Interior. The registry identifies citizens through a personal identification number, which is linked to their place of permanent residence, and only permits registration at one location. Citizens are required to inform authorities of a change in address within 20 days. Their data is also automatically updated through information gathered by the utility companies associated with a new address. Local and district authorities are responsible for updating other personal information such as births, deaths, and marital status.

During an election period, the SBE extracts voter information, compiles voter lists, and forwards them to DEBs for posting and public review. Voters can also review their information on the SBE website. In addition, the SBE plans to distribute voter lists to political parties in advance of the election. During the public review period, scheduled from 2 to 9 July for the upcoming election, voters may request changes to their information.¹⁰ Modifications to voter lists are not permitted after this date and voters changing address after the deadline are required to vote at their previous place of residence.

Interlocutors met with by the OSCE/ODIHR NAM generally expressed trust in the voter register. However, some concerns were raised with regard to the accuracy of the lists whereby some non-eligible voters could potentially be included.

Amendments adopted in May 2012 will facilitate, for the first time, voting for citizens living abroad.¹¹ An overseas voter registry will be established and will include voters registered with consulates and embassies. The SBE noted that it plans to conduct a voter education campaign for voters abroad. In total, over 100 polling stations in designated locations in more than 50 countries will be established.¹² These polling stations will be staffed by BBCs consisting of five members from political party representatives and civil servants, and will conduct voting between 31 July and 3 August. Ballots from overseas voting will be returned and counted along with in-country ballots at a specially-designated DEB. Interlocutors met with by the OSCE/ODIHR NAM generally welcomed the provisions permitting voting abroad, although they raised some concerns over a potential lack of information related to the modalities of voter registration and, in particular, the security of the ballot transfer and counting process.

E. CANDIDATE REGISTRATION

Presidential candidates are required to be at least forty years of age and have a higher education. They can either be members of parliament or any citizen meeting the eligibility requirements to be elected to parliament. The requirement that a candidate possess a higher education challenges international standards on elections in respect of non-discrimination.¹³ In addition, previous

¹⁰ The dates noted in the report were officially transmitted to the OSCE/ODIHR NAM by the SBE, although the official electoral calendar has yet to be adopted and published.

¹¹ As in previous elections, voting at Turkish customs gates will be facilitated.

¹² The final number of polling stations abroad will be finalized following the end of the voter registration period. Polling stations will be established in locations with more than 500 registered voters. The administration of voting abroad, including the in-country counting of ballots, is under the responsibility of an Overseas District Election Board, which falls under the responsibility of the PEB in Ankara. If required, additional Overseas DEBs may be established.

¹³ Paragraph 15 of the 1996 UN Human Rights Committee General Comment No 25 states that "...Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation."

OSCE/ODIHR assessments have noted that lifetime bans on candidacy rights for convicts and for those who have not performed military service constitute undue restrictions on the right to stand for office.¹⁴

Candidates require support from at least twenty members of parliament with each member only permitted to support one nomination. Political parties that exceeded the ten per cent threshold in the last parliamentary elections are each permitted to nominate one candidate. Many OSCE/ODIHR NAM interlocutors noted that this nomination process will limit the number of candidates and limits possibilities for independent candidates. Candidate registration will commence on 29 June.

Nominations can be submitted to either the President of the Turkish Grand National Assembly or the SBE. The SBE publishes the provisional candidate list for public review and reviews any objections prior to publishing the final list. The law stipulates that candidates holding one of a number of government positions must resign upon publication of the final list. While the number is extensive, it does not include the positions of prime minister and ministers. Several interlocutors met with by the OSCE/ODIHR NAM expressed concern over the non-inclusion of these positions on the list of incompatibilities. The law prohibits the president from being politically affiliated. Upon election, the president must sever any existing relationship with political parties and give up any parliamentary seat.

F. CAMPAIGN AND CAMPAIGN FINANCING

According to the Law on Presidential Elections, the campaign period starts on the day the candidate list is finalized, which is 11 July for this election, and finishes the evening before the election. The Law on Presidential Elections does not regulate the conduct of the campaign and refers to the Law on Basic Provisions, which contains provisions related to campaign rallies, placement and distribution of printed materials, as well as the campaign in the media. OSCE/ODIHR interlocutors expressed some concerns over the lack of clarity regarding the applicability of campaign regulations for individual candidates and the role of political parties.

