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**Analysis Report No: 4**

**Funding of Politics and Election Campaigns:**

**COMPETITION, TRANSPARENCY AND ACCOUNTABILITY**

**Prof. Dr. Ömer Faruk Gençkaya**

## >> PROLOGUE

It is the basic right of the citizens in a democracy where they are the final decision-makers, that they are accounted for knowing the financial source of the political parties, constituting the social dynamics, to maintain their existence, for knowing how they spend the budget they possess, and how they are audited. Funding the politics influence the democracy, governance and economic life drastically, covering the citizens, politicians, and businessmen. We entered the period of general elections of 2015. As the **Checks and Balances Network** we strongly believe that transparency of politics and of funding the election campaigns should be the primary rule to cover all the election period.

This report hereby is the fourth edition of the analysis reports series of Checks and Balances Network . As Checks and Balances Network, under the light of targeting a stronger democracy, we publish the barometer political documents, analyses and reconciliation reports. During the preparation of this document, we have based on the international agreements, European Union criteria, OSCE (Organization for Security and Co-operation in Europe) principles, GRECO (Group of States against Corruption) recommendations, Venice Commission benchmarks, good governance applications, and other international standards.

**Checks and Balances Network is a movement struggling for a stronger participatory and pluralist democracy in Turkey.** Our Network, representing the different conceptions of the world, lifestyles, and political choices, consisting of 242 NGOs as of the date of publication of this document, has the mission to empower the democratization process in Turkey.

Regarding the funding the politics, transparency and accountability tools have been adopted and have started to be applied in many democratic countries, within close relation to the European Council, European Union and other democratic countries' standards and applications. Additionally, **the troubles rising from the process of funding the politics are still threatening the political and economical systems by disturbing the stability and trustworthiness. In contrast with the imperative provision of the amendment of Turkish Constitution in 1995, funding the candidate campaigns is not subject to any regulation, except for the Presidency elections.** As highlighted in GRECO (Group of States against Corruption) recommendations, there are problems in "transparency and effective application mechanisms" in Turkey.

Many studies have so far been conducted about the legislative regulations related with the budget expenses of the political parties, especially the expenses during the election periods. **Yet, there has been no study to cover everything and enlighten the existing situation.** The method of this analysis report covers the description of the problematic areas in a conceptual and legal framework, discussion under the light of case studies, and presentation of "good practices" in democratic countries. The problems in question have been determined as a result of face-to-face in-depth interviews with political parties, deputies, retired politicians, business world, non-governmental organizations, press representatives, and experts. 23 female, 27 male, 50 people with sufficient knowledge and experience about the funding the politics and election campaigns have constituted the sample for the scope of this study.

We would like to thank Prof. Dr. Ömer Faruk Gençkaya for the preparation of this comprehensive analysis report about the funding the politics and election campaigns. The aim of this report is to picture the current situation about funding the politics and election

campaigns, under the light of the results achieved based on the international principles, in Turkey and open this topic for public discussion. As Checks and Balances Network, we hope that this analysis report will contribute to the existing studies about the transparency of the funding the politics and election campaigns.

## SUMMARY

### FUNDING OF POLITICS AND ELECTION CAMPAIGNS:

#### COMPETITION, TRANSPARENCY AND ACCOUNTABILITY

- **Electoral Threshold** is an effective factor in funding the politics. In the current situation, the parties which are unlikely to pass the electoral threshold have less chance to monthly membership dues and provide sponsorship. Shortly, these parties can benefit from the state funds in fair and equal way; however, it is more difficult for them to acquire other means of funding.
- **Constitutional Court** solely audits the documents and information which only cover the registered income and outcome; thus, the parties, especially before the elections, are tended to utilize the non-registered financial sources.
- **Possessing a Communication Instrument** constitutes one of the major problems in funding the politics. It has been observed that the parties and candidates competing with each other cannot benefit from the state TV and radio equally and justly.
- **Transparency** shall be taken into account in funding the politics both as a principle and as a process. It is obvious that the donations, expenses and their auditory processes are not shared in detail and in transparency with the public; and that the accountability is not efficiently provided in terms of parties receiving support from the state.
- One of the most important problems blocking the healthy competition in elections is perhaps the gender inequality for the candidationship. Women, constituting the 50% of the society, are limited to participate to politics directed by the official and unofficial “patriarchal” rules of the society, which results in their insufficient representation.
- **New legislative regulations and amendments** are highly needed to correct the above mentioned problems to some extent.
- As a result of the partial structure and inefficient registration, monitoring and auditing processes of the social supports conducted by either central governments or local managements or social welfare institutions, political inducement occurs in the elections.
- **Politics – business world – press** relationships bring about unfair competition conditions as well as creating off-the-record funding sources.

- Administering negative propaganda without complying with the ethical rules during the election campaigns, utilizing all kinds of public and private tools for this reason popularizes the relationships for self-interest which will result in corruption and informality.
- **Efficient non-governmental organization** supervision is needed as well as the “objectivity” and “independency” of the organizations and institutions to conduct official monitoring and auditing of funding the politics.

Many factors, primarily the election system, are effective for a competitive political (party) system; yet, financial sources are prominent among these factors. Consequently, funding the politics is an important element to provide the equality of opportunity in politics. Within this context, the provisions of European Convention of Human Rights about the freedom of expression (Article 10), and freedom of organization (Article 11) and organizing elections freely and in order (Protocol 1, Article 3) shall be taken into consideration.

#### FUNDING OF POLITICS AND ELECTION CAMPAIGNS:

#### COMPETITION, TRANSPARENCY AND ACCOUNTABILITY

Prof. Dr. Ömer Faruk Gençkaya,

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Funding the politics is an important element to provide the equality of opportunity in politics.

Funding the politics is important in democratic systems for two reasons. First of all, political parties and candidates to take part in the elections are the important elements of the democratic process. Secondly, funding the political parties could easily result in corruption. Covering the developed and established western democracies, it is observed that the funding the politics and election campaigns cause increase in the unofficial and illegal financial sources. Funding the politics affects the democracy, governance, and economical life, covering the citizens, politicians and the business world. In other words, transparency in funding the politics is regarded as a priority.

Beyond being an issue of statement, funding the politics is related to many different and interactive subjects. Many issues, ranging from utilizing the public sources on behalf of one party or candidate or against the opposing parties in the election campaigns to affecting the third party campaigns, should be taken into consideration. Along with the political system in

a country, especially election system and candidate determining methods greatly determine the quality and scope of the politics and the election campaigns. Presidential or Semi-presidential systems and Parliamentary systems create the financial models based on political parties or candidates. Undoubtedly, it is possible to claim that there is a mutual relationship between the economic model and models of funding the politics in a country.

While corruption and similar activities result in a close relationship between informality and political process, they make accountability, an indispensable factor in democracies, less important within the process. Corruption penetrates in different areas in society through money. While the public sources are exploited, inequalities during the re-distribution of the sources are becoming more common.

Another process which is as important as fighting the corruption is to localize and interiorize the democracy with its each and every tool. Freedom of expression and opinion, an environment of egalitarian and competitive participation provide a democratic representation. With the purpose of minimizing the private goals in politics, unequal and unfair distribution of state support to political parties and candidates could result in various problems. On one hand, cartel parties the statement of income of which highly consists of state support are hindered to be established or developed by regulating the rules on their own behalf. On the other hand, opposition parties cannot find donations since they would have little or no power to determine the state policies and since they have little chance to accede to power.

Many factors, primarily the election system, are effective for a competitive political (party) system; yet, financial sources are prominent among these factors. **Consequently, funding the politics is an important element to provide the equality of opportunity in politics.** Within this context, the provisions of European Convention of Human Rights about the freedom of expression (Article 10), and freedom of organization (Article 11) and organizing elections freely and in order (Protocol 1, Article 3) shall be taken into consideration.

Need of financial sources are increasing not only during the election campaigns, but also during the period between two elections. Money is effective both converting the economic power to political power, and creating an individual or collective effect and power in politics. More importantly, the acceding parties which have the decision-making and application authority in each level – local, regional, national, and international – could convert the non-financial sources they possess, such as employment to “political money” thanks to their authority.

Advanced technology and strategies are commonly applied during the election campaigns. Private radio and TV channels, social media and other “independent” means of communication could be “pressed” by the acceding parties through their monitoring and auditing tools, or these communication sources could be used as “one-sided propaganda tool”.

Before the elections, the methods and rules take over the politics constituting preliminary undemocratic and anticompetitive problems, majorly “gender inequality” during determining the candidates. The chosen candidates rather represent the party council –

mainly the party leader – which chooses him as a candidate, other than the electors who will vote for him. This situation is so common that not only the catch-all parties, whose aim is to attract all the electors in the society, but also the parties specific to one fraction of the society lose their democratic structure and turn into “commercialized” companies. In other words, politics turn into benefiting from public sources “easily” from creating freedom of expression and opinion and establishing public policies.

With the purpose of protecting the political parties from serving “personal” profits, the policy of state support, which began to be applied right after the Second World War to spread the democracy to the public and to support the women and youth activities, has turned into a tendency for centralization in political parties and caused them to nationalized.

First in 1883 in the United Kingdom, the expenses of party candidates in a specific region were limited by Corrupt and Illegal Practices Act. At the beginning of the twentieth century, the progressive era in the United States tried to wipe out the effect of big companies over the federal elections. With the start of right to vote and stand for election, the state support has started to be regulated in democratic countries by laws through the statement of electoral expenses and donations.

