



Office for Democratic Institutions and Human Rights

REPUBLIC OF TURKEY

EARLY PARLIAMENTARY ELECTIONS

1 November 2015

OSCE/ODIHR Limited Election Observation Mission
Final Report



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I. EXECUTIVE SUMMARY

Following an invitation from the authorities of the Republic of Turkey to observe the 1 November 2015 early parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Limited Election Observation Mission (LEOM). The OSCE/ODIHR LEOM assessed the compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections, as well as with national legislation. For election day, the OSCE/ODIHR LEOM joined efforts with delegations from the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE) to form an International Election Observation Mission (IEOM). Each of the institutions involved in this IEOM has endorsed the 2005 Declaration of Principles for International Election Observation.

The 1 November 2015 early parliamentary elections offered voters a variety of choices. The challenging security environment, in particular in the southeast of the country, coupled with a high number of violent incidents, including attacks against party members and on party premises, hindered contestants' ability to campaign freely in all parts of the country. Media freedom remained an area of serious concern and the number of criminal investigations of journalists and the closure of some media outlets reduced voters' access to a plurality of views and information. The 10 per cent parliamentary threshold continued to limit political pluralism. The election administration organized the elections professionally.

Sixteen parties and 21 independent candidates were registered. The campaign was overall low-key, but with increased visibility in the last days. The campaign atmosphere was polarized between the Justice and Development Party (AKP) and the other contestants, and confrontational rhetoric was used. The main topics included the '*Solution Process*', the deteriorating security environment, the campaign against terrorism and socio-economic issues.

Contestants were generally able to convey their messages to the electorate; however the escalation of violence restricted some contestants' ability to campaign freely. The last two weeks of the campaign were marked by an increased number of attacks against party members and activists, predominantly from the People's Democratic Party (HDP). A major terrorist bombing in Ankara on 10 October killed over 100 people and injured more than 500. The attack significantly affected the atmosphere and conduct of the campaign; and all parties temporarily suspended campaign activities. Furthermore, the IEOM noted arrests of party activists and received some reports of voter intimidation and pressure to vote.

The legal framework is generally conducive to the conduct of democratic elections, if implemented fully and effectively. However, certain fundamental freedoms, including the right to vote and be elected and the freedom of expression are unduly restricted by the Constitution and legislation. In

¹ The English version of this report is the only official document. An unofficial translation is available in Turkish.

particular, broad defamation provisions, including on insult of the president, unduly limit the freedoms of expression, speech and opinion. The system of seat distribution is inconsistent with the principle of equality of the vote due to a significant differential in the number of citizens per parliamentary seat. Previous OSCE/ODIHR and Council of Europe recommendations for legal reforms dating back to 2011 have generally not been addressed. In a positive step, the freedom to campaign in any language was guaranteed.

The elections were well organized by the election administration, which comprised representatives of the judiciary and political parties. Despite the shortened election calendar, the Supreme Board of Elections (SBE) met all deadlines. The SBE decided that voting in the areas affected by violence was feasible, stating that a relocation of any polling stations outside of the respective *mukhtarlik* (smallest administrative area) was not in line with the law. Several District Election Boards (DEBs) relocated a significant number of polling stations within the respective neighbourhoods.

Overall, the voter registration system is well developed. IEOM interlocutors generally expressed confidence in the voter register and raised few concerns regarding its accuracy and inclusiveness. Around 54 million voters were registered to vote in Turkey and some 3 million abroad.

The legislation does not contain comprehensive regulations of campaign financing. It only imposes certain restrictions on the amount and nature of contributions. Political parties are required to declare their campaign funds solely through annual party financial reports submitted to the Constitutional Court. Donations and expenditure of parties and candidates during the campaign were not publicly available. The lack of timely and public disclosure of this information limited the overall transparency and accountability of the campaign finance framework.

The media landscape comprises a variety of outlets. However, undue legal restrictions on the freedom of expression remain in place. Criminal investigations of journalists and media outlets for alleged support of terrorism and defamation of the president, the blocking of websites, the removal of several television stations from digital service providers and the effective seizure of some prominent media outlets reduced voters' access to a plurality of views and information. Sanctions imposed by the SBE on broadcasters for breaches of the impartiality requirement in broadcasting did not provide effective remedy for contestants. The OSCE/ODIHR LEOM media monitoring findings showed that three of the five monitored television stations, including the public broadcaster, favoured the AKP in their programmes, while the other two offered mostly negative coverage of the AKP.

Under the Constitution, SBE decisions are not subject to judicial review. This challenges the separation of powers and denies access to judicial remedy in electoral matters. The Constitutional Court's recent ruling that SBE decisions cannot be reviewed, even for violations of fundamental rights and freedoms, further restricted the opportunity for stakeholders to seek judicial redress. While the SBE effectively addressed some complaints, others were left without substantive examination, and in some cases effective or timely remedy was not provided.

Women played an active role in the campaign, although they remain underrepresented in political life. While the Constitution guarantees gender equality, there are no legal obligations for the parties to nominate women candidates. On a positive note, some parties implemented gender quotas and introduced affirmative measures for enhancing the participation of women. Overall, approximately 24 per cent of candidates on party lists were female. Women comprised some 27 per cent of Provincial

Election Boards members, but only 6 per cent of the DEB members. One SBE member is a woman.

The law does not establish rights for non-party citizen observers and does not provide for international observation as foreseen in paragraph 8 of the 1990 OSCE Copenhagen Document. Civil society groups were actively involved, although due to legal constraints, they had to register their observers on behalf of political parties.

Election day was generally peaceful. In the limited number of polling stations visited by international observers, election day was overall organized in an efficient manner. The counting process was assessed as transparent and well organized, although there were some instances of Ballot Box Committee members not following procedures prescribed by law. The tabulation observed at several DEBs was assessed as orderly and efficient, despite being crowded at times.

While preliminary results were available to contestants in real-time, they were not accessible to the public. The SBE announced final results on 12 November, which included detailed results by polling station. Some 30 appeals were submitted to the SBE by various contestants concerning more than 3,000 ballot box protocols; most alleging inaccuracies. On 15 November, the HDP requested the cancellation of election results nationwide claiming that the electoral process was not free and fair. The SBE rejected all but two appeals.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the authorities of the Republic of Turkey and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a LEOM on 28 September to observe the 1 November 2015 early parliamentary elections. The OSCE/ODIHR LEOM was headed by Ambassador Geert-Hinrich Ahrens and consisted of 11 experts based in Ankara and 18 long-term observers deployed throughout the country. Mission members were drawn from 17 OSCE participating States.

The OSCE/ODIHR LEOM assessed compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections, as well as with national legislation. In line with the OSCE/ODIHR's standard methodology for LEOMs, the mission did not include short-term observers, and did not carry out comprehensive or systematic observation of election day proceedings. However, mission members visited a limited number of polling stations and followed the tabulation of results in some districts. This final report follows a Statement of Preliminary Findings and Conclusions released at a press conference on 2 November 2015.²

The OSCE/ODIHR LEOM followed election day jointly with delegations from the OSCE Parliamentary Assembly (OSCE PA), headed by Margareta Cederfelt, and the Parliamentary Assembly of the Council of Europe (PACE), headed by Andreas Gross. Ignacio Sanchez Amor was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and leader of the short-term OSCE observer mission. The OSCE/ODIHR LEOM remained in Turkey until 10 November and followed post-election developments.

² [See all previous OSCE/ODIHR reports on Turkey.](#)

The OSCE/ODIHR LEOM wishes to thank the authorities of the Republic of Turkey for the invitation to observe the elections, and the Ministry of Foreign Affairs, the Supreme Board of Elections (SBE), national and local authorities, as well as candidates, political parties, and civil society organizations for their co-operation. The OSCE/ODIHR LEOM also wishes to express appreciation to diplomatic representations of OSCE participating States and international organizations for their co-operation throughout the course of the mission.

III. BACKGROUND

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 branches.

On 24 August, following unsuccessful coalition negotiations after the 7 June parliamentary elections, the president called early parliamentary elections for 1 November. The last parliamentary elections resulted for the first time since 2002, in the Justice and Development Party (AKP) not obtaining an absolute majority and not able to form a single-party government. As a party, the People's Democratic Party (HDP) entered parliament for the first time. The outgoing 550-member parliament comprised the AKP with 258 seats, the Republican People's Party (CHP) with 131 seats, the HDP with 80 seats, the Nationalist Movement Party (MHP) with 79 seats and 2 independent members of parliament (MPs).³

A two-year break in confrontations between the Turkish security forces and the outlawed Kurdistan Workers' Party (PKK) ended in July.⁴ After a bombing in Suruç on 20 July that resulted in 32 people killed and 104 injured, an increase in terrorist acts, counter-measures and hostilities followed.

IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

A. LEGAL FRAMEWORK

Parliamentary elections are primarily regulated by the 1982 Constitution, the 1961 Law on Basic Provisions on Elections and Voter Registers (Law on Basic Provisions), the 1983 Law on Parliamentary Elections, and the 1983 Law on Political Parties (LPP).⁵ Regulations and decisions issued by the SBE form part of the legal framework.

The Constitution, adopted under military rule, includes fundamental rights and freedoms and establishes the superiority of international law over national legislation; however, it focuses on bans and prohibitions for the protection of the state rather than broad guarantees of rights and freedoms. Gender equality is guaranteed, but not the rights of ethnic groups. The freedoms of association,

³ The two independent MPs left their parties (the CHP and the MHP) since being elected.

⁴ The PKK is listed as a terrorist organization by some OSCE participating States (EU Member States, USA, and others).

⁵ The Constitution and relevant legislation have been amended a number of times since adoption. Other relevant legislation includes the Law on Meetings and Demonstrations, the Criminal Code, the Anti-Terrorism Law and various media-related laws.

assembly and expression, key to holding democratic elections, and the right to vote and to be elected, are unduly restricted by the Constitution and legislation. The fact that defamation of the president, other public figures and certain state institutions is a criminal offence, and that parties are prohibited to promote certain political agendas, including non-secularism, the existence of minorities, or separatism, unduly restricts the freedom of speech and campaigning. The independence of the judiciary is not guaranteed by the legal framework.⁶

To provide a fully democratic basis for the conduct of elections, the government is encouraged to ensure broad guarantees for fundamental rights and freedoms and the independence of the judiciary. Legislation should be amended to be consistent with fundamental freedoms of association, assembly, expression and electoral rights and be adopted in an inclusive and public consultative manner.

The legal framework is generally conducive to holding democratic elections, if implemented fully and effectively. However, the framework has largely remained unchanged since the 2011 parliamentary elections, leaving a number of previous OSCE/ODIHR recommendations unaddressed. It has a number of gaps and ambiguities, including absence of provisions for citizen and international observation, lack of judicial review of the SBE decisions, absence of regulations on recounts and invalidation of results, and insufficient campaign finance regulations. The Law on Meetings and Demonstrations focuses on the legality of public assemblies, rather than on their peaceful character, and recent amendments further restrict the freedom of assembly.⁷

The SBE did not sufficiently supplement the legislation in a number of key areas, including establishing a framework for party observers, elaboration on oversight of the campaign process, and regulations defining obligations in media campaign coverage. The Law on Basic Provisions is unnecessarily detailed, making procedural matters difficult to amend in response to changing needs, while some provisions are insufficiently clear. In a positive step, recent amendments, including a 2014 amendment to the Law on Basic Provisions to allow campaigning in any language, addressed some previous OSCE/ODIHR recommendations.

The electoral legal framework should be reviewed and amended in line with past OSCE/ODIHR recommendations to address substantive gaps and to enhance its clarity. The SBE should adopt regulations that sufficiently supplement all aspects of the election legislation to ensure a comprehensive and cohesive electoral legal framework.

B. ELECTORAL SYSTEM

MPs are elected for a four-year term under a proportional system in 85 multi-member constituencies through closed party lists and as independent candidates. The last distribution of seats among the

⁶ The Minister of Justice is the head of the Supreme Board of Judges and Prosecutors, responsible for oversight, appointment, reassignments, disciplinary actions against, and dismissals of judges and prosecutors. The 2014 legislative amendments increased governmental control over the judiciary and replacements of several thousand judges and prosecutors followed. In early 2015, several judges and prosecutors were detained or dismissed, and in July investigations were initiated into more than fifty judges and prosecutors.

⁷ In March 2015, as part of a domestic security bill, the Law on Meetings and Demonstrations was amended to increase restrictions on public meeting participants and to authorize law enforcement to in effect use disproportionate force at public assemblies.

constituencies was undertaken by the SBE in early 2015, based on current population statistics.⁸ The system of seat distribution results in a significant differential in number of citizens per parliamentary seat, ranging from 40,303 citizens in Bayburt constituency to almost 165,000 in a constituency in Istanbul. Such a disproportion is inconsistent with the principle of equality of the vote under paragraph 7.3 of the 1990 OSCE Copenhagen Document, Section I.2.2.2 of the 2002 Council of Europe's Commission for Democracy through Law Code of Good Practice in Electoral Matters (Code of Good Practice) and other international obligations and standards.⁹

To ensure the equality of the vote, the system of seat distribution should be reviewed to address the disproportion in the ratio of citizens to parliamentary mandates.

To qualify for seat allocation, political parties must surpass the national threshold of 10 per cent of valid votes cast. The threshold, the highest among OSCE participating States, has been the subject of public discussion and criticism as it affects the representativeness of the parliament. In 2014, the CHP submitted a bill to lower the threshold to three per cent, but it failed to pass and three non-parliamentary parties lodged separate petitions with the Constitutional Court challenging the threshold; these were rejected on grounds that the parties did not have standing to challenge legislation in the Constitutional Court. The OSCE/ODIHR, PACE and European Court of Human Rights (ECtHR) previously recommended that the threshold be lowered to increase political pluralism.

To increase the pluralism and representativeness of the parliament, consideration could be given to lowering the threshold for parties to qualify for seat allocation.

The Law on Basic Provisions states that out-of country votes are distributed to parties in proportion to their votes received in each constituency. However, independent candidates are not included on the out-of-country ballots and thus do not benefit equally. In addition, an SBE circular provided that the distribution of out-of-country votes to parties takes place prior to the determination of mandates for parties and independent candidates. On 21 October, an independent candidate applied to the SBE to change the method of out-of-country vote distribution to ensure that independent candidates received equal treatment. On 24 October, the SBE rejected the complaint.¹⁰ The current system of determining

⁸ The population figures are based on the 2014 census. On 5 May, the HDP submitted a request to the SBE for a review of the distribution of seats in the constituencies of Bayburt and Mus claiming the statistics used for seat distribution were manipulated. The application included a comparison of population statistics issued by the Turkish Statistical Institute that were used by the SBE and voter register statistics issued by the Ministry of Interior. The SBE rejected the request.

⁹ Paragraph 21 of General Comment No. 25 (1996) to Article 25 of the 1960 International Covenant on Civil and Political Rights (ICCPR) by the UN Human Rights Committee (UNHRC) provides that "the principle of one person, one vote, must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of votes or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely." According to [section I.2.2.2 of the Code of Good Practice](#), seats must be evenly distributed among the constituencies and the permissible deviation from the norm should not be more than 10 per cent, and should not exceed 15 per cent except in special circumstances.

¹⁰ The claimant requested that the SBE amend its circular to provide for the distribution of out-of-country ballots to parties subsequent to the determination of any seats won by independent candidates. The SBE rejected the complaint, solely reproducing legal provisions without providing sound legal reasoning.

mandates results in unequal treatment of independent candidates compared with parties and is not in line with Paragraph 7.6 of the 1990 OSCE Copenhagen Document and the Code of Good Practice.¹¹

Consideration should be given to revising the system of determining mandates to ensure equality of opportunity between independent and political party candidates.

V. ELECTION ADMINISTRATION

The elections were well organized by the election administration, comprised of representatives of the judiciary and political parties. Despite the shortened election calendar, all technical preparations were accomplished within the legal deadlines. Since the elections were called, the SBE adopted over 600 decisions, with most key decisions available online.¹² However, meetings of the SBE and lower election boards were not open to the media and observers, which limited transparency of their work and decision-making processes.

To increase transparency in the election administration, meetings of electoral boards should be open to media and observers.

The four-tier structure of election management bodies consisted of the SBE, 81 Provincial Election Boards (PEBs), 1,067 District Election Boards (DEBs) and some 175,000 Ballot Box Committees (BBCs). The SBE is a permanent 11-member body composed of senior judges elected for a six-year term by and from the Supreme Court and the Council of State. One member of the SBE is a woman. In line with the law, the four parties with the highest number of votes in the last parliamentary elections appointed non-voting representatives to the SBE. They had the right to attend meetings, access documents and express their opinions regarding the work of the SBE. The SBE worked in a collegial manner and SBE representatives from three of four parties expressed confidence in its work.¹³

PEBs were located in each of the 81 provinces and chaired by the most senior judge in the province and comprise two other judges appointed for a two-year term.¹⁴ DEBs are composed of a chairperson (a judge) and six members - two civil servants and four representatives of the parties with the highest results in the district in the last parliamentary elections.¹⁵ Women comprised some 27 per cent of PEB members, but only 6 per cent of DEB members. The BBCs appointed for these elections, comprised a chairperson, five party representatives and one member nominated by the council of elders.¹⁶

¹¹ Paragraph 7.6 requires that participating States will respect the right of individuals and groups to compete with each other on a basis of equal treatment and Section I.2.2.3(a) of the Code of Good Practice states that equality of opportunity must be guaranteed to parties and candidates alike.

¹² In general, the SBE did not publish decisions involving individual cases.