A number of OSCE/ODIHR NAM interlocutors noted that they expect an active campaign, which will likely centre around issues raised during the recent local elections. Some expect the campaign to be divisive, given the perceived polarization between the governing party and the opposition. As of the OSCE/ODIHR NAM, no candidates had yet been endorsed or nominated by the political parties.

OSCE/ODIHR NAM interlocutor generally did not raise concerns about the ability of candidates to campaign freely, although some concerns were expressed about possible intimidation of voters and the potential misuse of administrative resources by the governing party. Generally, stakeholders anticipate that a variety of media will be used in the campaign, including broadcast, print, and social. In January 2013, the ECtHR ruled that a prohibition on the use of any language other than Turkish during an election campaign violated Article 10

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/d0b7f023e8d6d9898025651e004bc0eb?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/d0b7f023e8d6d9898025651e004bc0eb?Opendocument). See Paragraph 24 of the 1990 OSCE Copenhagen Document provides that restrictions on rights and freedoms must be “strictly proportionate to the aim of the law”.

¹⁴ OSCE/ODIHR Election Assessment Mission Report on the 12 June 2011 parliamentary elections: <http://www.osce.org/odihr/84588>.

(freedom of expression) of the ECHR.¹⁵ In March of this year, the parliament passed legislation permitting campaigning and use of promotional material in any language or dialect.

The legislation contains specific provisions regulating campaign financing of presidential candidates, which goes towards addressing previous recommendations made by the OSCE/ODIHR and the Group of States against Corruption (GRECO) of the Council of Europe on furthering transparency and disclosure of campaign finances.¹⁶ Candidates are not entitled to receive public funding. They are permitted to only receive donations from citizens, which must be accounted for through a dedicated bank account opened for the election.¹⁷ Other provisions include disclosure and reporting requirements for candidates. Loans are not permitted.

The SBE is tasked with campaign finance oversight, which includes monitoring of candidate accounts and developing reporting procedures and templates. Candidates are to submit information on campaign accounts, contributions, and expenditures to the SBE within ten days after the finalization of election results. The SBE has one month to examine the information, determine irregularities, if any, and give candidates time to correct the revealed deficiencies. The results of the control carried out by the SBE are final. The SBE informed the OSCE/ODIHR NAM that campaign finance experts from the Court of Accounts would be engaged to perform the auditing.

A number of OSCE/ODIHR NAM interlocutors noted that the new provisions for campaign finance oversight were a welcome step towards a more comprehensive system of regulation. However, some general concerns were raised as to whether candidates would adhere to regulations by only accepting donations from individual citizens and over the absence of interim reporting before or during the electoral campaign, which could increase transparency.

G. MEDIA

The media environment in Turkey includes a wide range of national and local television broadcasters as well as a well-developed print media. Media coverage of electoral campaigns in the broadcast media is regulated by the Law on Broadcasting and the Law on Basic Provisions, which are supplemented by regulations adopted by the SBE for each election. The OSCE/ODIHR NAM was informed that the SBE had yet to publish its guidelines for media coverage of the upcoming election. Interlocutors noted that there exists some ambiguity concerning the manner in which airtime will be allocated to election contestants – to individual candidates or political parties. Provisions for possible free airtime for candidates have yet not been published and the SBE is still to release regulations on paid advertisements.

Compliance with media regulations, including during the election campaign, is overseen by the Radio and Television Supreme Council (RTSC). The RTSC is responsible for monitoring and evaluating media broadcasts during the election period in accordance with SBE decisions. The SBE is expected to publish a list of national broadcasters that the RTSC will monitor.¹⁸ In

¹⁵ Judgment on *Şükran Aydın and Others v. Turkey*, applications nos. 49197/06, 23196/07, 50242/08, 60912/08 and 14871/09, 27 May 2013.

¹⁶ See GRECO Third Evaluation Round Compliance Report, 23 March 2012, at [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2012\)4_Turkey_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)4_Turkey_EN.pdf).