As in the constitution amendment made in 1995, the election campaigns except for the Presidential elections are not subject to any regulations.

The first regulation about the funding the politics in Turkey is related to radio usage in election campaigns in Press and Media and Tourism Directorate General Law numbered 5392 in 24<sup>th</sup> of May, 1949. Later on, with the legal regulations in 1965, 1974 and 1984, state support was made available for political parties. Specifically, the regulations made in Political Parties Law numbered 2820 became the political directive in various periods. Lastly, the state support criteria have been amended with the regulations made in 2005 and in 2014. In the meantime, the peaks of state support have constituted subjects of different cases either in Constitutional Court or in European Convention of Human Rights. As in the constitution amendment made in 1995, the election campaigns except for the Presidential elections are not subject to any regulations.

As a result of corruption and political scandals, many democratic countries have adopted and started to apply transparency and accountability tools under the light of applications in the European Council, European Union and other democratic countries. Nevertheless, the problems arising from the process of funding the politics threaten the political and economical systems, distorting the stability and trustworthiness.

Within this process, it is important to administer monitoring, auditing and accountability tools efficiently and objectively. Weakening principle of separation of powers, misuse of authority for the personal profits, not being able to investigate the violations thereby invalidates the regulation in this area. In short, efficient application mechanisms need to be administered.

Furthermore, supporting the informality through policies for social benefits (social aids) results in inefficient regulation and investigation of these services. Transparent, open and accountable social aids from the central government and their local governors would decrease the systematic uncertainties and problems. That the corruption becomes systematic due to lawlessness and lack of inspection hinders transparency and accountability in politics to rise as a demand.

Considering many problems mentioned above, the latest universal developments about the funding the politics largely focus on readjustment of private and anonymous donations, increasing the state support, determining the upper limits of expenses, and income statements of parties and candidates. About these issues, many international documents, such as The United Nations Convention Against Corruption (2003), the Council of Europe Committee of Ministers Recommendation (2003), Parliamentary Assembly of the Council of Europe Advisory Jurisdiction (2001), Venice Commission Finance Manual of Political Parties (2001) and the European Security and Cooperation Organization for Democratic Institutions and Human Rights with Unit Guidance on the Regulation of Political Parties prepared with the Venice Commission (2010) and Transparency International Policy Document (2005/2) constitute directive applications and principles. GRECO (Group of States against Corruption) European Council tackled with the funding the politics as the second theme of 3<sup>rd</sup> Stage Evaluation of the corruption in 49 council member states. As a result of evaluation of the countries that cover Turkey as well, recommendations have been provided to these countries in terms of “good” and “bad” practices.

As mentioned above, funding the politics and election campaigns has been the topic for many regulations in Turkey so far. As emphasized in GRECO recommendations, there are problems in “transparency and effective practice” processes. The “transparency package” issued by the current government in January 2015 included crucial provisions with this regard. However, negotiation of this package has been postponed to a date after the 2015 general elections, in other words, it was “rain checked”.

This study specifically focuses on the topic of funding the election campaigns of political parties and candidates especially in the general elections in Turkey. The method of this analysis report covers the description of the problematic areas in a conceptual and legal framework, discussion under the light of case studies, and presentation of “good practices” in democratic countries as a result of face-to-face in-depth interviews with political parties, deputies, retired politicians, business world, non-governmental organizations, press representatives, and experts. The target of this study is not to develop recommendations within this regard.

Below this paper, first the relationship between the political system (presidential system versus parliamentary system) and the funding the politics will be discussed. Then problematic areas will be explained in detail under the titles of competition (acceding party (parties) versus opposing parties, non-represented parties, party candidates and

independent candidates – male and female candidates etc.), transparency (statement, audit and publishing of funding sources), and accountability (interior and exterior).

## **1. POLITICAL SYSTEMS, ELECTORAL SYSTEMS AND MODELS OF FUNDING THE POLITICS**

Separation of powers, definition and scope of electoral system is an important instrument in funding the politics in a democratic country. In this context, the presidential system makes the political parties less important due to its candidate-oriented structure and majoritarian electoral system. The best example of this model is the candidate-oriented practice in election campaigns in the United States. In this model, the elector directs to the candidate rather than the party, thus, he wants to learn the source of income of the candidate. Therefore the candidate shares his statement of income with the public.

In parliamentary systems, the presidential, parliamentary and regional elections may have different systems. In parliamentary system, there are political parties with strong interior discipline. The rank of the candidate in the lists is determined by the party administration. Generally, “party-oriented” election campaigns are conducted rather than “relative” or “majoritarian” methods. In first-past-the-post and preferential election systems, candidate-oriented funding system is valid; while party-oriented funding system is valid in relative representation systems. This is related to who is responsible for preparing and presenting the campaign accounts. In mixed and preferential election systems, the form of funding may change in accordance with the potential of candidates for conducting a campaign independently from their parties. Since the campaigns are managed by parties, the candidates do not make a venture or take part in activities during the campaigns, which mean they are free riders. In preferential systems, the possibility to win the elections is tied upon the decision of the elector, which leads the candidates to conduct more campaign activities than their parties.

As run by a parliamentary system, funding the politics is utterly party-oriented in Turkey. The Amendment funding the election campaigns of parties and candidates in Constitution in 1995, with the Law numbered 6271, an obligation of receiving donations independently from their parties and declare these sources to the audit of SCE (Supreme Committee of Elections has been brought about to presidency candidates. As for the general and local elections, there have been no regulations yet.

## **2. FUNDING THE POLITICS AND MAJOR PROBLEMS IN TURKEY**

In Turkey, funding the politics is mentioned in numerous regulations, such as the Constitution, Fundamental Provisions for the Elections, Law numbered 298 about Registration of Electors, Law numbered 2820 about Political Parties, Law numbered 2839 about Elections of Deputies, Law numbered 2972 about Elections of Local Administrations, Village and District Administrations, and Board of Alderman, Law numbered 6271 about Elections of President, etc. Managing the elections (organization, auditing and enforcement) is under the authorization and responsibility of city and district boards of election, under the



supervision of Supreme Committee of Elections (SCE) within the framework of Law numbered 298. Related to funding the politics, The Constitutional Court performs the supervision of political parties with the aid of Court of Accounts in accordance with the provisions of Law numbered 6216 about Establishment and Adjudicatory Procedures of the Constitutional Court. Chief Public Prosecutor's Office monitors the political parties within the framework of Law numbered 2820. The Supreme Board of Radio and Television monitors the advertisement and propaganda of political parties on TV and on radio and reports it to the Supreme Committee of Elections, within the framework of Law numbered 6112 about Establishment and Broadcasting Services of Radio and Televisions. The Committee imposes sanction on violations with this regard.

The scope of the funding the politics consists of many registered and unregistered sources. Among the registered sources can be mentioned what is counted (membership dues, candidation dues, donations and state support, etc.) in the Law numbered 2820 (Article 61) and expenses done by SCE for the superintendence of the elections, and the allowances and travelling fares given to the elected in all levels.

Supreme Election Committee expended 246,3 million for 2011 parliamentary elections and expended 211 million for local government elections and 194 million Turk Liras for president elections made in 2014. It expected that the Supreme Election Committee will expend 500 million Turkish Liras for management and administration of 2015 parliamentary election.

Pursuant to 26 October 1990 dated Law Nr.3671, the parliamentarians shall benefit from all the payments from which the highest state officials have benefitted and they shall have the travelling allowance as much as the half of this amount. They have 15.000 TL of travelling allowance and subsidy in 2015. The retirement salary is 8,190 Turkish Liras. The parliamentarians who have completed their 25 years at least shall have the retirement salary well. It has been known that almost 400 of the parliamentarians in 24. Period of Grand National Assembly of Turkey have the allowance travelling allowance and subsidy and also the retirement salary.

Pursuant to the decision of Supreme Election Committee published in 14 April 2015 dated Official Gazette, 13 of 20 politic parties shall participate in the Parliamentary Election to be made in 7 June 2015 in 85 election districts. Other parties have submitted their list of candidates in between 43 and 75 election districts. In addition, 166 independent candidates have made application in various election districts.

## **2.1. COMPETITION**

The democratic systems are defined as open, fair, competitive and accountable structures. There are various elements which ensure the competition in democracies. First of all, the social requests of politic system (policy) as "response" and "accountability" shall be taken into consideration. On the other hand, the vertical audit in democracies is the competitive elections to which the opponent options directing the politicians to take responsibility. Competitiveness is the act of ensuring that the parties or the candidates in substantial numbers (for example the newly constituted parties which have a definite politic support,

the vote more than % 1 - % 3 or which have a substantial assistance in public opinion poll) can deliver their messages to society (for example via radio – television advertisements that are free of charge). Despite the fact that the determination of an upper limit for election expenses is seen as “restriction”, it is an important tool ensuring the competition in elections. In other words, competition is a basic element in elections.

The competitive elections have important positive impacts on representation, economic development, decreasing the corruption, good governance and politic stability in developing countries in addition to the rate of participation into the elections. Competition is explained as the existence of the competition conditions, various options in elections, the politic district that is open to criticism and the capacity of individuals to take decisions as free of all the impacts. The possibility of candidates to being selected again is possible with independent assessment of voters. To this end, the various parties or candidates should participate into the elections.