¹³ The OSCE/ODIHR LEOM could not meet with the fourth party representative from the MHP.

¹⁴ The PEBs in Ankara, Istanbul and Izmir covered more than one electoral constituency.

¹⁵ As DEBs were appointed for a two-year term in January 2014, the HDP did not qualify for DEB membership. In a few DEBs where vacancies occurred, the HDP was able to appoint its members.

¹⁶ While the HDP had a right to nominate BBC members they were not legally entitled to participate in the lotteries for the appointment of BBC chairpersons.

Some DEBs adopted decisions or requested the SBE's opinion on relocating polling stations to safer locations in provinces affected by violence.¹⁷ Various OSCE/ODIHR LEOM interlocutors opposed the relocations alleging political motivation by the AKP to limit the number of votes for the HDP in these provinces. The AKP claimed that conducting elections in such conditions could result in a loss of life and impact the integrity of voting.¹⁸ On 3 October, the SBE decided in favour of conducting voting in these areas stating that relocation of any polling stations outside of the respective *mukhtarlik* (smallest administrative area) was not in line with the law.¹⁹ Subsequently, several DEBs took decisions to relocate a significant number of polling stations within the *mukhtarlik*.

In response to complaints made by electoral contestants in the June 2015 elections and in accordance with previous OSCE/ODIHR recommendations, the SBE re-designed the ballot to ensure that names of independent candidates were printed in the same format (bold and capitalized) as the names of party leaders.²⁰ However, according to the SBE, due to a human error in drafting the decision the names of independents were neither bolded nor capitalized.²¹

Out-of-country voting was conducted from 8 to 25 October in 113 polling locations established in 54 countries and from 8 October to 1 November at 30 custom points across Turkey. In total, around 8,500 BBCs worked abroad. Due to the high turnout, the SBE extended voting hours in the last two days of out-of-country voting. Ballot boxes and other sensitive election materials were transported to Ankara for the count. Safeguards such as online verification of voters and secure storage of election materials were in place to ensure the integrity of the process.

There was no nationwide voter education campaign for these elections. While many OSCE/ODIHR LEOM interlocutors maintained that voters were experienced and therefore were aware of how to vote, civil society representatives and observations from election day suggested a need for more voter information.²²

To enhance the overall understanding of the electoral process, the SBE could consider conducting a comprehensive voter information campaign, including in languages other than Turkish.

Shortly before the elections, DEBs organized trainings for BBCs that were generally assessed positively by the OSCE/ODIHR LEOM. Training materials prepared by the SBE consisted of an instructional video, procedure manuals and sample forms. However, in the majority of training sessions

¹⁷ Polling stations affected by the violence were located in some 80 districts across 20 provinces in the east and southeast, and were located in HDP strongholds. The HDP appealed several DEB decisions to higher boards.

¹⁸ The AKP informed the OSCE/ODIHR LEOM that during the June 2015 elections around 250 polling stations in 16 provinces in the east and the southeast registered 100 per cent turnout with all ballots cast for the HDP. This raised AKP concern regarding the possibility of irregularities and the ability of voters to vote free of pressure.

¹⁹ According to the SBE's interpretation of Article 5 of the Law on Basic Provisions, there should be at least one polling station in each *mukhtarlik*.

²⁰ The names of independent candidates for the June 2015 elections were placed below the logos of political parties.

²¹ On 12 October, an independent candidate lodged a complaint with the SBE stating that the ballots were not in line with the SBE's decision on the format and requested the reprinting of the ballots. The SBE rejected the complaint.

²² On 27 October, the Ombudsperson recommended to the SBE that it produce voter information material for future elections and that it be made available in languages other than Turkish. The Ombudsperson's recommendation was made in response to a complaint lodged by a civil society organisation prior to the June 2015 elections.

observed, only chairpersons and non-party members were present. Members from the parties were reportedly trained by their parties.²³

The election administration could consider implementing a comprehensive and standardized training programme for all BBC members, including members appointed by political parties.

VI. VOTER REGISTRATION

Citizens over 18 years of age have the right to vote, except conscripts, students in military schools and prisoners convicted of intentional crimes. These restrictions are not in line with paragraphs 7.3 and 24 of the 1990 OSCE Copenhagen Document and other international obligations.²⁴ The ECtHR has ruled twice that the ban on convicted prisoners' voting rights is too broad and must be proportionate to the crime committed.²⁵ While the legal framework has not yet been amended, as in the last parliamentary elections, the SBE issued a decision that partially implements the court's ruling by permitting all convicts outside of prison to vote even if their sentence is not fully executed.

The voter registration system functions well. Around 54 million voters were registered to vote in-country and nearly 3 million abroad. Turkey has a passive voter registration system. The SBE maintains a permanent voter register linked to the civil and address registry operated by the Ministry of Interior (MoI). Since the June 2015 elections, the total number of voters increased by over 300,000 due to those who reached 18 years of age in the interim. Most OSCE/ODIHR LEOM interlocutors expressed confidence in the voter register and raised few concerns regarding its accuracy.

The voter register was finalized on 20 September after an eight-day public display period. Voters could also verify their data through the SBE website. Subsequently, the voter register was shared with all contesting parties in an electronic format. While increased transparency and confidence of stakeholders, the breadth of personal data made available, such as address, personal identification number, place of birth, does not ensure protection of privacy and is not in line with international obligations.²⁶

²³ Section II.3.I (84) of the Code of Good Practice states that members of electoral commissions have to receive standardised training at all levels of the election administration.

²⁴ Paragraph 7.3 states that the participating States will guarantee universal and equal suffrage to adult citizens while paragraph 24 provides that restrictions on rights and freedoms must be strictly proportionate to the aim of the law. Section I.2.2.2 of the Code of Good Practice recommends that the deprivation of suffrage rights must be based on a criminal conviction for a serious offence and recommends that the withdrawal of political rights should only be carried out by express decision of a court of law. Paragraph 14 of General Comment No. 25 (1996) to Article 25 of the 1960 ICCPR by the UNHRC states that grounds for deprivation of voting rights should be objective and reasonable. See also the ECtHR judgment, [Hirst v. United Kingdom, application no. 74025/01, 6 October 2005](#).

²⁵ See judgments: [Soyluer v. Turkey, application no. 29411/07](#) from 17 September 2013 and [Murat Vural v. Turkey, application no. 9540/07](#) from 21 October 2014.

²⁶ Paragraph 10 of General Comment No. 16 to Article 17 of the ICCPR requires that gathering and holding of personal information on computers, databanks and other devices, whether by public authorities or private individuals or bodies, must be regulated by law. Effective measures have to be taken by States to ensure that information concerning a person's private life does not reach the hands of persons who are not authorized by law to receive, process and use it.

To ensure the protection of personal data, consideration should be given to formally regulating the process of sharing the electronic database of voters with political parties and limiting the range of sensitive data made available.

VII. CANDIDATE REGISTRATION

Citizens over the age of 25 with legal capacity and primary education are entitled to stand. Ineligibility extends to male citizens who have not completed compulsory military service, who are legally banned from public service, or have been convicted for a broad range of crimes including minor criminal offences, even if pardoned.²⁷ Such restrictions on candidacy rights are incompatible with the right to stand for election entrenched in several international documents, including paragraph 7.5 of the 1990 OSCE Copenhagen Document.²⁸

To form a political party and to contest elections, parties must have an organizational structure in at least half of the provinces and one third of the districts in each of those provinces, and convened a party congress six months prior to the elections.²⁹ All parties must submit full candidate lists in at least half of the provinces. Party coalitions are not permitted. These requirements potentially limit the freedom of association and the right to be elected. Independent candidates had to submit an electoral deposit refundable only if elected, which is inconsistent with international good practice.³⁰

Three political parties were denied the right to contest the elections by SBE decisions due to an insufficient organizational structure.³¹ On 2 September, the AKP lodged a complaint to the Prosecutor's Office of the Supreme Court seeking de-registration of the *TURK* Party on grounds of an insufficient organizational structure.³² As a result, on 18 September, the SBE took a decision to de-register the *TURK* Party from contesting the elections. On 16 October the *TURK* Party lodged a petition to the Constitutional Court for violation of its freedom to associate and right to contest. On 27 October, the Constitutional Court dismissed the case based on lack of jurisdiction.

Authorities should consider a review of the eligibility requirements for candidates and the provisions on restoration of candidacy rights, to bring them in line with international obligations and good electoral practice. In addition, consideration could be given to amending the threshold to return the electoral deposit.

²⁷ Restoration of the right to be a candidate is not automatic upon release from prison. A 2011 Constitutional Court decision annulled a legal provision in the Judicial Records Law establishing a lifetime ban on contesting elections. In 2012, the law was amended to provide the opportunity for restoration of convicts' candidacy rights after a minimum three-year period after full execution of sentence, proof of living a 'good life' and no new convictions for any crime. Following a 15-year period, convicts' criminal records are deleted.

