



## **THE DOMESTIC ELECTION OBSERVATION IN TURKEY: SHRINKING SPACE FOR THE INDEPENDENT CIVIL SOCIETY ORGANIZATIONS**

**EPDE/Istanbul-Berlin,  
May-June, 2017**

### **1. Summary**

The level of participation of civil society organizations in public administration in Turkey has always distinguished itself by being high among the Middle East and other Muslim countries. Over the past 25-30 years the local and national civil society groups contributing to the solution of society's problems have been formed in the country. Mostly, with the help of the national internal financial sources - voluntary donations and contributions from the business sector, these institutions have made significant progress in solving social problems, environmental and nature conservation and charity activities, along with the protection and promotion of human rights and freedoms. The areas where the civil society organizations in Turkey have recently joined include active involvement in the election process, voter education and domestic election observation.

The purpose of this report presented by EPDE is to evaluate the role of the civil society organizations in the electoral process in Turkey, in which there has been a dramatic decline in the protection of human rights and freedoms in recent years, particularly the challenges, opportunities and dangers associated with domestic election observation.

Within the current political environment in Turkey the report covers the opportunities for the CSOs to function, domestic election observation and participation of independent CSOs in this process, challenges and successes they encounter, as well as the necessary conditions and recommendations on the development of domestic election observation for the upcoming elections.

### **2. Legal and political environment for domestic election observation**

Unlike the observers representing the political parties working in Turkey, the independent and impartial domestic election observation tradition does not have a long history. The main reason for this is having trust and confidence in the outcome of the election among the political forces in the country for decades. However, in the run-up to municipal elections in 2014, complaints about the abuse of administrative and financial resources have raised the importance of independent election observation. During the 2015 parliamentary elections and 2016 referendum the restrictions on the political freedoms, weakening of the alternative and oppositional views in the media in favor of the ruling political party have made it necessary to organize the independent election observation in the long-term and short-term order.

The tradition of independent domestic election observation in Turkey has begun to form in the last 10 years. Prior to the referendum held on 12 September 2010, the political parties and party blocs were mainly engaged in domestic election observation in the country.

However, public interest in the referendum on September 12, 2010 has led some civil society organizations to monitor next parliamentary elections. For example, the Turkish Association for Monitoring Equal Rights (AMER) expressed their views<sup>1</sup> by observing the 2011 parliamentary elections with very other NGOs in Turkey. Meanwhile, a serious need for domestic election observation in Turkey and for its public support rose during the parliamentary elections in 2011 and the municipal elections held on March 30, 2014. Prior to the elections, statements about strengthening government control over social media, abuse of administrative resources by the ruling political party and winning voters over through tempting means by the ruling party increased the interest of civil society organizations in the domestic election observation.

While the Turkish election law does not prohibit the accreditation of independent election observation teams and civil society organizations in the Supreme Electoral Council (SEC), the relevant article of the law deals with the registration of political parties, party blocs and observers representing candidates in the process of observation.<sup>2</sup>

Starting with the 2013 Gezi Park protests, the process of gradual restrictions on the democratic freedoms in Turkey has begun. Following the military coup attempt of July 15, 2016, the State of Emergency has contributed to further stifling the political freedoms. Particularly, the activities of political parties, civil society organizations and mass media were restricted as a result of stifled freedom of expression, freedom of assembly and association. Over the past one year, the massive political repression in the country has resulted in the dismissal of about 150,000 people, involvement of about 100,000 individuals in the investigation process as defendants or suspects, imprisonment of nearly 40,000 people, and suspension of more than 1500 CSOs' activities, as well as the closure of more than 150 media outlets.

During the referendum on 16 April 2017, the SEC made a number of decisions restricting the political freedoms, limiting the participation of the CSOs and the political parties unable to collect high election votes during the recent parliamentary elections in the referendum. This limitation was about failing to provide participation opportunities in the pre-referendum campaign and accreditation opportunities as an observer in the election commission in the referendum process. The requests for accreditation to the SEC as an observer were denied for two CSOs - the Human Rights Association of Turkey and AMER.