The most important feature which divides competitions that is a social interaction from conflict, bargain and competition is converting the individually motivated benefits from socially demanded results. In addition, there is the need for the rules, norms and amendments to be developed via cooperation and bargain with the aim of delivering the social relations to the demanded results. In this context, the competition is not the precondition of democracy, but the democracy is the precondition of competition. The participation into the contest ensures the accountability. Thus, the renewal of the act of obtaining the power of manage, elections, is a must for a competitive politic system.

The conduction of elections in a competitive environment is possible only applying the participation and contest rules among the parties and candidates in a fair and equalitarian manner both in the official election campaigns and in the period between two elections by starting from the candidateship period.

#### **a. Election Threshold**

The election threshold is an element which is effective on financing of policy. In this situation, the options for collecting the membership fee and donations of the parties that have no possibility to exceed the threshold are decreased. Shortly, it is getting difficult for these parties to use the other financing resources in addition to the fair and equal usage of state allowances.

The election laws in 1982 Constitution (Article 67) created the principle that is contradictory to each other as “the justice in representation” and “stability in management”. As a reaction against the coalition periods, the application of 10% election threshold has been started to be implemented in parliamentary elections with a majoritarian approach. This condition is the basic obstacle preventing various parties to enter into elections. In addition to some difficulties behind the freedom of organization, the financial difficulties and the highest election threshold make it difficult to constitute various and new parties and also prevent the voters from directing to different options. Elections as the essential condition of democracy are conducted regularly, however; the low possibility of parties which create an option as “majority” depending on a high threshold to be a partner for power can strengthen the “change” in policy. This situation delays the establishment of a competitive politic

system. Some parties entering into the elections under the name of one party or by independent candidates with the aim of exceeding the threshold problem have created problems regarding the creation of parties and party identity. Thus, some parties that have reached the majority in some election districts have not been represented in Grand National Assembly of Turkey because of not exceeding the election threshold. This situation contradicts with the principle of Constitution regarding the justice in representation. While the country threshold ensures the spread of “majoritarian” approach in one hand, it prevents the submission of new options to the electors. As a result, the election threshold is an element which is effective on financing of policy. In this situation, the options for collecting the membership fee and donations of the parties that have no possibility to exceed the threshold are decreased. Shortly, it is getting difficult for these parties to use the other financing resources in addition to the fair and equal usage of state allowances.

### **European Council Parliamentary Assembly Advisory Jurisdiction1705 (2010)**

22. Thus, the Assembly convokes the member countries to,

...

22.2 decrease the election thresholds that are higher than 3%, to remove the obstacles that prevent the small politic parties and independent candidates from being represented in elected assemblies such as the application fee for high candidateship.

### **Law numbered 2839 on Parliamentary Election (Articles 33 and 34)**

#### **GENERAL THRESHOLD AND CALCULATING THE THRESHOLD**

**Article 33-** (Amended 1.Clause:3377 – 23.5.1987): The parties that do not have more than 10% of valid votes shall not have parliamentarians around the country in general elections and in the election districts in bye selections. Election of the independent candidates that are mentioned in this political party list is also possibly only when the political party in which the candidate is included has been elected by exceeding the 10% threshold in all the election districts in general election and bye elections.

The provincial election boards, in line with the article given above, shall deliver the results to the Supreme Election Committee in the possible shortest time via telegraph and also via telephone or radio – telephone after issuing the minutes of assembly.

In line with the information gathered from all the cities in this way, the Supreme Election Committee shall collect the valid votes around Turkey and then, calculate the percentage of votes of political parties by divides the valid votes into general valid votes around the country and then, notify and announce the names of political parties that exceed the 10% threshold to provincial election boards.

Following this announcement, the decisions on repetition of elections in one or several election district do not cause the determination of vote percentage taken around the country again.

#### **CALCULATING THE NUMBER OF PARLIAMENTARIANS GATHERED BY THE POLITICAL PARTIES AND INDEPENDENT CANDIDATES IN AN ELECTION DISTRICT**

**ARTICLE 34-** The numbers parliamentarians of independent candidates and of the political parties that exceed the rate given above are calculated as stated below:

(Amended 2.clause: 4125-27.10.1995)

(This was cancelled by the 18/11/1995 dated Decree of Constitutional Court Nr: E.1995/54-K1995/59 published in 21<sup>st</sup> of November in 1995 in Official Gazette Ed. Nr:22470.)

(Amended 3.clause: 3377-23.5.1987)

(Amended 1 sentence: 4138-23.11.1995): The names of the political parties and candidates that entered into the election shall be written as one under the other and the numbers of valid votes shall be aligned. The vote numbers of political parties shall be divided into one, then two, then three and then it is divided until the number of parliamentarians that can be gathered from that district is achieved. The gathered shares and the votes of independent candidates shall be ranked by starting from the highest one to the lowest one without making any distinction. The parliamentarians shall be assigned to the share - holding parties and independent candidates in line with the ranking by starting from the highest one as many as the number of parliamentarians to be gathered from election district. (Additional sentence: 3403-10.9.1987)

In the electoral districts to have six parliamentarians, the dividing shall be made with one less. (Additional sentence: 3404-17.10.1987). (This has been cancelled upon the Article 21/a of 27 October 1995 dated Law Nr 4125) On the condition that there are the equal numbers for the last parliamentarian, the assignment shall be made by drawing the lots between them.

(Amended 5.Clause: 4138-23.11.95): On the condition that none of the political parties entered into election have exceeded the rate given above, then the parliamentarians shall be assigned in line with the provisions of third and fourth clauses.

(Additional clause: 3270-28.3.1986)

In the electoral districts where the contingent candidate is shown, the contingent candidate of the political party that gained the majority in valid votes shall be deemed as obtaining the deputyship regardless of the threshold of electoral district.

The Electoral Systems Applied In Turkey:

### **The Axis of Justice in Representation and Stability in Management**

#### **Justice in Representation**

<b>Election System</b>	<b>Election Year</b>	<b>Vote Rate of Winner Party</b>
National Balance	1965	AP 52,9%
D'Hondt without Threshold	1969, 1973, 1977	AP46,5%; CHP 33,3%; CHP 41,3%
D'Hondt with Threshold	1961, 1995 and 1999	CHP 36,7%; RP 21,4% and DSP 22,2%
D'Hondt without Country Threshold	2002, 2007 and 2011	AKP 34,3%; AKP 46,6% and AKP 49,8%
D'Hondt without Double Threshold	1983	ANAP 45,1%
D'Hondt without Double Threshold + Contingent	1991	DYP 27,0%
Majority by List System	1950, 1954 and 1957	DP 52,7%; DP 57,6% and DP 47,9%

## Stability in Management

Source: <http://www.tesav.org.tr/docs/makale/CokPartiliDonemdeSecimIlerveSecimSistemleri.pdf>

As the information and documents submitted to the audit of Constitutional Court include the recorded incomes and expenses at all, the requirements of parties especially in election periods cause the usage of external resources.

### The Electoral Threshold in European Countries

Countries	Threshold (%)
Cyprus	1,79
Denmark	2
Spain and Greece	3
Austria, Bulgaria, Sweden, Italy (parliamentarian election) and Slovenia	4
Germany, Belgium, Czech Republic, Estonia, Croatia, Latvia, Lithuania, Hungary, Poland, Romania, Serbia, Slovakia	5
Liechtenstein	8

Source: Compiled from various sources.

### b. The Threshold for State Allowance

In addition to organization and existence, the political parties should have sufficient financial sources in order to stand clear of impacts of special interests (financial power). State allowance is essential to this end. In addition, while the state allowance develops the policy making of parties by increasing their organizational capacities; it provides a more “equalitarian” competition power to the candidates that enter into the elections with limited resources. It has been known that the small parties have an income structure provided by the membership fees and donations. As the information and documents submitted to Constitutional Court include the recoded incomes and expenses at all, the requirements of Parties especially in election periods cause the usage of external resources. Beside the major parties, approximately 90% of sources of income of which are constituted by state allowance, the small parties are not supported to compete “equally” in elections as creating the options for electors and this prevents competition or causes unfair competition for the good of “powerful” parties.

In this context, decreasing the state allowance threshold from 7% to 3% for in 2014 and applying this procedure in 2015 general elections are deemed as important steps. In addition, in a country of which election threshold is 10%, decreasing the state allowance threshold to 3% is deemed as the policy of carrot approach. In other words, in addition to fair and equalitarian state allowance threshold; a fair and equalitarian electoral threshold is also required to ensure the competition. Another important problem in this issue is that the

state allowance to be given to the parties which have at least 3% of valid votes in the last general elections are calculated proportionally to the amount of state allowance taken by the party which passes 10% country threshold and gathers the lowest state allowance. A fair and equalitarian approach requires that the parties to take state allowance in each category shall gather allowance proportional to their votes.

The reason of inscription in Law Nr: 2820 Additional Article 1 for the state allowance to be given to the political parties as “the allowance of 2/5000 of total of general balance incomes table (B) shall be stated for the fiscal year” has not been revealed.