²⁸ Paragraph 7.5 provides that participating States will respect the right of citizens to seek political or public office without discrimination.

²⁹ Parties that have at least 20 MPs are entitled to establish parliamentary groups. Parties with parliamentary groups are automatically entitled to contest the elections.

³⁰ For these elections the deposit was 10,651 TL (around 3,100 EUR; 1 EUR is about 3.2 TL). The number of independent candidates was eight times lower than in the 7 June 2015 elections. Section I.I.I.3 of the Code of Good Practice states that if a deposit is required, it must be refundable should the candidate exceed a certain score.

³¹ The Right and Truth Party, the Yurt Party, and the *TURK* party; the latter two ran in the June 2015 elections.

³² On 20 August, the AKP submitted a complaint claiming that in the June 2015 elections it lost more than 150,000 votes to the *TURK* Party or to invalid ballots due to similarities in the parties' logos.

Candidate registration was largely inclusive, offering voters a diverse and genuine choice. In total, 8,426 candidates were included on the lists of 16 political parties and 21 independent candidates were registered; some 24 per cent of candidates were women. On a positive note, some parties implemented gender quotas and introduced affirmative measures for enhancing women's participation.

Consideration could be given to introducing temporary special legislative measures to promote women candidates, including gender quotas and placing women in electable positions on party lists. Political parties could consider nominating a minimum number of candidates of each gender.

Two independent candidates withdrew from the elections after the legal deadline of 22 September. As their names were already printed on the ballots, the SBE announced their withdrawal in the Official Gazette and asked the relevant PEBs to announce it locally to prevent voters from wasting their votes; however their names were not removed from the ballot.³³

VIII. ELECTION CAMPAIGN

A. CAMPAIGN ENVIRONMENT

The Law on Basic Provisions regulates the campaign and aims to ensure fair and equal opportunities for contestants. The law establishes two periods for campaigning. The application of certain campaign regulations began on 31 August, while the official campaign period started 10 days prior to election day, during which stricter regulations for equitable campaigning applied (such as the prohibition of all public ceremonies and speeches on government works). Strictly regulating only the last 10 days of the campaign leaves the process largely under-regulated and does not serve to ensure a level playing field for contestants as provided in paragraph 7.6 of the 1990 OSCE Copenhagen Document.

To ensure an equitable campaign environment, consideration should be given to modify the legislation to provide that all campaign prohibitions, including on the misuse of administrative resources and official positions for campaign purposes, apply for the duration of the electoral period.

The campaign was low-key and contestants were generally able to convey their messages to the electorate.³⁴ Most parties utilized social media and undertook a door-to-door campaign and small meetings. All parliamentary parties organized rallies in several targeted districts across the country.³⁵ Some party leaders agreed informally to refrain from using certain campaign methods to prevent noise and environmental pollution.³⁶ While some parties were supportive of the agreement, some lesser-resourced parties were concerned that it may have placed them at a disadvantage. Nevertheless, an increase in campaign material visibility, in particular flags and posters, was observed in the last days of the campaign.

³³ Despite these efforts, around 100 votes were cast for one of those candidates running in Şanlıurfa province.

³⁴ Only in Istanbul, the OSCE/ODIHR LEOM noted a high level of campaign visibility of all parliamentary parties.

³⁵ The OSCE/ODIHR LEOM observed 16 campaign events with an average women's participation at some 30 per cent.

³⁶ The measures included restrictions on the use of loudspeakers on vehicles and vehicle convoys, campaign materials to be posted only in the vicinity of campaign offices, removal of campaign material after a rally, and campaign offices to be located in open areas with easy access for security.

Public discourse and media coverage focused mainly on the four parliamentary parties. Other parties were hardly visible due to a combination of factors, including a lack of campaign funding and minimal media coverage. The campaign atmosphere was polarized between the AKP and the other contestants and confrontational rhetoric was often used.³⁷ The other three parliamentary parties criticized the AKP for polarizing the society and creating an atmosphere of fear among the electorate. The overriding topics were the ‘*Solution Process*’, the deteriorating security environment, the campaign against terrorism and socio-economic issues.³⁸ Though legally prohibited, some parties used religious references in their campaigns³⁹ and three parties campaigned abroad.⁴⁰

The campaign was tarnished by violence. A major terrorist bombing in Ankara on 10 October killed over 100 people and injured more than 500. The attack occurred during a *Labour, Peace and Democracy Rally* organized by trade unions, civil society and professional organizations. Several opposition parties, including the HDP and CHP, joined the event. The leaders of the four parliamentary parties temporarily suspended their campaign activities.⁴¹

The OSCE/ODIHR LEOM received some reports of voter intimidation and pressure to vote.⁴² Some members of the CHP, the HDP and the MHP were investigated for defamation of authorities, including insult of the president. A high number of HDP offices were targeted and members were taken into custody.⁴³ In addition, HDP affiliated mayors were suspended,⁴⁴ and the party’s campaign leaflets were confiscated, which had a restraining effect on its campaign.⁴⁵ These incidents of intimidation and pressure to vote and the restrictions to campaign freely are not in line with the international obligations and standards.⁴⁶

³⁷ The OSCE/ODIHR LEOM observed the use of confrontational rhetoric in the following rallies: the AKP rally in Samsun and Erzurum on 5 and 6 October, respectively, and in Konya on 30 October, the HDP rally in Istanbul on 8 October, and the MHP rally in Istanbul on 18 October.

³⁸ The ‘*Solution Process*’ is the official term in Turkey used to describe the peace process.

³⁹ The SBE upheld two complaints lodged by the CHP against an AKP campaign song that included religious references and banned the use of the song. The OSCE/ODIHR LEOM observed the use of religious language in AKP campaign events in Samsun, Manisa, Bursa and Konya and observed the AKP’s use of the banned song after the SBE decision.

⁴⁰ The CHP leader campaigned in Switzerland, France, Belgium, the Netherlands, Germany and Austria. The AKP leader and the HDP party co-chairperson campaigned in Germany. On 22 October, the SBE rejected a complaint lodged by the MHP regarding a campaign letter sent by the Prime Minister to overseas Turkish citizens in breach of the ban on campaigning abroad, on grounds that the relevant public prosecutor has sole authority over the matter. However, under Turkish law, campaigning abroad is not a criminal offense, but an administrative violation within the authority of the SBE.

⁴¹ On 12 October, the AKP announced that the party’s rallies would be turned into “anti-terror rallies”.

⁴² The OSCE/ODIHR LEOM received such reports in Erzurum, Konya, Diyarbakir, Aydin and Aksaray.

⁴³ According to data provided to the OSCE/ODIHR LEOM by the HDP, 129 attacks on its offices occurred between 6 September and 9 October, and 2,590 members were taken into custody and 630 were arrested between 20 July and 18 October. Three of the detained and one of the arrested were candidates. According to data provided by the MoI, the following attacks occurred against party offices in October: the AKP nine, the HDP seven and the CHP one.

⁴⁴ More than 20 mayors, members of the Democratic Regions Party, affiliated to the HDP at the national level, were suspended by the MoI due to criminal investigations for infringing on the territorial integrity and unity of the state.

⁴⁵ On 16 October, a Criminal Judge of Peace ordered the confiscation of the HDP leaflet, which referred to a ‘decentralized government’ as evidence in a criminal investigation under the Anti-Terrorism Law.

⁴⁶ Paragraph 7.7 of the 1990 OSCE Copenhagen Document provides that the participating States will ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution. See also paragraph 25 of General Comment No. 25 (1996) to Article 25 of the ICCPR.

Voters and electoral contestants should be provided with conditions that enable them to promote political platforms and debate public affairs freely and should not be subject to pressure or intimidation. Any instances and allegations of pressure or intimidation should be thoroughly investigated and, if appropriate, prosecuted by the relevant authorities.

In several provinces in the east and the southeast, the ability to campaign freely was considerably restricted by the deteriorating security situation, in particular, where Special Security Zones (SSZs) were declared and/or curfews imposed.⁴⁷ Some OSCE/ODIHR LEOM interlocutors criticized these measures as politically motivated and extending beyond the legal framework.

B. CAMPAIGN FINANCE

The legislation does not contain comprehensive regulations on campaign financing. It only imposes certain restrictions on the amount and nature of contributions. There are no limitations on general party and campaign-related expenditure. Political parties are required to declare their campaign funds solely through annual party financial reports submitted to the Constitutional Court. Independent candidates declare their campaign funds through personal tax declarations. The LPP includes sanctions for breaches of finance-related provisions.⁴⁸ Incomes and expenditure of parties and independent candidates during the campaign were not publicly available. The lack of timely and public disclosure of this information limits the overall transparency and accountability of the campaign finance framework and falls short of international standards and good practice for campaign financing, including recommendations by the Council of Europe's Group of States against Corruption (GRECO).⁴⁹

In line with GRECO recommendations and international good practice, authorities could consider establishing periodic, timely and transparent reporting of all campaign income and expenditure, and to have such reports publicly available in a timely manner.