In general, the political repressive environment created before the referendum ended with a significant number of CSOs' suspension in Turkey, with some CSOs reducing their activities and creating an atmosphere of fear in this sector, negatively affecting the public participation and citizen participation in the referendum.

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<sup>1</sup> For more information: <http://www.esithaklar.org/xxivth-term-parliamentary-elections>

<sup>2</sup> See: Article 25 of the Turkish Election Law No. 298

### 3. Domestic election observation on referendum

As independent domestic election observation in Turkey has been a newly formed activity in recent years and the political repressions following the recent coup d'etat attempt has weakened the civil society, the domestic election observation in Turkey faced serious tests and experiences during the referendum on April 16, 2017.

#### **The CSOs active in the referendum:**

Since 2011 together with other civil society organizations in Turkey, AMER seeking to establish independent election observation in Turkey<sup>3</sup> has contributed to the formation of a broad and consistent election monitoring tradition over the past seven years. The Independent Election Monitoring Platform, formed with the initiative of this organization, currently unites 46 CSOs.

The association closely cooperating with the AMER on independent election observation is TIHD<sup>4</sup> that has largely been involved in legal assistance. In particular, it makes statements on politically motivated arrests and the detention facilities in prisons. During the recent elections these two institutions worked together on the Independent Election Monitoring Platform and received humanitarian assistance from various CSOs throughout Turkey. Although the coalition includes 46 institutions, they were able to observe the election process with a total number of 767 observers in 14 provinces on the day of referendum on April 16.

In addition to the aforementioned organizations, two major coalitions Oy ve Ötesi<sup>5</sup> (Vote and More) and Hayir ve Ötesi<sup>6</sup> (No and More) made the observation of the elections in Turkey in the last two years. These coalitions were formed by the leaders and activists of different civic groups, were mainly engaged in increasing voter turnout on the eve of elections, voter education and the establishment of public control over the electoral process.

Although TIHD, AMER, Helsinki Citizens' Assembly<sup>7</sup> and the Human Rights Foundation<sup>8</sup> known as human rights organizations in Turkey, whose activities are not specifically directed at elections, have participated in the preparation of statements, reports and positions on the protection of political freedoms and politically motivated arrests during the referendum.

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<sup>3</sup> AMER has been engaged in election observation since 2010 and until now has been observing 6 elections. It is a member of GNDEM, has made an effort to become a member of ENEMO. Generally, AMER is involved in human rights' defence, the protection of the rights of national minorities and LGBT rights issues. Mr. Nejat Taştan, co-founder and election monitoring coordinator of AMER was arrested on 5 July 2017 with other human rights defenders in Turkey. For more information about AMER: [www.esithaklar.org](http://www.esithaklar.org)

<sup>4</sup> TIHD is a human rights organization and provides legal analysis. It mostly deals with legal assistance. However, because of the pressures on the lawyers defending the activists and the arrested political officers during the OHAL period, some officers of the association were arrested.

<sup>5</sup> For more information: [www.oyveotesi.org](http://www.oyveotesi.org)

<sup>6</sup> For more information: [www.hayirveotesi.org](http://www.hayirveotesi.org)

<sup>7</sup> For more information: [www.hyd.org.tr](http://www.hyd.org.tr)

<sup>8</sup> For more information: [www.tihv.org.tr](http://www.tihv.org.tr)

### **Political environment and public interest for voluntary observation:**

The domestic civil society organizations' and international organizations' statements on the evaluation of political freedoms during the referendum show that the increasing pressure on the freedom of expression and freedom of assembly in Turkey over the past five years, and the growing political repressions during the last year's state of emergency period, has had a negative impact on the civic engagement in the election period, including the implementation of domestic election observation. In particular, the activities of CSOs that were able to involve citizens in this process in the regions during the state of emergency period were either suspended or forbidden. For example, there were about 167,000 polling stations in Turkey for more than 58 million voters, whereas the polling stations where independent election observers made their reports were about 20,000 (12%). However, the location of observers was not based on following the national representation, but on the basis of the voluntary observers' location or will. In general, the organizations engaged in election monitoring interpreted the fewer number of independent observers on the election day as because of the restrictions on the domestic election observation campaign.