### **European Council Parliamentarian Assembly Advisory Jurisdiction 1516 (2001)**

8. The assembly shall take in consideration the issues given below:

A. Regarding the financial sources;

...

ii. The Assembly believes that the rules amending the funding of political parties and the election campaigns shall depend on the principles given below: establishing a meaningful balance between the public and private financing sources; determining a fair criterion in distributing the state allowance; depending the donations on definite rules; determining a definite upper threshold for the expenses of parties to be made in election campaigns; ensuring the transparency for calculations (of parties); establishing an independent auditing authority and developing the meaningful punishments to be implemented on the ones breaking the rules to be determined.

iii. The state allowances should not be more than the amount to ensure the aims given above; or else, the over – dependence to state allowance may weaken the relation of political parties with the electors.

iv. In addition to the financial aids; the State can meet the posting expenses and provide the convention places; support the youth organizations and research institutes and also provide tax incentives.

Source:<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta01/EREC1516.htm>

### **The Last Decision of Constitutional Court on State Allowance for Political Parties (Citation)**

In the case opened by the Liberal Democrat Party for the payment of Treasury grants which is asserted as being deprived of as a result of the cancelation of transaction for the rejection of application made to the Ministry of Finance General Directorate of Budget and Financial Control for the payment of Treasury grants with interests which the Parties assert that they have the right as proportional to the gathered votes in 2002 general elections; Ankara 5. Administrative Court finding the claim of Plaintiff’s Council on unconstitutionality have made an application to Constitutional Court for cancelling the Additional Article 1 of Law on political Parties Nr: 2820. The Court has rejected the application unanimously with the justification given below and 5 dissenting vote scripts.

“The term “fairly” means that the Parties which have a definite organizational spread and which have a definite social consent shall benefit from the State allowance in line with their success levels gathered in the elections. Certainly, the preference of system and method to meet the public benefits in this regard is within the regard of law maker. However, this

judicial discretion is not limitless. The provisions of Article 68 should be assessed in line with the other provisions of Constitution in order to draw the borders of judicial discretion of legislative power.”

...

“The main aim of the political parties is to mediate the revealing of national will by entering into the elections and to take part in administration by gaining the support of electors. Thus, it cannot be accepted that a political party which is failed to meet the conditions for entering into the elections and to gain the confidence of sufficient electorate with sufficient votes despite of being entered into the elections can make contributions for creating a national will as much as the stronger parties that gained the confidence of larger electorates. With the amendment subjected to the court, it has been stipulated that the political parties shall benefit from the state allowances as proportional to their contributions made to the democratic politic life in line with their scope and powers. While it cannot be told that this criterion is not objective and reasonable; it cannot be told that the proportions used in rules that are the subjects of objection are inordinate.”

Source: Decision of Constitutional Court, 20.11.2008 Official Gazette Date: 18.03.2009 Number: 27173  
<http://www.kararlaryeni.anayasa.gov.tr/Karar/Content/1086bee2-0e6e-4507-ab8b-a500132be4bc?excludeGerekce=False&wordsOnly=False>

### **The Last Decision of European Court of Human Rights on State Allowance for Political Parties (Citation)**

Freedom and Solidarity Party made an application to European Court of Human Rights on 1 October 2002 on the grounds that the Additional Article 1 of Law on Political Parties Nr:2820 amending the distribution of state allowances in Turkey is breaching the Article 14 of European Convention on Human Rights and Article 3 of Additional Protocol 1. The Court stated that the criterion regarding the subsidization of state allowances are stated by law; the applicant party has failed to get at least 7% of valid votes that are essential to get the state allowance and to get the sufficient support of voters in the elections; in addition, the parties can get indirect state allowances besides the financial allowances such as the tax incentive and propagation on radio and television. As a result, it has been decided unanimously and with two dissenting vote scripts that the assertion of Party on disproportionality cannot be accepted and the current implementation does not breach the above – given principles of European Convention on Human Rights.

Source: *Case of ÖzgürlükveDayanışmaPartisi (ÖDP) v. Turkey*, (Application no. 7819/03), Strasbourg, 10 May 2012, Final, 22/10/2012.

### **State Support:**

Additional Article 1- (this is the provision of Additional Article revealed with 27/6/1984 – 3032/2 Article and; it has been numbered for continuity). For the political parties to which the right to enter into the last parliamentary general elections has been given by the Supreme Election Committee and which exceeded the general threshold in the Article 33 of Law on Parliamentary Election Nr:2839, the subsidiary of 2 /5000 of general budget incomes B Table of that year shall be put for that fiscal year as being paid from Treasure in



each year. (Amended first sentence: 12/8/1999 – 4445/ 21 Article) This subsidiary shall be paid after being divided proportionally to the valid votes announces by the Supreme Election Committee after the general election.

It is compulsory that this payment shall be completed within ten days following the entry of general budget law of that year into effect. (Former 3.clause:12/8/1999 – 4445/21 Articles.)

(Amended fourth clause: 2/3/2014 – 6529/ 4 Article): The political parties that have more than 3% of valid votes in parliamentary general elections shall also have the state allowance. This allowance shall be proportional to the gained votes as depending on the total valid votes gathered in general elections and to the allowance gained by the political party that gained the lowest state allowance pursuant to the second clause. The allowance to be given pursuant to this clause shall not be less than one million Turkish Liras. To this end, sufficient subsidiary shall be given to the budget of Ministry of Finance in every year. (Additional Clause: 7/8/1988 – 3470/Article 1)

The amount of allowance stipulated in the clauses given above shall be given to the beneficiary political parties as three times more in the year when the parliamentary general election is made and as two times more in the year when the local administration general election is made. On the condition that both elections are made in the same year, the amount of this allowance shall not be more than three times. The multiple payments to be made pursuant to this clause shall be made within 10 days following the announcements of decision of Supreme Election Committee on election agenda.

(Additional Clause: 12/8/1999 – 4445 / 21Article): Within the provisions of Article 76 of this Law, double the amount of total values of real estate that are recorded as revenue to the Treasury and that are registered to the title deed with the name of Treasure shall be deducted from the State allowance to be made in line with this Article to the political parties of which incomes are recorded as revenue to Treasury and of which real estates are registered to title deed with the name of Treasure.

### **The State Support to Political Parties in Turkey, 2002 -2015 (Million Turkish Liras)**

Party/Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
AKP	11,3	22,5	52,8	31,7	40,0	141,2	45,6	111,3	52,7	186,5	72,5	81,5	177,1	302,7
ANAP	17,2			5,4	8,9									
BBP	1,1	1,1												
CHP	11,3	12,8	29,9	18,0	22,7	79,9	20,5	49,9	23,6	86,6	37,8	42,5	92,3	157,2
DSP	28,8													
DYP	15,6	6,2	14,7	8,8	11,1	39,3								
MHP	23,4	5,5	12,9	7,8	9,8	34,5	14,0	34,1	16,1	57,1	19,8	21,2	46,2	78,2
ÖDP	0,87													
SP	11,3													
Yurt P	1,0													

Source: Ministry of Finance, General Directorate of Budget Financial Control

### **State Support Threshold To Parties In European Union Countries**

<b>The Country</b>	State Support Threshold (lowest)
<b>Germany</b>	5 per thousand of valid votes
<b>Czech Republic, Spain, Lithuania, Slovakia and</b>	3 percent of valid votes



<b>Polonia</b>	
<b>Ireland (Preferential Voting), Latvia, Luxemburg</b>	2 percent of valid votes
<b>Austria, Bulgaria, Estonia, Hungary, Slovenia, Cyprus</b>	1 percent of valid votes
<b>Belgium, Finland, Netherlands, Portugal</b>	One seat/ Netherlands, 6 votes per thousand / Portugal, 50 thousand votes
<b>Croatia</b>	5 percent of valid votes
<b>Greece</b>	One seat / 1,5 percent of valid votes
<b>Denmark</b>	At least 100 / 1000 votes
<b>Italy</b>	One seat/ 2 percent of the valid votes
<b>Liechtenstein</b>	One seat/ 3 percent of valid votes
<b>Romania</b>	One seat/50 aldermanships/ one Bucharest councillorship
<b>Spain</b>	The Seat and Voting rate of the previous elections
<b>United Kingdom (Only opposition parties)</b>	Seat/Every 200 votes

Source: <http://www.idea.int/political-finance/>

### c. Making use of the internet and social media with the radio and television:

The arrangements related to the political propaganda have a place in the arrangements related to the political parties and elections. The Advisory Jurisdiction no. 10 of the Committee of Ministers R (96) emphasizes the independence of public broadcasting to be guaranteed with the Final Declaration no. 2 that was published in concern with mass publishing policy at the 4. Conference of Ministers of the European Union (Prag, December, 1994). That the state broadcasting organizations spare time for the political propaganda for free does not appear in the international arrangements. However, it is necessary to be provided of free time opportunity to the political parties and candidates in accordance with the nondiscriminatory and equality principle for the enlightenment of the elector.

The broadcast principles of the radio and televisions with making use of the state radio and television with the purpose of free propaganda during the electoral periods in Turkey have been directed with the memorandum and judgements published by Supreme Committee of Elections within the scope of the Law numbered 298 on the Basic Provisions on Elections and Registers of Electors, and Turkey Radio and Television Law numbered 2954.

The broadcasts of the radio and television channels have content that is non-objective and not suitable for the principles of equality in general, as well as during the electoral periods.