State party funding is distributed annually in January, on a proportional basis, to parties that received at least three per cent of votes in the last parliamentary elections.⁵⁰ While the HDP was entitled to state funding following the June 2015 elections, the instalment will only be released in January 2016. The Ministry of Finance did not respond to the HDP's request for early release of the funds. All OSCE/ODIHR LEOM interlocutors from the non-parliamentary political parties noted that they lack financing and stated that this limited their campaign abilities and placed them at a disadvantage compared to parties entitled to state support.

⁴⁷ On 21 August, the Council of Ministers by decree declared SSZs in at least eight provinces in effect from September 2015 to March 2016. As of September 2015, provincial governors declared SSZs for up to 15 days in 20 districts in at least 7 provinces in the southeast. Some governors also declared curfews in several neighbourhoods in at least 10 districts ranging from a few hours to indefinitely.

⁴⁸ Violations of donation-related provisions can result in imprisonment from six months to three years, and breaches of reporting requirements from three to six months imprisonment and fines from 4.8–19.5 million Eur.

⁴⁹ The GRECO [Interim Compliance Report](#) from 4 February 2015 noted that the majority of past recommendations have not been implemented. See also Article 7.3 of the UN Convention Against Corruption and paragraphs 199, 200 and 206 of [the OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulations](#).

⁵⁰ In 2014, following a previous OSCE/ODIHR recommendation, the LPP was amended to decrease the threshold for political parties to qualify for state funding from seven to three per cent.

IX. MEDIA

A. LEGAL FRAMEWORK AND MEDIA ENVIRONMENT

The Constitution and the legal framework do not sufficiently guarantee freedom of expression. In particular, unduly broad provisions in the Anti-Terrorism Law and the Criminal Code, including on insult of the president, allow prosecution and imprisonment of journalists.⁵¹ The application of these provisions during the election period resulted in criminal investigations against dozens of journalists, social media users and media outlets.⁵² Some of the investigations resulted in the seizure of several government-critical outlets.⁵³ A ban on reporting of any matter related to the investigation of the 10 October bombing in Ankara, effectively criminalized reporting on issues of public concern.⁵⁴ Journalists reported to IEOM observers that cases of violence against them and attacks on media outlets have resulted in an increase of self-censorship.⁵⁵

The legal framework should be amended to bring it in line with international obligations on freedom of expression, including the decriminalization of related offences. In addition, all media-related cases should be dealt with by the respective institutions in compliance with Article 10 of the ECHR on freedom of expression and relevant ECtHR case law.

While the media environment comprises a variety of outlets, it is characterized by polarization. A lack of investigative journalism in both pro-government and government-critical media undermines a key function of the media. Media owners' business interests in obtaining public tenders and state advertising lead to interference into editorial autonomy and result in limited criticism of the

⁵¹ In the case of [Gözel and Özer v. Turkey application no. 43453/04](#), from 6 July 2010, the ECtHR ruled that the 'automatic' conviction of journalists, based on Anti-Terrorism Law, without taking into account the objectives of journalists or the right of the public to information, violates Article 10 of the European Convention on Human Rights (ECHR). Despite certain amendments made to the law in 2013, it still allows for arbitrary prosecution of journalists based merely on the coverage of terrorist activities. Paragraph 25 of [General Comment No. 34](#) to Article 19 of the ICCPR indicates that "a norm, to be characterized as a 'law', must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly." Furthermore, paragraph 38 states that "the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties." Paragraph 47 states that imprisonment is never an appropriate penalty for defamation.

⁵² According to [the OSCE Representative on Freedom of the Media \(RFoM\)](#), most of the journalists currently imprisoned (21 as of July 2015) were convicted based on Articles 5 and 7 of the Anti-Terrorism Law, and Article 314 of the Criminal Code. Article 5 of the Anti-Terrorism Law allows for the application of aggravated sentences for prosecutions under anti-terror provisions in the Criminal Code.

⁵³ Cases include terrorism charges against the Koza-Ipek Media Group, the Doğan Media Group and the television stations *Samanyolu Haber* and *Mehtap TV*, all of which are critical of the government. On 26 October, an Ankara Criminal Judge of Peace ordered the replacement of the Koza-Ipek Media Group management by state trustees. On 27 October, officials together with police forcibly entered the Koza-Ipek Media Group building; subsequently 71 journalists working for these media outlets were dismissed. According to the Independent Communications Network *Bianet*, between July and September 2015, 61 people, including 37 journalists, were investigated, prosecuted or convicted for insulting the President.

⁵⁴ The ban was imposed on all media by an Ankara Criminal Judge of Peace on 14 October and lifted on 19 October. The OSCE/ODIHR LEOM was informed that criminal investigations were launched by the Ankara Public Prosecutor against public officials and a journalist for releasing information on the investigation.

⁵⁵ On 1 October, the [OSCE RFoM condemned the attack on journalist Ahmet Hakan and called for improved safety of journalists](#). On 5 October, [the Council of Europe issued an alert](#) on the police raid on the offices of the Kurdish daily newspaper *Azadiya Welat* and the Kurdish news agency *DIHA* in Diyarbakır on 28 September. Thirty-two detained Kurdish journalists were released after being interrogated.

government, in particular on television. Four digital service providers ceased broadcasting of several government-critical television stations, following correspondence from the Ankara Prosecutor's Office in connection with ongoing investigations on terrorism charges.⁵⁶

The Internet increasingly contributes to a vibrant discussion on issues of public importance. However, the amended Internet law unduly permits the blocking of websites, among other reasons, upon the request by cabinet ministers within four hours and without a prior court decision.⁵⁷ OSCE/ODIHR LEOM interlocutors expressed concern that the disproportionate blocking of news on south-east Turkey and Kurdish issues limited the plurality of news during the election period.

The Law on the Establishment of Radio and Television Enterprises obliges broadcasters to provide impartial coverage of political parties, and the RTSC monitors its implementation.⁵⁸ However, the law lacks precision on how to implement this requirement. This shortcoming was not sufficiently addressed by decisions of the SBE. Several stakeholders, including RTSC members, questioned the RTSC's overall methodology for monitoring the campaign coverage.⁵⁹

The SBE acted upon monitoring reports by the RTSC and complaints filed mostly by political parties. In the absence of legal deadlines, the SBE did not deal with media-related complaints (most related to the impartiality requirement) in a timely manner to provide effective remedies for complainants.⁶⁰ The sanctions imposed, including warnings and the suspension of relevant programmes, did not provide effective remedy for breaches of regulations.

The impartiality requirement should be clearly defined in the law and overseen by an independent regulatory body, which can act upon complaints or violations in a timely manner. The Law on Broadcasting could be amended to provide for remedies to contestants rather than sanctioning media outlets.

The Law on Basic Provisions provides parties contesting the elections with free airtime during the last seven days of the campaign and with the right to purchase advertising time. The public broadcaster followed its legal obligation to provide free airtime.

⁵⁶ The digital service providers *Tivibu*, *Turkcell TV+*, *Digiturk* and *Turksat* removed television stations including, *Samanyolu TV*, *SHaber*, *KanalTürk*, *Bugün TV* and *Mehtap TV*. *Samanyolu TV* filed complaints to the SBE, the Radio and Television Council (RTSC) and the Supreme Board of Prosecutors and Judges. The SBE rejected the complaint without legal reasoning. Another complaint was filed by the MHP to the SBE on the same issue. The SBE stated that they did not have jurisdiction over the matter. Two CHP members filed complaints with the RTSC, the Izmir Public Prosecutor and the Supreme Board of Prosecutors and Judges on the same matter.

⁵⁷ In the case [Cengiz and Others v. Turkey applications no. 48226/10 and 14027/11](#), from 1 December 2015, the ECtHR ruled that there was a violation of Article 10 of the ECHR concerning the blocking of access to YouTube. The Court also found that there was no provision in the law allowing the domestic courts to impose a blanket blocking order on access to the Internet.

⁵⁸ The nine members of the RTSC are nominated by political parties and elected by parliament.

⁵⁹ A complaint filed by three RTSC members on 20 October requesting the SBE to require the RTSC to count coverage of the President campaigning as a part of the AKP as coverage, was rejected by the SBE on the grounds that its monitoring is limited to parties and candidates.

⁶⁰ The SBE received 15 media-related complaints, most of which were filed by political parties. In addition, the SBE received 80 RTSC reports on violations monitored. The SBE issued 21 warnings and 5 decisions on the suspension of broadcasting of the relevant programme.