As an argument bringing forward the absence of provision on independent observation in the Turkish Election Law, the SEC only accepts applications for election observation from political parties, but CSOs are not entitled to this right. Therefore, the coalitions, such as "Oy ve Ötesi" and "Hayır ve Ötesi" were striving to get their observers registered on behalf of the political parties to be able to obtain an observer card. Such a legal situation prevents the independent election observation teams from taking part in the Turkish electoral system. However, unlike the previous elections, monitoring activities of civil society organizations in the 2015 parliamentary elections and 2017 referendum resulted in the development of the domestic election monitoring institute in Turkey and gaining public confidence for it. In particular, in the past year, when up to 20,000 citizens have expressed their interest in independent election monitoring in the period of increasing political pressures on freedom of expression and freedom of assembly, this may serve as an example of public interest in this area.

### **Independent Election Observation Methodology**

Without making due observation and evaluation of the pre-election political environment, the assessment of the election law, investigation of the election-related complaints, voters' registration, the candidates' registration, and the pre-election campaign, "Oy ve Ötesi" (Hayır ve Ötesi in the last referendum) known as independent civil society groups continues its activities by involving a number of people largely in the form of establishing massive public control on the election day.

Unlike AMER and IHADE, the activities of both coalitions were related to the observation of election monitoring, temporarily and periodically, with the crowdsourcing<sup>9</sup> method. Another specific aspect about the activities of these institutions is the fact that the

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<sup>9</sup>Unlike the traditional election observation, crowdsourcing type of observation envisages gathering information and complaints on the election process via the SMS or Internet. With this method the online communication with citizens in an easy and inexpensive way during the observation does not allow to monitor the accuracy and impartiality of the information entered.

observers representing these coalitions during both the 2015 parliamentary elections and the 2017 referendum registered not as independently, but as observers at the Supreme Electoral Council on behalf of the opposition political parties in Turkey, thus, casting doubts on the neutrality of the election observation.

Among other election observation teams AMER is the only CSO striving to monitor and evaluate on the basis of the election observation methodology by the OSCE/ODIHR. However, the low number of long-term and short-term observers of the AMER does not allow this body to make statistically-based observation on all stages of the election process. As a reason for this, the AMER has mentioned the negative impact of political pressures on the civic engagement in the country, the problems with current election legislation and lack of financial resources.

Despite establishing the Independent Election Monitoring Platform (IEMP) as one of the achievements of this organization, it is unfortunately not widely reported in the local and international public circles that such a large coalition existed. Generally speaking, although IEMP is mentioned in AMER's reports based on the results of the election monitoring, the election documents are not disseminated on behalf of this coalition.

On the election day the CSOs in Turkey are placing the independent observers not on the basis of the national representation (polling stations, constituencies and statistics of the regions), but either on the observer's place of residence, or the polling station selected with their own choice. This way, unlike the large cities where civil society organizations are more active, the long-term and short-term observation of the election process in remote areas and small towns are poorly ensured by independent observers. The sustained and planned initiatives of the domestic election observation teams to eliminate the violations noted between the elections and following the elections, in particular, improving the electoral system in Turkey are unclear. In this regard, in terms of implementation of the recommendations made by both the local election observers and the observer groups representing international organizations (OSCE/ODIHR and the Council of Europe Parliamentary Assembly), the efforts of the civil society groups in the upcoming period are topical.

### **Lack of financial resources on the Domestic Election Observation**

The key shortcoming of the CSOs implementing their programs through national and foreign donors on election observation over the past five years is that they cannot be financially sustained. The growing political pressures in the recent years have also diminished the allocation of financial assistance by independent businesspeople to humanitarian and social activities. As the number of businesspeople providing financial assistance to the socio-politically significant processes, such as elections, "Oy ve Ötesi", "Hayır ve Ötesi" made the election observation with very little national funds and the AMER and TIHD mainly through external funds. The number of foreign foundations providing sustained financial support to these organizations is low.