Visual and written media either support the party in power and opposition parties or pursue a broadcasting policy against them dichotomously. Adverse political propaganda has become a normal practice. It is seen that monitoring, evaluation and sanctions of institutions and organizations like Press Council with Radio and Television Supreme Council (RTÜK) and Supreme Committee of Elections (YSK) have been ineffective in this regard. Media has become a vehicle of polarization in the society. Media has been used as a propaganda vehicle rather than its function of informing. That the party in power pursuing the strategy “Perpetual Campaign” uses the state radio and television as a media organ of itself has become normal. Broadcast principles determined with the Constitution and applicable laws are not obeyed especially even during the official election campaign period. That TRT also lost its objectivity in this regard has been proved with the monitoring report RTÜK prepared regarding the period of Local Administrations Elections. According to the Monitoring and Evaluation Report of RTÜK, the minute equivalent of the distribution of the election broadcasting time TRT Haber got people to watch scenes from meetings between February 22- March 2 to the parties is that: AKP 13 hours 32 minutes, MHP 48 minutes, CHP 45 minutes, BDP 2 minutes. That the activities of the party in power and party officials are presented with a live broadcast without paying attention to whether they are “important” or not in terms of broadcast principles of the private broadcasting organizations, notably TRT channels, has become a tradition. These activities are in conflict with the principles of justice, equality and objectivity, and create a situation against the opposite parties.

Moreover, the time spared to the party in power or parties (if it's a coalition government) in the propaganda speeches which are prepared by TRT and can be also broadcasted by the private radio and television channels during the electoral periods determined with the Law numbered 298, and the time spared to the other parties are not fair and equitable. That more time is also spared to all kinds of activities of the party in power-in the format of the activities of the government party or its officials- on airtime apart from the electoral periods is a topic that needs to be argued about attentively. Whether local media function in accordance with the broadcast principles or not creates a major problem area, as well. If the election campaigns are considered to be made in local places and election districts mostly, the broadcasting policy of the local media matters.

Whereas that the candidates make use of broadcast opportunities in the elections creates a problem area, that some people participate television programs before their candidacies become definite creates a situation that is not fair and equitable during the nomination candidacy period. On the other hand, the quality of media ownership interferes with the media to do a practice suitable for objective broadcast principles in spite of the explicit provisions in the applicable legislation at the programs that especially the representatives of survey companies participate on a lot of private radio and television channels. Media ownership belongs to the people who are in indirect contact with parties, and mostly to the person or people who are engaged in commercial and industrial activities. As is the case with the whole world, media ownership has an effective role in the arrangement of politics' financing and election campaigns in a fair and equitable environment. Financial audit and similar implementation aimed at the other activities of the media and media owners having objective or critical sustaining programs have attracted the attention recently. The situation

of media ownership is among the most basic problems in the politics' financing. Whereas journalists and broadcasters criticizing the attitude and practices of the party in power and government lose their employment opportunities, the employment of the people who are close to the party in power in especially TRT and private radio and television organizations and newspapers has increased gradually.

That the majority of RTÜK members making monitoring and evaluation in this field is comprised of the members coming from the party quota determined by the party in power sparks a debate about "the objectivity" of the evaluations in this field. In spite of the sanctions given to the pro-government broadcasting organizations due to the activities against the broadcast principles in 2014, that RTÜK can do a similar practice hereafter has not been expected. In this context, that "media organizations do not function in accordance with broadcast principle and values, and lost their objectivity" media organizations developed among themselves is a fact.

Technological developments and the usage of these tools in election campaigns effectively have become popular. As well as traditional communication tools, the social media opportunities like the internet and correspondingly "social network services" or Twitter, Facebook, YouTube in personalized election campaigns have been fast, cheap and effective in communication with the citizen and elector by the government, political parties and candidates. According to the recent data, it is known that 45 percent of the population use the internet in Turkey with a rate over the world average, and 44 percent of those have an account on social networks. In addition to this, recently the access to the internet and social media has been "forbidden" privately and generally with more "subjective" reasons as well as universal principles.

Social media were effective especially in informing and mobilization in "Gezi Parkı" events in 2013. The access to YouTube was blocked in March 27 by Telecommunications Communication Presidency in consequence of prohibitions that started with political reasons in 2014; then, Twitter was closed down for 13 days. Social media prohibitions also brought economic problems as well as social and political reaction. Organizations making sale electronically suffered damage from this. The arrangement that was brought with the Law numbered 5651, which is known as "The law of censorship on the internet", and the Constitutional Court cancelled last year on the grounds that "it limits the fundamental rights and freedoms", was accepted by being enlarged with the Law numbered 6639 by TBMM in March 27, 2015.

A little while before the Parliamentary Election, the internet and social media, which are thought to be used by various political group and citizens intensely in election campaigns as much as parties and candidates, are thought to be subject for inducements in a way that will affect the competition negatively.

As is the case with the whole world, media ownership has an effective role in the arrangement of politics' financing and election campaigns in a fair and equitable environment.

**The Principles Related to the Parties and Candidates Making Use of Media Opportunities**

149. Equal treatment principle before the law about making use of media opportunities includes not only the airtime that will be supplied to parties and candidates but also the time and place of this opportunity. The law on this topic should define equal treatment rules that will not result in differences in access to the broadcast opportunities like the fact that the peak hours are given to certain parties while late hours or off-peak hours are given to the others.

...

151. Private broadcasting organizations cannot be arranged depending on the strict rules like the state radio and televisions. In addition to this, private media channels have an important role in the public process related to the election. Some countries, members of Organization for Security and Cooperation in Europe, arranged that private media organizations provide all parties with time in return for the same worth.

152. The key role the media play in elections is to enable the community to make a selection after having enough information about all candidates. In this respect, it is seen as a “good” practice to be guaranteed of the fact that woman and minority candidates, who are provided with less finance and support, are provided with fair and unbiased share and scope on media.

Source: Venice Commission and Organization on Security and Cooperation in Europe, Office for Democratic Institutions and Human Rights, the Guide about Political Party Arrangements, Warsaw, 2011.

### **The Law numbered 298 on Key Provisions of the Elections and Registers of Electors**

#### **The propaganda with radio and television:**

##### **Article 52 – (Amended: 17/5/1979 – 2234/1 cl.)**

(Amended: 10/6/1983 – 2839/46 cl.) On the condition that the provisions in special laws remain hidden, political parties participating in the election may make propaganda on the radio and television from 7<sup>th</sup> day before the Election Day until 18.00 o'clock on the day before the Election Day.

(Amended: 23/5/1987 – 3377/3 cl.) Those who participate in the elections are entitled to;

- a. for political parties, to have two speeches expressing their programs and activities they will do on the condition that these speeches last maximum 10 minutes for the first day, and 10 minutes for the last day,
- b. for each of political parties whose group is in the parliament, to make 10 minutes propagandas additionally,
- c. (Amended: 27/10/1995 -4125/4 cl.) for the party in power or the biggest one of the parties in power, to make 20 minutes propaganda additionally, for the others from the parties in power, to make 15 minutes propaganda additionally,
- d. for the main opposition party, to make 10 minutes propaganda additionally.

On condition that political parties do not exceed the half of these propaganda time limits, they can also give these propagandas visually. Visual propagandas are prepared apart from TRT. Political parties tell the actions they took and they will take in visual propagandas. The images that will constitute a crime cannot be showed in these propagandas. These propagandas of political parties cannot exceed 10 minutes totally in one day while they cannot be less than 2 minutes at once. Political parties can distribute their propaganda rights to the more than one channel of TRT. Supreme Committee of Elections regulates that in which period these images will be delivered to TRT and their airtime in TRT according to the opportunities of TRT. If a case constituting a crime is found in these images, Supreme Committee of Elections does not allow the broadcast of them.

Political parties explain their declarations of election in their first speeches with the radio and television.

The radio and television speeches are broadcasted simultaneously with all radio and television posts in Turkey.

In which hours daily and on behalf of which party propaganda speeches that will be broadcasted will be made are announced during the newscasts by Turkish Radio and Televisions beforehand.

(Amended: 10/6/1983 - 2839/46 cl.) That propaganda broadcasts which will be broadcasted on the radio and television are made completely objectively and equally is ensured by Supreme Committee of Elections and Turkish Radio and Television Corporation.

(Amended: 28/3/1986 - 3270/22 cl.) In the propaganda speeches that will be broadcasted on behalf of the political parties participating in the election on the television in accordance with the subclauses above, no image, apart from the Turkish Flag and the party flag which is in a size this council determined and will be hung on the place Supreme Committee of Elections will determine and the person making the speech, is allowed. Speakers have to wear jacket and tie; the women wear a suit.

(Abrogated subclause: 10/9/1987 - 3403/2 cl.)

(Appendix: 27/10/1995 - 4125/4 cl.) Propaganda speeches of political parties on private radio and televisions are made in accordance with procedures and principles applied in TRT. These broadcasts are regulated and supervised by Supreme Committee of Elections for the ones having national quality, and by the City Boards of Election for the ones having local quality. Apart from this provision, a broadcast related to the propaganda cannot be made. The provision 151/2 of the Law numbered 298 on the Basic Provisions on Elections and Registers of Electors is exerted about the ones acting incongruously to this provision.

Application:

**Article 53 – (Amended: 17/5/1979 - 2234/1 cl.)**

The head offices of the political parties participating in the elections declares to the Supreme Committee of Elections in black and white that they want to make propaganda on the radio and television, until the evening of twenty-first day before the election day.

**The Detection of Airtime:**

**Article 54 – (Amended: 17/5/1979 - 2234/1 cl.)**

The Supreme Committee of Elections determines the airtime and broadcast sequences by drawing lots in front of the representatives of Radio-Television Authority of Turkey and one each representative of the parties applying for the broadcast on the radio and television among these parties. This drawing lots is done at least twenty days before the election day. The starting time of the radio and television broadcasts are determined by the Supreme Committee of Elections by taking the numbers of parties and the most suitable listening opportunities into consideration. The radio and television broadcasts last until 22.00 o'clock at the latest.