B. MEDIA MONITORING FINDINGS



The OSCE/ODIHR LEOM media findings showed that three of the five monitored television stations, including the public broadcaster, *TRT1*, favoured the AKP in their news, current events and discussion programmes.⁶¹ The AKP received the highest amount of coverage on all stations – 73 per cent on *TRT1*, 77 per cent on *ATV*, 49 per cent on *Haber Turk*, 47 per cent on *Samanyolu TV* and 32 per cent on *CNN Turk*, while the other parliamentary parties received less coverage. The tone of the coverage of the AKP was mostly positive on the *TRT1*, *ATV* and *Haber Turk*, and mostly negative on *CNN Turk* and *Samanyolu TV*.⁶² The CHP, MHP and HDP respectively received 12, 8 and 6 per cent on *TRT1*; 11, 8 and 4 per cent on *ATV*; 28, 18 and 14 per cent on *CNN Turk*; 19, 22 and 9 per cent on *Haber Turk*, and 23, 13 and 12 per cent on *Samanyolu TV*. Four other parties received coverage below one per cent, and the remaining parties were not mentioned on the monitored television stations. The majority of monitored newspapers devoted a majority of their coverage to the AKP and provided government-critical coverage.⁶³

X. COMPLAINTS AND APPEALS

In general, appeals against decisions of lower level election boards can be lodged with higher level boards up to the SBE.⁶⁴ Those eligible to appeal include parties, voters, partisan observers, and candidates. Clear timeframes for the submission and adjudication of some but not all types of electoral disputes are established in the law.⁶⁵ The legislation does not establish a campaign-related complaints process and the SBE did not issue sufficient regulations on this matter. Adjudication proceedings at the electoral boards are not open to observers or the media and not all complaint-related decisions are publicly available, undermining transparency in the dispute resolution process.⁶⁶

To enhance the election dispute resolution process, the law should establish a framework for campaign-related complaints and concrete and reasonable deadlines for handling election-related complaints and appeals. To enhance transparency, all decisions should be published or posted on the SBE website in a timely manner.

⁶¹ From 1 to 30 October 2015, the OSCE/ODIHR LEOM conducted quantitative and qualitative monitoring of five television stations (the public *TRT1*, and the commercial *ATV*, *CNN Turk*, *Haberturk* and *Samanyolu TV*) and four newspapers (*Hurriyet*, *Sabah*, *Sozcu* and *Zaman*).

⁶² The tone of the AKP coverage on *TRT1*, *ATV* and *Haber Turk* was 95, 92 and 77 per cent positive, respectively. The tone was 50 per cent negative and 50 per cent neutral or positive on *CNN Turk* and 78 per cent negative and 22 per cent positive or neutral on *Samanyolu TV*.

⁶³ In *Hurriyet*, while 52 per cent of the AKP's coverage was positive or neutral, 48 per cent was negative. The coverage of the CHP, HDP and MHP was positive or neutral, in 95, 83 and 96 per cent respectively. In *Sabah*, 99 per cent of AKP's coverage was positive or neutral, while 71, 90 and 73 per cent was negative for the CHP, HDP and MHP, respectively. *Sozcu* provided 89 per cent of negative coverage of the AKP, while the CHP and MHP were covered in a neutral or positive tone in 96 and 95 per cent respectively. The HDP received 55 per cent negative coverage. In *Zaman*, 85 per cent of AKP's coverage was negative in tone, while the coverage of the CHP, HDP and MHP was positive or neutral in 97, 90 and 92 per cent respectively.

⁶⁴ PEB decisions related to formation of DEBs and BBCs and DEB and PEB decisions on voter registration are final and cannot be appealed.

⁶⁵ For instance, there is no deadline for the SBE's handling of post-election complaints.

⁶⁶ The SBE decided on a case-by-case basis whether to publish decisions on complaints and appeals. The OSCE/ODIHR LEOM was able on request to obtain from the SBE copies of complaints and decisions and information about decisions before they were published.

Various OSCE/ODIHR LEOM interlocutors expressed a lack of confidence in the electoral boards and public authorities to impartially and effectively handle election-related complaints and some noted that as a result they refrained from lodging complaints.⁶⁷ In the pre-election period, the SBE received some 40 complaints and appeals lodged by political parties, candidates, MPs and other stakeholders, many related to unbalanced and inaccurate media coverage. The OSCE/ODIHR LEOM was notified of some 10 campaign-related complaints lodged to various lower bodies of the election administration.

The SBE effectively addressed some complaints on issues such as campaign-related violations and the relocation of ballot boxes.⁶⁸ However, various other complaints were left without decision or substantive examination, and in some cases were not provided with effective or timely remedy.⁶⁹ In decisions on complaints, many cases were rejected in substance or on grounds of lack of authority, and the SBE at times did not provide sound legal reasoning.⁷⁰ There was generally undue delay in the issuance and announcement of written decisions affecting the overall timeliness of the complaints process.⁷¹ Some SBE members and non-voting representatives informed the OSCE/ODIHR LEOM that the SBE faced a challenge to effectively handle complaints and appeals with its current capacity.⁷²

In handling disputes, the SBE should increase its efforts to exercise its authority to oversee and ensure the fairness of the electoral process. The legislation could be amended to provide the SBE with sufficient resources including legal experts, to enable it to effectively implement its responsibilities.

Under Article 79 of the Constitution, SBE decisions are final and not subject to judicial review, which includes regulations, administrative decisions, decisions on complaints and appeals, and the determination of election results. Although composed of judges, the SBE is an administrative organ. As the SBE acts as the last instance in electoral matters and disputes, the electoral process is left under the final authority of an administrative body, challenging the separation of powers guaranteed by the Constitution, and denying the opportunity to seek effective judicial remedy for electoral grievances. This is contrary to paragraph 5.10 of the 1990 OSCE Copenhagen Document and Section II.3.3 of the Code of Good Practice.⁷³

⁶⁷ Concerns were raised by some political parties and other stakeholders. The National Human Rights Institution expressed concern that the SBE rejected complaints without sufficient examination, and noted it had met with the SBE Chairperson after the June elections to discuss this concern.

⁶⁸ For instance, the complaints against an AKP campaign song and video that included religious references. A complaint lodged by the Felicity Party for unfair treatment in a DEB's decision on rally space allocation was upheld and complaints lodged by the HDP challenging decisions on the relocation of polling stations outside the *mukhtarlik*.

⁶⁹ For instance, on 28 September, the Rights and Liberties Party lodged a complaint that alleged several specified media outlets had incorrectly reported that the party had withdrawn from the election and requested the SBE to remedy the matter by corrective announcement. The SBE informed the OSCE/ODIHR LEOM that it would not adopt a decision on the complaint and has no means to remedy the matter. In another case, a complaint lodged by the People's Liberation Party concerning the AKP's continued use of its campaign song, was left without consideration on the substance, on grounds, as stated in the decision, that the remedy requested by the complainant, to de-register the party, was not appropriate.

⁷⁰ For instance, issues related to the distribution of mandates and campaigning abroad.

⁷¹ The SBE generally finalized decisions on complaints and appeals between 7 and 10 days after their adoption.

⁷² The SBE does not have legal staff to effectively support the Board in legal matters, including the handling of complaints and appeals. A draft law on the SBE that has been pending in parliament since 2014 includes provision for recruitment of electoral legal experts.

⁷³ Paragraph 5.10 states that everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity; paragraph 18.4 of the 1991 CSCE Moscow

A 2010 constitutional amendment established a right to lodge individual petitions to the Constitutional Court for review of public actions (and inactions) that violate fundamental rights and freedoms within the scope of the ECHR and guaranteed by the Constitution.⁷⁴ On 7 October, the Constitutional Court published its first decisions that addressed whether petitions against SBE decisions in parliamentary elections are within its jurisdiction.⁷⁵ While the court acknowledged that the right to free parliamentary elections is guaranteed by the Constitution and the ECHR, it ruled that SBE decisions are not subject to review, not even by the Constitutional Court, for breach of fundamental rights and freedoms.⁷⁶ This key decision ruled out the remaining opportunity for electoral stakeholders to seek judicial redress in election-related matters.⁷⁷

To provide for an effective means of redress, the Constitution and legislation should be amended to establish a right to judicial review of SBE decisions and inactions. Appropriate deadlines to address election-related disputes should be established to ensure timely remedy. In addition, the Constitutional Court should have jurisdiction in cases against the SBE concerning alleged violations of fundamental rights and freedoms.

XI. CITIZEN AND INTERNATIONAL OBSERVERS

The law does not establish rights for non-party citizen observers and does not provide for international observation as foreseen in paragraph 8 of the 1990 OSCE Copenhagen Document and the Code of Good Practice.⁷⁸ However, the Law on Basic Provisions provides for monitoring of the electoral process by observers nominated by political parties and independent candidates. As established in the law, the vote count can be observed by the public. Two civil society organizations, the Human Rights Association and the Association for Monitoring Equal Rights, applied to the SBE for accreditation to observe the elections; their accreditation was denied for lack of legal basis.

Consideration should be given to amending the legislation to explicitly provide for the presence of observers, both citizen and international, to ensure full compliance with paragraph 8 of the 1990 OSCE Copenhagen Document.

Document states that the participating States will endeavour to provide for judicial review of such regulations and decisions. Section II.3.3 of the Code of Good Practice refers to effective system of appeal.