¹⁷ The law limits the amount of finances that each individual can donate to the candidates for each round, which cannot exceed one month's salary of the highest ranking civil servant.

¹⁸ For the 30 March local elections, the RTSC monitored 97 television stations and 35 radio stations.

addition, in case of complaints, the RTSC is authorized to review coverage by local and regional broadcasters.

During an election period, the RTSC is to submit weekly reports to the SBE, which has the authority to apply sanctions for violations. Representatives from the RTSC noted that its monitoring reports along with any decisions will be published on its website; however, this will not include a detailed breakdown of its media monitoring results that could further increase transparency, which was recommended by the OSCE/ODIHR on past occasions. Ahead of the election, the RTSC has conducted a number of training sessions for broadcasters on their obligations concerning impartiality in programming, another issue raised in past OSCE/ODIHR recommendations.

Freedom of expression is protected by law. However, legislation contains a number of restrictive provisions, including elements of the Anti-Terror Law, Internet law and Criminal Code, which oblige media to comply with an extensive list of prohibitions and challenge media freedom. OSCE/ODIHR interlocutors expressed concern over existing pressure on broadcast and print media outlets and on individual journalists, including frequent defamation lawsuits, which challenge their independence. The European Commission has also expressed concern of state officials launching suits against critical journalists and writers, which, coupled with the high concentration of media ownership, has continued to lead to widespread self-censorship by media owners and journalists.¹⁹

The OSCE Representative on Freedom of the Media (RFoM) has expressed concern that convictions and severe sentences handed down to journalists violate Turkey's commitments to free speech and independent media and that criminal prosecution of those with dissenting views violates the fundamental human right to free expression and the country's OSCE commitments to develop and protect free media.²⁰

The OSCE RFoM has also expressed concern over the new provisions to the Internet law adopted in February this year that grant increased authority to the communications regulator and allow the blocking of websites without sufficient court supervision.²¹ The OSCE RFoM stated that "these measures are not compatible with OSCE commitments and international standards on freedom of expression."²² This law has also been criticized by the Parliamentary Assembly of the Council of Europe as limiting freedom of expression and restricting citizens' right of access to information.²³ In recent years, the ECtHR has issued a number of rulings against Turkey related to violations of Article 10 of the ECHR, including in relation to the Internet law.²⁴

In March this year, ahead of local elections, the government banned social media platforms Twitter and YouTube citing reasons of national security and of spreading misinformation.²⁵ This

¹⁹ See the European Commission's *Turkey Progress Report 2013*, 16 October 2013: http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/turkey_2013.pdf.

²⁰ Press Release of the OSCE RFoM, 5 August 2013: <http://www.osce.org/fom/104157>.

²¹ Press Release of the OSCE RFoM, 17 February 2014: <http://www.osce.org/node/111400>.

²² See Briefing on Proposed Amendments to Law No. 5651 - The Internet Law of Turkey, January 2014, <http://www.osce.org/fom/110823>.

²³ <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=4984&lang=2&cat=5>.

²⁴ For example: Judgment on *Ahmet Yildirim v. Turkey*, application no. 3111/10, 18 March 2013.

²⁵ Two weeks after the government blocked Twitter, it was unblocked after a Constitutional Court ruling, which noted that Twitter had become an important medium and the ban violated freedom of expression. On 29 May, the Constitutional Court ruled that the blocking of YouTube violated the individual rights of

ban drew criticism from the international community, including from the OSCE RFoM and the United Nations Office of the High Commissioner for Human Rights (OHCHR).²⁶

H. COMPLAINTS AND APPEALS

While judges serve in the electoral administration, they are independent from the courts both in terms of their structure and decisions. Decisions of each level of the election administration can be appealed to the next higher level, with the SBE being the final instance for appeals at all levels. The SBE is established as the final decision-making authority, and according to the law, its decisions cannot be challenged. The OSCE/ODIHR has previously recommended providing for an appeal to a court against decisions and actions of the SBE.²⁷ A number of OSCE/ODIHR NAM interlocutors noted this limitation as a serious shortcoming.

As a result of constitutional amendments passed in 2010, the Constitutional Court accepts individual applications from anyone claiming that his/her fundamental rights have been violated and when all other domestic remedies have been exhausted. This new provision was welcomed by the OSCE/ODIHR NAM interlocutors. It remains to be seen whether this possibility includes judicial appeal of SBE decisions.