#### **The Detection of the Radio and Television Speeches:**

##### **Article 55 – (Amended: 17/5/1979 - 2234/1 cl.)**

The speeches, which will be made on behalf of political parties via the radio and television, are detected with the reception device before the broadcast or during the broadcast in accordance with the request of the political party on behalf of whom a speech will be made in the presence of a councilor that the Supreme Committee of Elections will assign. The official report is arranged by the councilor in charge regarding on behalf of which party and by whom the speech is made, and at least two people who are officers in the radio and television administration. The band and the other detection devices that detected the speeches are hidden by the Supreme Committee of Elections.

The speeches are given to the authorities if they become a matter in dispute, and they are asked for.

Certain legal punishments about the ones making transgressive speeches are judged by being increased as much again.

The broadcast via private radio and televisions:

**Article 55/A- (Rearrangement: 15/7/2003-4928/3 cl.)** Private radio and television organizations are subject to the articles 5, 20, 22 and 23 of the Turkish Radio and Television Law numbered 2954 and the provisions of the second subclause of article 31 of that in the broadcasts they will make from the starting date of the elections to the end of the election day.

(Additional second subclause: 8/4/2010-5980/4 cl.) Political parties or candidates can explain their opinions by participating in the programs like open session, interview, panel on the radio and televisions together or separately during the period from the starting date of the election to twenty four hours a day before the Election Day. Open or closed place meetings of political parties or candidates can be broadcasted live on the radio and televisions.

According to the subclause provisions above, the Supreme Committee of Elections is in charge and authorized in the determination of the broadcast principles of private radio and televisions.

The Supreme Committee of Elections is in charge and authorized for the private radio and televisions broadcasting throughout the country; county, where the broadcast is made, election boards is in charge and authorized for the private radio and televisions broadcasting

apart from that, in the surveillance, supervision and evaluation of the appropriateness of the broadcasts that will be made for the rudiments above.

It can be objected to the city election boards in twenty four hours a day against the judgments that the county election boards give. The judgments of the city election board are definite.

The Supreme Committee of Elections is authorized to determine the private radio and televisions broadcasting throughout the country. The Supreme Committee of Elections' judgment related to this is published in the Official Gazette.

### **Press, communication instruments and the propaganda on the internet**

#### **Article 55/B – (Appendix: 8/4/2010-5980/5 cl.)**

Political parties and independent candidates participating in the election can make propaganda by means of announcement and advertisement on the printed press or verbally, in black and white or with a video by building a website until the end of the election propaganda time.

The propaganda cannot be made with the messages that will be sent electronic mail addresses of citizens, or by sending their mobile or fixed phones voicemail, video messages or written messages. However, the voicemail, video message or written messages that political parties send their members are always free.

During the ten-days period before the Election Day, that a broadcast is made in favor of a political party or candidate or against them or in a way that will affect the vote of the citizen with written, verbal and visual press and broadcast media, and with the names like opinion researches, questionnaires, predictions, mini-referendum via information and communication calls, and their distribution in any way are forbidden. The broadcasts that will be made out of this period have to be suitable for the principles of objectivity, reality and accuracy. During the publication of opinion researches and questionnaires, it is obligatory to explain which organization did the research, the number of test subjects, who financed the research.

The principles of the propagandas and broadcasts that will be made in accordance with this article provisions are determined by the Supreme Committee of Elections.

### **Turkish Radio Television Law Numbered 2954**

The broadcasts of political parties in elections:

#### **Article 22 – (Amended: 28/12/1993 - 3959/19 cl.)**

That political parties make use of the radio and televisions, and make election propaganda during the general parliamentary election and by-election and general local elections, and the base, form and conditions of this utilization with its liability are subject to the provisions taking part in the laws dated 26.4.1961 and numbered 298, dated 10.6.1983 and numbered 2839, and dated 18.1.1984 and numbered 2972.



### **The forbiddance of the broadcasts in terms of the national security:**

Article 23 – The prime minister or a minister that he will assign is authorized to forbid the news or broadcast in the situations that the national security necessitates clearly. That the restraining order is in writing is essential. However, the restraining order can also be conveyed verbally in case of urgency. In that case, the restraining order has to be repeated in writing as soon as possible. The restraining order is declared to those concerned in twenty four hours a day starting with the date it was taken by the General Management if the broadcasts that are not made under the responsibility of the Radio-Television Authority of Turkey are forbidden.

First subclause provisions about the speeches made on behalf of political parties are not applied in accordance with the articles 52 and 55 of the law dated April 26, 1961 and numbered 298 on the Basic Provisions on Elections and Registers of Electors.

The notification in the actions for nullity that will be sued against the restraining orders in question in the first subclause in the Council of State is made in forty eight hours starting with the application date. The answer and duplicatio times are ten days for each one. The decision is made in fifteen days after the completion of these times.

The Law numbered 6112 on the Establishment of the Radio and Televisions and Broadcasting Services

### **The broadcasts during the electoral period**

ARTICLE 30 – (1) The procedures and principles related to the broadcasts made during the electoral periods in concern with the elections are regulated by the Supreme Committee of Elections.

(2) The Supreme Board monitors, supervises and evaluates the broadcasts of the media service providers during the electoral periods in accordance with the judgments of the Supreme Committee of Elections.

(3) The provisions, regulated in the article 149/A of the law dated 26/4/1961 and numbered 298 on the Basic Provisions on Elections and Registers of Electors, are fulfilled by the Supreme Board after the judgments of the Supreme Committee of Elections.

### **The political advertisement**

ARTICLE 31 – (1) During the electoral period announced by the Supreme Committee of Elections, the media service providers can broadcast the political party and candidate advertisements until the time that the broadcast bans will start.

(2) Political advertisements have to be suitable for the provisions taking part in this Law and the procedures and principles determined by the Supreme Committee of Elections.

### **Supreme Committee of Elections’ Directives Regarding The Broadcasts During The Parliamentary Election Held On The 7<sup>th</sup> of June, 2015**



1- During the broadcasts to be held from the 10th of March, which is the beginning date of the election, to the end of the voting day Turkish Television and Radio Corporation and private television: it has been decided;

a. have to be meticulously in compliance with the general broadcast basics projected in the 5th article of Turkish Radio and Television Corporation Law(number 29) and broadcast service principles mentioned in the 8th article of the Law( number 6112),

b. having to be in compliance with the objectivity, reality and righteousness principles radio and television corporations and oral, visual and printed media cannot show one-way, partisan broadcasts, and have to provide equality of opportunities between the political parties within the frame of democratic rules;

c. have to announce

d. have not to broadcast on justice and objectivity by grounding the race, gender, social class or religious beliefs of the mentioned corporations that have to act in accord with law;

e. have able to use different languages and dialects besides Turkish, in the propagandas that political party and candidates will make on printed, oral visual media with radio and television;

f. as the broadcasts can be watched all around the world, in times when their reruns are put on the internet and are in contradiction with the propaganda bans, deciding on denial of access to such broadcasts and the duty of informing the access providers in need are bound to the headmaster of election board.

g. political parties and candidates, be it altogether or separately, can express their views by attending the programs such as open sessions, interviews and panels in the radio and television till the last 24 hours of the period they vote.

h. open-or-close place meetings of political parties or candidates can be live-broadcasted on the radio and television

i. in the electoral process, (the speeches of addressing to the nation, facilitate for nation etc. of) specific introductory programs cannot be broadcasted as lively or recorded.

2. political parties and independent candidates attending in the elections can make propaganda as written, oral or visual by founding a website via announcement or advertisement in printed media till the end of election propaganda period,

3. they cannot send written, audio or visual messages to the electronic email addresses and mobile phones of the citizens, but they can always send written, audio or visual messages to their own members,

4. In the period of ten days before the voting day, with the names like mini referendum via opinion research, surveys, predictions, information and communication phones with written, oral and visual media and broadcast tools, by any means the distribution and broadcast that is to the good or opposite of a political party, or that may affect the vote of the citizen cannot be made,

The broadcasts to be made out of mentioned time have to be in compliance with objectivity, reality and righteousness principles and it is also compulsory to explain the number of subjects and by which constitution opinion research is carried out and financed while publishing opinion research and surveys.

5- Without any discrimination, by following all special radio and television channels making broadcast at the national level with Turkish Radio and Television Corporation, after the reports ,which will be arranged in the case of detection of any opposition to broadcast principles, are evaluated by the Radio and Television Supreme Board, they should be presented to the headmaster of Supreme Committee of Election till 17.00 on Thursday of every week, whether there is any violation or not in the weekly broadcasting programs should be reported by following the broadcast of next week,

6. As to 149/A article of the 298 Law\*, the declaration of the decisions that will be made by Supreme Committee of Election should immediately be applied by the Radio and Television Supreme Council,

7. In the case of detection of opposition to the broadcast principles of radio and television channels making local broadcasting, the reports that will be arranged by the Radio and Television Supreme Council, as to 149/A article of 298 Law\*, are to send to the directorate of election board of the county in which the center broadcasting corporation has been,

8. The sample of directive,

a. is broadcasted in Official Gazette,

b. is sent to Ministry of Justice,

c. to the Headmaster of Radio and Television Supreme Council,

d. to the General Directorate of Turkish Radio Television Corporation,

e. to the Information and Communication Technologies Authority,

f. to the general directorate of political parties

9. As the Directorate announcement, the summary of directive is broadcasted in the Turkish Radio and Television Corporation (TRT).