However, regarding the overseas financial assistance in accordance with the Turkish national legislation, there is a rule as a commitment to set out an excerpt from the online database on registering grants under the Ministry of Internal Affairs and notifying the ministry about the registration.<sup>10</sup> The organizations that do not follow this cannot carry out financial transactions for their grants. However, the existence of this requirement and rule is dangerous in terms of the possibility of independent organizations' being subjected to political pressures by the authorities in times of current political oppression.

#### 4. Recommendations

The OSCE/ODIHR and the PACE observation missions report in a joint statement on Turkey's April 16, 2017 Referendum that ***“Voters were not provided with impartial information about key aspects of the reform, and civil society organizations were not able to participate. Under the state of emergency put in place after the July 2016 failed coup attempt, fundamental freedoms essential to a genuinely democratic process were curtailed”.***

The above-mentioned approach of the two European prestigious organizations regarding the current state of the electoral system in Turkey necessitates realizing reforms in this country in terms of forming a democratic political environment and improving the electoral process. In this respect, Turkey's current political ruling power should be a reformer by demonstrating the political will. However, the civil society organizations are also responsible for the elimination of the violations noted during the election system. In this regard, it is important that CSOs make both the public initiatives before the next elections and achieve the establishment of close public control over the electoral process through the independent domestic election observation in the next elections in Turkey. For the civil society organizations in Turkey to achieve success in the following two areas there is a need for the support and initiatives of the international organizations and NGOs:

##### **a) International support to improve the electoral legislation**

The 1990 OSCE Copenhagen Document considers domestic election observation in the participating countries as an important commitment to ensuring transparency in the election process. In this respect, it should be specified that the provisions of the domestic election observation in Turkey's electoral legislation should be applied to the civil society organizations along with political parties, and the adoption of the relevant legal normative act by a decision-making institution should be ensured. From this point of view, by considering the views of the OSCE/ODIHR and the Venice Commission of the Council of Europe, calls should be made upon to the Turkish parliament by the international organizations, including the CE and European Union structures and the question of improving the legislation on local observation should be highlighted.

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<sup>10</sup> For more information: <https://www.dernekler.gov.tr/tr/ebulten/duyurular/5253-sayili-yardim-toplama-kanunu-degisiklik.aspx>

## **b) International support for the protection of freedom of association**

In addition to the laws regulating the CSOs' activities in Turkey, it is important to democratize the general political environment and to stop political persecution against CSO activists. As the political prosecutions that had started in the country before the last referendum resulted in the impoverishing or suspension of up to 1500 CSOs' activities, the chances to participate in the political life of the country has been limited. Thus, in terms of strengthening the activities of CSOs - the core institutions of a participant democracy, the international organizations, including the PACE need to make a separate assessment not only in the election period, but also in the period between the elections.

## **c) Capacity-building on independent domestic election observation**

Since the domestic election observation for the CSOs with a historic tradition and experience in human rights defence in Turkey is a new area of activity, the achievements of a number of the Eastern and Central European countries in this area can be taught to the CSOs in Turkey. In particular, the long-term and short-term election observation on the statistically based observation method that is internationally promoted by the US National Democracy Institute and for this matter, the use of modern IT tools should be encouraged for the Turkish CSOs. It is important to involve the local election monitoring institutions in exchange of experience with regional NGOs to encourage more sustainable and dynamic activity of organizational development, in particular, coalition building and governance. For the CSOs in Turkey to hold independent, impartial and sustained domestic election observation, there is a need to improve their organizational development and election observation capacities, as well as for the CSOs to be able to ensure their financial sustainability they need technical support by the international election organizations. The experience and technical capabilities of the organizations, such as US NDI, EPDE, ENEMO, IDEA and IFES can be used in this area.

## **d) Involving the election observation teams into regional and international cooperation**

The involvement of the Turkish CSOs working in domestic election observation in cooperation with two NGO coalitions in Europe - ENEMO and EPDE, and the future admission to membership is crucial for gaining an international expertise in this area. Amongst the CSOs working in Turkey at present, the AMER besides being a current member of GNDEM, is striving to cooperate with ENEMO and EPDE, making efforts to take advantage of the international experience. The IHADE that is interested in international cooperation may also be invited to participate in seminars, conferences and other events on strengthening capacities for the domestic election observation.

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