I. ELECTION OBSERVATION

Existing provisions permit representatives of political parties and independent candidates to observe the electoral process. However, the law does not contain provisions related to election observation by international and citizen observers. Such a shortcoming has been repeatedly emphasized in previous OSCE/ODIHR reports as not fully in line with the 1990 OSCE Copenhagen Document.

The SBE assured the OSCE/ODIHR NAM that if it deploys an election-related activity for the presidential election, as with previous missions, the OSCE/ODIHR would be granted unhindered access to the entire process throughout the country. The SBE noted that for the first time, it intends to directly invite international observers to monitor the election and that it submitted draft amendments to the parliament to facilitate such a process.

Civil society representatives met with by the OSCE/ODIHR NAM noted that they are planning a range of monitoring activities throughout the electoral process, including reviewing the legal framework, observing the work of the election administration, assessing campaign finance regulations and maintaining a presence throughout the country during the campaign. Several civil society groups are considering monitoring voting abroad. While some organizations have requested and subsequently been denied permission by the SBE to officially observe election day proceedings in polling stations, some organizations noted that they will still attempt to maintain some presence on election day.

Internet users and freedom of speech. Government authorities are still to lift the ban and unblock YouTube.

²⁶ See statements by the OSCE RFoM, 27 March 2014: <http://www.osce.org/node/116897> and by the OHCHR, 25 March 2014:

<http://www.un.org/apps/news/story.asp/story.asp?NewsID=47431&Cr=turkey&Cr1>.

²⁷ OSCE/ODIHR 2011 Election Assessment Mission Report.

IV. CONCLUSIONS AND RECOMMENDATIONS

The majority of OSCE/ODIHR NAM interlocutors expressed a certain level of confidence in the electoral process and referenced the country's long-standing tradition of democratic practices. However, they also raised particular concern with the new legal framework and its possible gaps and shortcomings and noted a recent weakening of general public confidence in the authorities, particularly following the recent local elections. Some previous OSCE/ODIHR recommendations remain unaddressed and most OSCE/ODIHR NAM interlocutors stated that they would welcome an OSCE/ODIHR observation activity for the upcoming election, with some having emphasized the necessity of the OSCE/ODIHR's longer-term presence. A number of aspects could merit attention by an OSCE/ODIHR election observation activity, including the new legal framework; campaign finance provisions; the conduct of the electoral campaign; and the work of the media.

On this basis, the OSCE/ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM) to observe the 10 August presidential election. In addition to a core team of analysts, the OSCE/ODIHR NAM recommends the secondment of 20 long-term observers from OSCE participating States. In line with OSCE/ODIHR's standard methodology, the LEOM would include a media monitoring element. While the mission would visit a limited number of polling stations on election day, systematic observation of election day proceedings is not envisaged.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs

Basat Öztürk, Director General for Multilateral Political Affairs
Kıvılcım Kılıç, Deputy Director General for Council of Europe and Human Rights

Ministry of Interior

Ali Fidan, General Director of Provincial Administration
Gazi Levent Kurtuluş, Head of Department, General Directorate of Provincial Administration
Abdullah Ayaz, Deputy Head of Department, EU Affairs and Foreign Relations Department

Supreme Board of Elections

Sadi Güven, President
Mehmet Kürtül, Member
Ali Kaya, Member
Nilgün İpek, Member

Constitutional Court

Alparslan Altan, Vice President

Constitutional Commission of the Turkish Grand National Assembly

Burhan Kuzu, Chairperson

Presidential Administration

Yusuf Müftüoğlu, Presidential Adviser

Political Parties

Akif Hamzaçebi, Deputy Chairperson, Parliamentary Group of the Republican People's Party
İdris Baluken, Deputy Chairperson, Parliamentary Group of the Peoples' Democratic Party
Oktay Vural, Deputy Chairperson, Parliamentary Group of the Nationalist Movement Party
Mahir Ünal, Deputy Chairperson, Parliamentary Group of the Justice and Development Party

Radio and Television Supreme Council

Hamit Ersoy, Member
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