*Source: <http://www.ysk.gov.tr/ysk/content/conn/YSKUCM/path/Contribution%20Folders/Kararlar/2015-290.pdf>*

### **The Punishments Inflicted on the Radio and Television Organizations Because of the Broadcasts against the Electoral Prohibitions before the Local Administrations Elections in 2014, January 11- February 15, 2014**

2-program suspension to Cem TV: The Supreme Committee of Elections inflicted two-program punishment on Cem TV on the grounds that it did not present the information related to the number of subjects and financier while it was broadcasting the survey results of a research company related to the categories like the vote forecasting of the municipal elections, the Kurdish problem, the admirable leader on the main news bulletin in February 1 (February 15).

4-program suspension to Cem TV: Four-program punishment was inflicted on Cem TV on the grounds that in the program Uyan Türkiye, it was not stated that by whom the surveys, three of four research companies made, were financed, and how many subject they had (February 15).

3-program suspension to Kanal 5: Three-program punishment was inflicted on Kanal 5 on the grounds that in the program “Sabah Gündemi”, it proposed the results of the survey that CİHAN Ajansı made about the topics like the presidency, December 17 operation, the closure of private teaching institutions for the agenda without stating the number of subjects and research financier (February 15).

The warning to EM TV: A warning punishment was inflicted on EM TV on the grounds that on the main news bulletin in February 3, AK Parti’s vote rate related to the local elections, and the result of the survey that Zaman Gazetesi made about the chance of Erdoğan in the Presidential election were explained, however, it was brought forward incompletely (February 15).

5-program suspension to Beyaz TV: Five-program suspension punishment was inflicted on Beyaz TV on the grounds that Şamil Tayyar, the member of parliament of Gaziantep of AKP, was invited constantly to the program “Son Söz” that it gave a place based on the election agenda dated January 12, 19, 26, 28 and February 4 (February 15).

The warning to Ülke TV: The Supreme Committee of Elections warned Ülke TV on the grounds that on the news bulletin “Haber 17” in February 2, it did not give information about the number of subjects who participated in the survey and by whom the research was financed while it gave place to the pre-electoral survey results (February 15).

1-program suspension to Bugün TV: Bugün TV received one-program suspension punishment on the grounds that in the political program “Gündem Özel” broadcasted in January 9 – 16 – 23 – 30, it gave place to the standing guests who criticized only actions of AK Parti (February 15).

The warning to NTV Avrupa: The channel NTV Avrupa was warned on the grounds that in February 4, in the program “Yakın Plan” Ahmet Arpat presented, Adil Gür, the official of AG Araştırma Şirketi, Muhsin Kızılkaya, the author, İsmet Berkan, the writer of Hürriyet, and Professor Doctor Berat Özipek, Academic Member of İstanbul Commerce University participated in, the survey results were represented incompletely while the subject “how did December 17 reflect on the ballot box” was being discussed, as well (February 15).

The warning to A Haber: The Supreme Committee of Elections warned A Haber on the grounds that in its programs called “Akılın Yolu” and “Ajans Yeni Gün” that it broadcasted in February 7, it presented the results of various public opinion research companies in February 6 on the screen incompletely (February 15).

The warning to NTV: The television NTV was warned on the grounds that in February 4, in the program “Yakın Plan” Ahmet Arpat presented, Adil Gür, the official of AG Araştırma Şirketi, Muhsin Kızılkaya, the author, İsmet Berkan, the writer of Hürriyet, and Professor Doctor Berat Özipek, Academic Member of İstanbul Commerce University participated in,

the survey results were represented incompletely while the subject “how did December 17 reflect on the ballot box” was being discussed, as well (February 15).

One suspension to Samanyolu Haber: One-program suspension punishment was inflicted on the television Samanyolu Haber on the grounds that in its program “Gündemin İçinden” which was given place during the period January 27- February 7, it discussed with the guests, subtitles and emphases which criticized only actions of AKP based on the process of December 17, and by this way, it broadcasted unfairly (February 15).

The warning to Samanyolu Haber: A warning punishment was inflicted on the television Samanyolu Haber on the grounds that in the program “Derin Bakış” that it broadcasted during the period January 31-February 8 and in which it also discussed the process of December 17, the guests, subtitles and emphases which criticized only actions of AKP were dealt with (February 15).

1-suspension to Habertürk TV: One program suspension punishment was inflicted on Habertürk TV on the grounds that in February 4; in the program “Gün Ortası” which the representatives of public opinion research agency participated in, it broadcasted pre-electoral survey data incompletely.

The warning to Kanal D: The Supreme Committee of Elections warned Kanal D on the grounds that in the program “İrfan Değirmenci ile Günaydın” broadcasted in February 3, it did not state the financier of the survey while the survey news taking part under the headline of Zaman Gazetesi was displayed on the screen (February 15).

1-program suspension to Kanal D: A second program suspension punishment was inflicted on Kanal D in the same day. The reason was that on the news bulletin “İrfan Değirmenci İle Günaydın” broadcasted in February 7, it was not given place to the information about the number of subjects who participated in the survey, and by whom the research was financed while the survey news taking part under the headline of Yeni Şafak Gazetesi was displayed on the screen.

The warning to TGRT: A warning punishment was inflicted on the channel TGRT on the grounds that on the Main news bulletin broadcasted in January 30, the results of a research were mentioned without stating the number of subjects and the financier of the survey (February 15)

1-program suspension to Cem TV: One program suspension punishment was inflicted on Cem TV on the grounds that on its Main news bulletins in January 28-30, the number of subjects was not stated while it announced the survey results that were announced by a public opinion research agency regarding İstanbul (February 8).

The warning to Flash TV: A warning punishment was inflicted on Flash TV on the grounds that in February 3, in the program “Gerçek Gündem” which Adnan Keskin, the General Vice President of CHP, participated in, the financier of the survey which is expressed to be conducted by Cihan Haber Ajansı was not stated. The warning punishment is going to be announced on the screen. (February 8).

1-program suspension to Halk TV: Halk TV was punished with one program suspension with the claim that in the program “Siyaset Rüzgarı” broadcasted in January 3-31 days, it made a one-sided broadcast by broadcasting in favor of the municipal candidates of CHP (February 8)

The warning to Habertürk: A warning punishment was inflicted on Habertürk on the grounds that one of five public opinion research agency representatives who participated in the program “Türkiye’nin Nabzı” in January 27 did not state on how many people they made the opinion research, which they conducted in almost 30 cities (February 28).

2-program suspension to Kanal 5: The Supreme Committee of Elections inflicted 2-programs suspension punishment on Kanal 5 on the grounds that the infringement was repeated on account of the fact that in January 27, in the program “Moderatör” which Mehmet Ali Kulat, the company official of Mag Danışmanlık, participated in and the local electoral process was analyzed, the opinions of the party in power were supported, and the information about the number of subjects who participated in the survey and the financier/financiers of the survey was not given (February 8).

The warning to Bugün TV: A warning punishment was inflicted on Bugün TV on the grounds that in the actual newscast “Güne Bakış” broadcasted during the period January 27-31, 2014, December 17 corruption operation was consistently kept on the agenda, and the program was discussed with the guest who criticized only the actions of AK Parti consistently, and by this way, the principle of objectivity was infringed (February 8)

The warning to Kanal 24: Kanal 24 received a warning punishment on the grounds that within the scope of local election in January 24-31 days, it made a one-sided broadcast by focusing on its broadcasts related to AKP although it gave place to the attack on the MHP Esenyurt election office, as well. It was also agreed for the channel to announce the warning punishment on the screen (February 8)

The warning to Halk TV: The Supreme Committee of Elections inflicted a warning punishment on Halk TV on the grounds that in the broadcast which was in January 18 and Ali Ulvi Akoğlu, the mayor of the county Kuyucak of the city Aydın, participated in, the same municipality was also the promoter of the program, and from this aspect, with the claim that “the objectivity was infringed” (February 1).

1-program punishment to Beyaz TV: One program suspension punishment was inflicted on Beyaz TV on the grounds that in the program “Dinamit” in January 10 and in the days following the broadcast, it went over the criticism limits in the expressions to Mansur Yavaş, Ankara Metropolitan Mayor Candidate of CHP, by referring to the program (January 26)

4-program suspension to Beyaz TV: 4-program suspension punishment was inflicted on Beyaz TV on the grounds that in the program “Moderatör” in January 10, the parts from the program Dinamit, in which two different speeches of Mansur Yavaş, Ankara Metropolitan Mayor Candidate of CHP, he made while doing politics in MHP were criticized, were broadcasted, and it broadcasted in insulting quality for Yavaş (January 26).

1-program suspension to Kanal 5: The Supreme Committee of Elections inflicted one program suspension punishment on Kanal 5 on the grounds that on the Main News Bulletin in January 18 evening, it did not give the information about the number of subjects and the financier of the survey in respect of the electoral survey that it presented with the subtitle “there is 23-point difference between AK Parti and CHP (January 25)

Halk TV will wait for the decipher: The Supreme Committee of Elections will make the decision about Halk TV, for which the Supreme Board of Radio and Television made the decision “there is no infringement” about “whether it followed the rules in the electoral period or not” by majority of votes, after the decipherers related to newscasts broadcasted on the dates of 10-17/01/2014 are done (January 25).