⁷⁴ All other legal mechanisms available against such actions and inactions must be exhausted prior to lodging an individual petition to the Constitutional Court.

⁷⁵ The decisions had been adopted on 14 July and concerned two petitions submitted during the June 2015 elections; one regarded an SBE decision to deregister a candidate and the other to reject a complaint.

⁷⁶ The decision was based on an interpretation of Article 79 of the Constitution and Article 45 of the Law on the Constitutional Court; the latter provides that actions excluded from judicial review by the Constitution are not subject to individual petition procedure. The decision included three dissenting judges, with two dissenting opinions; two judges concluded that all SBE decisions are subject to review by the Constitutional Court and one dissenting judge concluded that SBE decisions on election disputes are reviewable.

⁷⁷ In the pre-election period, 4 petitions were lodged with the Constitutional Court regarding party and candidate registration and more than 10 others are pending with the court concerning SBE decisions adopted during the June 2015 elections.

⁷⁸ Paragraph 8 reads: “The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law.”

Despite legal constraints, civil society monitoring on election day was vibrant in large parts of the country. As most contesting parties were not able to mobilize large numbers of observers, they handed over thousands of blank accreditation cards to civic organizations. A few groups utilized this opportunity, most notably the organization Vote and Beyond, which was able to recruit and deploy some 57,000 volunteers. All international observers deployed by the OSCE/ODIHR, the OSCE PA and the PACE were accredited by the SBE.

XII. ELECTION DAY AND ANNOUNCEMENT OF RESULTS

In line with the standard OSCE/ODIHR LEOM methodology, the mission did not conduct a comprehensive and systematic observation of election day proceedings. Nevertheless, OSCE/ODIHR LEOM observers visited a limited number of polling stations.

Election day was generally peaceful and in the limited number of polling stations visited by IEOM observers, the voting process was overall organized in an efficient manner. BBC members were well prepared and followed voting procedures overall. All necessary election materials were in place. Many polling stations were located on the upper floors of school buildings making them difficult to access for voters with reduced mobility.⁷⁹ A number of procedural inconsistencies were noted such as signing of voters' lists either before or after casting a ballot. As there is no possibility to replace spoiled ballots or envelopes, each voter mistake in the marking of a ballot resulted in an invalid vote.

To ensure that voters are not unduly disenfranchised, a provision for replacing spoiled ballots and envelopes could be included in the law.

In seven cases, IEOM observers were asked to leave the BBCs, at times by people acting on behalf of electoral contestants.⁸⁰ Following an instruction issued by a Provincial Governor, police officers requested representatives of a citizen observer group accredited on behalf of political parties to provide their identification.⁸¹

Training of BBCs could emphasize the rights of accredited citizen and international observers to observe the electoral process without restrictions. Consideration could be given to providing badges for all BBC members and accredited observers to ensure that only authorized persons are present inside polling stations.

In the limited number of polling stations where IEOM observers were present for the count, the process was assessed as transparent and well organized, although there were some instances of BBC members not following the procedures prescribed by law. In several cases, the results protocols were not posted outside the respective polling stations. The tabulation at several DEBs observed was assessed as orderly and efficient overall, despite being crowded at times.

⁷⁹ All voters of 75 years of age and above are automatically allocated to polling stations located on the ground floor. Voter with disabilities could download a form from the SBE website and submit it to the DEB requesting to be assigned to a polling station with easy access.

⁸⁰ In Koprükoy district, Osmangazi district, Ankara, Eskişehir, Istanbul and Izmir.

⁸¹ IEOM observations in Eskişehir city. The instruction was lifted several hours later on election day.

The electronic aggregation of results was transparent. The input of polling station results into the database maintained by the SBE was monitored in real-time by parties and independent candidates who had online access to scanned protocols and tally sheets from all polling stations and to the preliminary results in each constituency. However, preliminary results were not available to the public.

In line with good international practice, consideration could be given to displaying a countrywide summary and disaggregated preliminary results on the SBE website, which would further enhance public confidence in the accuracy of the tabulation process.

The SBE announced final results on 12 November, which included detailed results broken down by polling station. In total, 81 women MPs (15 per cent) were elected to parliament, which is below the 30 per cent target set by the UN Economic and Social Council. Some 30 appeals were submitted to the SBE by various political parties and independent candidates concerning the results of more than 3,000 ballot boxes and the aggregated results of several constituencies.⁸² Most appeals alleged inaccuracies in the protocols while some claimed errors had occurred in the counting of ballots. Several complaints asserted errors or confusion in the content of ballots.⁸³ The appeals requested recounts and/or cancellation of specified ballot box protocols or consolidated results protocols. On 15 November, the HDP requested the cancellation of the nationwide election results on grounds that the electoral process was not free and fair. The SBE rejected all appeals except two, in which it cancelled 11 ballot box protocols.⁸⁴

XIII. RECOMMENDATIONS

These recommendations as contained throughout the text are offered with a view to enhance the conduct of elections in Turkey and bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed, in particular those contained in the final report on the June 2015 parliamentary elections. The OSCE/ODIHR stands ready to assist the authorities of Turkey to further improve the electoral process and in following up on recommendations contained in this and previous reports.⁸⁵

A. PRIORITY RECOMMENDATIONS

1. To ensure the equality of the vote, the system of seat distribution should be reviewed to address the disproportion in the ratio of citizens to parliamentary mandates.

⁸² Appeals were lodged by the AKP, CHP, HDP, MHP and the Communist Party, as well as by several independent candidates. The consolidated election results from Diyarbakir, Erzincan, Sanilurfa, Van, Tokat, and Istanbul 2 were appealed.

⁸³ An independent candidate claimed confusion in the format of the ballot in Istanbul 2 constituency. In Tokat constituency, the Communist Party and an MHP candidate asserted that the Communist Party mistakenly did not appear on the ballots in one district in the constituency.

⁸⁴ One ballot box protocol in Eskisehir constituency and ten protocols from out of country voting were cancelled.

⁸⁵ In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”.

2. Consideration should be given to revising the system of determining mandates to ensure equality of opportunity between independent and political party candidates.
3. To provide a fully democratic basis for the conduct of elections, the government is encouraged to ensure broad guarantees for fundamental rights and freedoms and the independence of the judiciary. Legislation should be amended to be consistent with fundamental freedoms of association, assembly, expression and electoral rights and be adopted in an inclusive and public consultative manner.
4. Authorities should consider a review of the eligibility requirements for candidates and the provisions on restoration of candidacy rights, to bring them in line with international obligations and good electoral practice. In addition, consideration could be given to amending the threshold to return the electoral deposit.
5. Voters and electoral contestants should be provided with conditions that enable them to promote political platforms and debate public affairs freely and should not be subject to pressure or intimidation. Any instances and allegations of pressure or intimidation should be thoroughly investigated and, if appropriate, prosecuted by the relevant authorities.
6. The legal framework should be amended to bring it in line with international obligations on freedom of expression, including the decriminalization of related offences. In addition, all media-related cases should be dealt with by the respective institutions in compliance with Article 10 of the ECHR on freedom of expression and relevant ECtHR case law.
7. In handling disputes, the SBE should increase its efforts to exercise its authority to oversee and ensure the fairness of the electoral process. The legislation could be amended to provide the SBE with sufficient resources including legal experts, to enable it to effectively implement its responsibilities.
8. To provide for an effective means of redress, the Constitution and legislation should be amended to establish a right to judicial review of SBE decisions and inactions. Appropriate deadlines to address election-related disputes should be established to ensure timely remedy. In addition, the Constitutional Court should have jurisdiction in cases against the SBE concerning alleged violations of fundamental rights and freedoms.

B. OTHER RECOMMENDATIONS

Legal Framework and Electoral System

9. To increase the pluralism and representativeness of the parliament, consideration could be given to lowering the threshold for parties to qualify for seat allocation.
10. The electoral legal framework should be reviewed and amended in line with past OSCE/ODIHR recommendations to address substantive gaps and to enhance its clarity. The SBE should adopt regulations that sufficiently supplement all aspects of the election legislation to ensure a comprehensive and cohesive electoral legal framework.

Election Administration

11. To increase transparency in the election administration, meetings of electoral boards should be open to media and observers.
12. To enhance the overall understanding of the electoral process, the SBE could consider conducting a comprehensive voter information campaign, including in languages other than Turkish.
13. The election administration could consider implementing a comprehensive and standardized training programme for all BBC members, including members appointed by political parties.

Voter Registration

14. To ensure the protection of personal data, consideration should be given to formally regulating the process of sharing the electronic database of voters with political parties and limiting the range of sensitive data made available.

Candidate Registration

15. Consideration could be given to introducing temporary special legislative measures to promote women candidates, including gender quotas and placing women in electable positions on party lists. Political parties could consider nominating a minimum number of candidates of each gender.

Campaign Environment

16. To ensure an equitable campaign environment, consideration should be given to modify the legislation to provide that all campaign prohibitions, including on the misuse of administrative resources and official positions for campaign purposes, apply for the duration of the electoral period.

Campaign Finance

17. In line with GRECO recommendations and international good practice, authorities could consider establishing periodic, timely and transparent reporting of all campaign income and expenditure, and to have such reports publicly available in a timely manner.

Media

18. The impartiality requirement should be clearly defined in the law and overseen by an independent regulatory body, which can act upon complaints or violations in a timely manner. The Law on Broadcasting could be amended to provide for remedies to contestants rather than sanctioning media outlets.

Complaints and Appeals

19. To enhance the election dispute resolution process, the law should establish a framework for campaign-related complaints and concrete and reasonable deadlines for handling election-related complaints and appeals. To enhance transparency, all decisions should be published or posted on the SBE website in a timely manner.

Citizen and International Observers

20. Consideration should be given to amending the legislation to explicitly provide for the presence of observers, both citizen and international, to ensure full compliance with paragraph 8 of the 1990 OSCE Copenhagen Document.

Election Day and Announcement of Results

21. To ensure that voters are not unduly disenfranchised, a provision for replacing spoiled ballots and envelopes could be included in the law.
22. Training of BBCs could emphasize the rights of accredited citizen and international observers to observe the electoral process without restrictions. Consideration could be given to providing badges for all BBC members and accredited observers to ensure that only authorized persons are present inside polling stations.
23. In line with good international practice, consideration could be given to displaying a countrywide summary and disaggregated preliminary results on the SBE website, which would further enhance public confidence in the accuracy of the tabulation process.

ANNEX I: FINAL ELECTION RESULTS

Total number of registered voters	56,949,009
Total number of votes cast	48,537,695
Total number of valid votes	47,840,231
Total number of invalid votes	697,464
Turnout (percentage)	85.23 %

POLITICAL PARTY	In Country	Out-of-Country	Custom Points	TOTAL	Percentage
Nation Party	19,479	185	50	19 714	0.04
Patriotic Party	114,843	3 321	639	118 803	0.25
CHP	11,900,875	177,151	33,786	12,111,812	25.32
Right and Liberations Party	106,565	1,620	398	108,583	0.23
Felicity Party	319,543	5,621	814	325,978	0.68
Democratic Leftist Party	31,523	222	60	31,805	0.07
Democrat Party	68,862	377	80	69,319	0.14
Independent Turkey Party	48,585	589	123	49,297	0.10
MHP	5,602,469	81,076	10,591	5,694,136	11.90
People's Liberation Party	81,207	1,573	277	83,057	0.17
Liberal Democrat Party	25,163	1,573	80	26,816	0.06
HDP	4,914,203	220,059	13,823	5,148,085	10.76
Great Union Party	247,354	5,013	837	253,204	0.53
AKP	22,959,394	647,028	75,504	23,681,926	49.50
Communist Party	50,488	1,919	120	52,527	0.11
DYP	13,676	365	90	14,131	0.03
Independents	51,038			51,038	0.11
General Total	46,555,267	1,147,692	137,272	47,840,231	100

Allocation of Parliamentary Seats

Political Party	Total MPs	Women MPs
CHP	134	21
MHP	40	3
HDP	59	23
AKP	317	34
Total	550	81

Source: SBE decision No. 2310/2015 from 11 November 2015

ANNEX II: LIST OF OBSERVERS IN THE INTERNATIONAL ELECTION OBSERVATION MISSION

SHORT-TERM OBSERVERS

OSCE Parliamentary Assembly

Jose Ignacio	Sanchez Amor	Spain	Special Co-ordinator
Margareta	Cederfelt	Sweden	Head of Delegation
Roman	Haider	Austria	MP
Anton	Heinzl	Austria	MP
Latifa	Ganouchi	Belgium	MP
Veli	Yuksel	Belgium	MP
Ozlem	Ozen	Belgium	MP
Luchezar	Ivanov	Bulgaria	MP
Kiril	Tzotchev	Bulgaria	MP
Romana	Jerković	Croatia	MP
Branko	Vukšić	Croatia	MP
Kyriakos	Kyriakou-Hadjiyanni	Cyprus	MP
Zuzka	Bebarová-Rujbrová	Czech Republic	MP
Ivana	Dobešová	Czech Republic	MP
Soren	Sondergaard	Denmark	MP
Kulliki	Kubarsepp	Estonia	MP
Mart	Nutt	Estonia	MP
Oezcan	Mutlu	Germany	MP
Luigi	Compagna	Italy	MP
Cristina	De Pietro	Italy	MP
Emma	Fattorini	Italy	MP
Federico	Fauttilli	Italy	MP
Marietta	Tidei	Italy	MP
Isabel	Santos	Portugal	MP
Adao	Silva	Portugal	MP
Victor Paul	Dobre	Romania	MP
Rodica	Nassar	Romania	MP
Vasile	Nistor	Romania	MP
Anette	Akesson	Sweden	MP
Peter	Jeppsson	Sweden	MP
Margareta	Kiener Nellen	Switzerland	MP
Simon	McGuigan Burns	United Kingdom	MP
Milovan	Petković	Croatia	Staff of Delegation
Silvia	Demir	Czech Republic	Staff of Delegation
Giuseppe	Trezza	Italy	Staff of Delegation
Irina	Alecu	Romania	Staff of Delegation
Anca	Constantin	Romania	Staff of Delegation
Daniela	Aregger	Switzerland	Staff of Delegation
Andreas	Baker	Denmark	OSCE PA Secretariat

Loic	Poulain	France	OSCE PA Secretariat
Francesco	Pagani	Italy	OSCE PA Secretariat
Gustavo	Pallares	Spain	OSCE PA Secretariat
Iryna	Sabashuk	Ukraine	OSCE PA Secretariat
Robert Spencer	Oliver	United States	OSCE PA Secretariat
Janice	Helwig	United States	US Helsinki Commission Staff

Parliamentary Assembly of the Council of Europe

Andreas	Gross	Switzerland	Head of Delegation
Carles	Jordana Madero	Andorra	MP
George	Loukaides	Cyprus	MP
Eerik-Niiles	Kross	Estonia	MP
Josette	Durrieu	France	MP
Elena	Centemero	Italy	MP
Paolo	Corsini	Italy	MP
Birutė	Vėsaitė	Lithuania	MP
Tiny	Kox	Netherlands	MP
Ingebjorg Amanda	Godskesen	Norway	MP
Ion	Popa	Romania	MP
Ionuț-Marian	Stroe	Romania	MP
Nataša	Vučković	Serbia	MP
Anže	Logar	Slovenia	MP
André	Bugnon	Switzerland	MP
Alfred	Heer	Switzerland	MP
		The former Yugoslav	MP
Imer	Aliu	Republic of Macedonia	
Richard	Balfe	United Kingdom	MP
Volodymyr	Ariev	Ukraine	MP
Iryna	Gerashchenko	Ukraine	MP
Yuliya	L'Ovochkina	Ukraine	MP
Olena	Sotnyk	Ukraine	MP
Srdjan	Darmanović	Montenegro	Venice Commission
Amaya	Úbeda de Torres	Spain	Venice Commission
Anna	Kolotova	Belgium	Secretariat
Sylvie	Affholder	France	Secretariat
Nathalie	Bargellini	France	Secretariat
Danièle	Gastl	France	Secretariat
Sevda	Gündüz	France	Secretariat
Denise	O'Hara	Ireland	Secretariat

Long-Term Observation Mission

OSCE/ODIHR LEOM Core Team

Geert-Hinrich	Ahrens	Germany	Head of Mission
Damir	Malbašić	Bosnia and Herzegovina	
Marla	Morry	Canada	
Wayne	Pilgrim	Canada	
Elma	Šehalić	Germany	
Jurga	Lukšaitė-Roehling	Lithuania	
Konrad	Olszewski	Poland	
Joanna	Porczynska	Poland	
Branko	Živanović	Serbia	
Martina	Barker-Cigániková	Slovakia	
Polyna	Lemos	United Kingdom	

OSCE/ODIHR Long-Term Observers

Roman	Stanek	Czech Republic
Karin	Bergquist	Denmark
Paavo	Pitkaenen	Finland
Veronique	Lasserre-Fy	France
Petra	Bornhoeft	Germany
Gerd	Gersbeck	Germany
Christine	Radomsky	Germany
Barbara Marion	O'Shea	Ireland
Bosko	Milovic	Montenegro
Linda	Beijlsmit	Netherlands
Michiel	Irish'Stephenson	Netherlands
Yasir	Iftikhar	Norway
Anne	Skatvedt	Norway
Roger	Brandin	Sweden
Vida Koren	Holm	Sweden
Mats	Melin	Sweden
Alison J.B.	Sutherland	United Kingdom
Sue	Trinder	United Kingdom

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal 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 Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it coordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights** and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/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.

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

More information is available on the ODIHR website (www.osce.org/odihr).