The warning to Cem TV: A warning punishment was inflicted on Cem TV with the claim that the news about the election was given place on only eight main news bulletins on Main News Bulletins dated January 1-15, 2014 in fifteen-day period of time, and all of this news was about the electoral actions of CHP, and it infringed the objectivity with these broadcasts. The channel is going to announce the warning text to the public opinion on the screen, as well (January 25).

2-program suspension to Beyaz TV: 2-program punishment was inflicted on Beyaz TV on the grounds that in the program called “Basin Kulisi” in January 15, it did not give the information about the number of subjects and the financier of the survey in the electoral survey that it gave place for March 30 Local Elections (January 25)

1-program suspension to Beyaz TV: 1-program punishment was inflicted on Beyaz TV on the grounds that in the program “Dinamit” broadcasted in January 3 and 10, the right of privacy was infringed, and the insulting broadcast was made (January 20).

The warning to Kanal 5: The Supreme Committee of Elections warned Kanal 5 on the grounds that in January 11, it was stated that the electoral survey presented in company with the subtitle “The Last Survey on 5 Metropolitan Municipalities” was conducted only by “ORC Company”, and the information about “the number of subjects and the financier of the survey” was not given (January 18).

Survey punishment to Beyaz TV: The Supreme Committee of Elections inflicted a warning punishment on Beyaz TV because of “non-disclosure of by which organization the research was conducted, the number of subjects, by whom the research was financed” while it gave place to a public opinion research on the date of December 22, 2013. According to the judgment, Beyaz TV is going to announce the warning text to the public opinion on the screen, as well (January 11).

The warning to Pamukkale TV: The Supreme Committee of Elections inflicted a warning punishment on Pamukkale TV which introduced the actions and projects of Osman Zolan, the mayor of Denizli, without any warning in January 2, 2014. The channel is going to announce the warning text to the public opinion on the screen, as well (January 11).

Source: Basin Konseyi, 2014-ZOR-YIL-BASIN-RAPORU, <http://www.basinkonseyi.org.tr/wp-content/uploads/2014-ZOR-YIL-BASIN-RAPORU.docx>

### **The Supreme Committee of Elections' Suspension Judgment Regarding the Broadcasts of TRT in the 2014 Presidential Election Period**

The Supreme Committee of Elections inflicted 6-program suspension punishment on TRT Türk on the grounds that in three-day live broadcasts of the television TRT Türk between the dates August 6- August 8, while the actions of Erdoğan were given place for 5 hours, 26 minutes, and 3 seconds, the other candidates Selahattin Demirtaş and Ekmelettin İhsanoğlu were not given place. However, the channel cut a part of that while it was broadcasting the annotation which explains the reason of the punishment. Thereupon, the committee inflicted 7-program suspension punishment on TRT. The total punishments which were inflicted on TRT Türk reached 25 along with the recent punishments. The state television, which faced with such a punishment for the first time in its 45-year broadcast history, will pay for its one-sided broadcasts by broadcasting "documentary".

Source: Cumhuriyet, 21 Nisan 2015.

### **The Rearrangement Brought with the Law Dated 27.03.2015 and Numbered 6639 on the Prevention of the Access to the Internet and Social Media**

ARTICLE 29- The article below has been added to the Law dated 4/5/2007 and numbered 5651 on the Regulation of the Broadcasts Made in the Internet Environment and the Struggling with Crime Committed via These Broadcasts so as to come after its 8<sup>th</sup> article.

"The removal of content and/or the prevention of access in cases where there is inconvenience if delayed

ARTICLE 8/A- (1) The judgment of the removal of content and/or the prevention of access in respect of the broadcast taking part in the internet environment can be made by Presidency in cases where there is a judge or inconvenience if delayed based on one or several reasons of the protection of the security of life and property of people with their right to live, the protection of national security and public order, the prevention of committing crime, or the protection of public health, at the Ministries' request with regard to the protection of Prime Ministry or national security and public order, the prevention of committing crime, or the protection of public health. The judgment is notified immediately to the access providers and related content and hosting providers by Presidency. The necessary of the judgment of the removal of content and/or the prevention of access is done immediately and in four hours after the moment of the notification of the judgment most lately.

(2) The judgment of the removal of content and/or the prevention of access made by Presidency at Prime Ministry or related Ministries' request is submitted for the judge of criminal courts of peace by Presidency in twenty-four hours. The judge announces the decision in forty-eight hours; otherwise, the decision is revoked by itself.

(3) The judgments of the prevention of access made within the scope of this article are made with the method of prevention of the access to content in concern with the broadcast, part, section (in the form of URL, etc.) in which the infringement occurred. However, the judgment of the prevention of the access to the whole internet site can be made in cases where the prevention of the access to content in concern with the infringement could not be



done technically or the infringement could not be prevented by the way of the prevention of the access to the related content.

(4) A criminal complaint about the people who create and spread the internet contents which are the subjects of the crime within the scope of this article is filed to the Chief Public Prosecutor's Office by Presidency. The necessary information to find the wrongdoers is given to judicial authorities by the content, hosting and access providers upon the judicial decision. Individuals responsible for the content, hosting and access providers who do not give this information are fined from three thousand days to ten thousand days if the action does not constitute another crime requiring severer penalty.

(5) In accordance with this article, the administrative fine from fifty thousand Turkish liras to five hundred thousand Turkish liras is imposed on the access providers and related content and hosting providers who do not do the necessary of the judgment of the removal of content given and/or the prevention of access.”

#### **d. Using Public Funds (Vehicle and Personnel) for Election Campaigns**

It is clear that the party in power used municipality funds including especially province organisations and personnel. Transporting voters to meeting places with municipality buses, giving permission to municipality's personnel for attending these meetings mean using public funds wastefully. It is impossible for opposition parties apart from municipalities to organise an official ceremony and congress openings. Because of this reason, using public funds –equipment and personnel- in formal government ceremonies provide the party in power for propaganda opportunities apart from official election times compared to other parties. Within this framework, municipalities belonging to oppositional parties use opportunities similar way. In other words, this basically means violating the matters in the 298<sup>th</sup> law clearly. It is seen that the party in power uses the same matters apart from election period. Especially, they clearly violated the municipal prohibitions in the elections of President. It is not clear whether authorities (election councils) did some regulations or not.

Within this scope, some public officials who have to be “impartial” according to the Constitution in their works act as if they are a party officer and some of them “want vote” for their party while delivering some social donations. These all can be seen on the press. These kinds of attitude and behaviours give harm to citizens' expectations for public officials' impartiality and to their trust in the government. On the other hand, these kinds of cases are evaluated as “buying votes”.

There have been an immense increase in the amount of discretionary funds in recent years whose data are not shown to the public and used by the Prime Minister's Office. These discretionary funds can be spend for only in the areas specified in the law. However, there are several claims regarding these funds were used for the election campaigns. It is an astounding fact that only in the first half of 2014, 440 millions of Turkish Liras were taken from this fund. Besides the developments in internal and external security within this time



period in Turkey, the elections of President and local administration support these claims. Allocating an extra and specific discretionary fund for the President's fund with the change of a law in the recent years can be seen as a background for "presidency" system, but "irresponsible" President's subvention which is not subject to audition raises questions about this subject.

It is a known fact that in lots of countries including U.S.A, these kinds of expenses create "anomalous" events or "conflict of interest". Debates about this subject, rather than subventions, result from this expenses' being not "transparent". Hence, it is under question whether these expenses are wasted for the events determining the decisions of voters directly or not. It is remembered that within the 50<sup>th</sup> government period, 500 billions of Turkish Liras were given to a person named as S.P from the Presidency's discretionary fund. For this issue, sending the Prime Minister of that period to the Supreme Court was decided, but he was acquitted. Despite the law no. 298' 94-A/last and 98-E/6 decrees which are against performing election campaigns, there is a possibility of some high-ranked politics make use of their official overseas journey by making them "directly" or "indirectly" a politic propaganda because there is no clear constitutional law regulations or they cannot be interpreted in the right way. Especially, while making statements about the developments both inside and outside the country, the events organised by some institutions within the scope of official visits are evaluated as 3<sup>rd</sup> persons' activities of campaign. This subject was regulated strictly by the law no. 298 (article 55B) about the propagandas in the election period.

On the other hand, the law no 6356 Unions and Collective Labour Agreements and the law no 5253 Unions' Law include clear and prohibitive statements about helping political parties. Along with them, the law no 1163 Cooperatives' Law and the law no 5237 Law of Foundations have no clear statements about this matter. The law no. 2820- Political Parties Law (article 66) regulates how to support and donate these political parties according to the law. It is recommended in the GRECO recommendations that these kind of non-governmental organisations' (which seem to have relations with the political parties) incomes and expenses should be analysed with political parties' incomes and expenses. It is not possible to reach a generalization about this subject because in the constitutional court auditions, the donators' names are not stated clearly. Moreover, because of the fact that there is a lacunae in law; there is a possibility of creating events for the benefit of these parties or candidates or creating events to the detriment of them. Hence, the accounts of these sort of parties should be inspected within the framework of political finance.

Lastly, inflow of unrecorded foreign currency since 2003 especially in the election periods is linked with cash repatriation law in 2008 and 2013; and Ministry of Customs and Trade-General Directorate of Costum's law of 15<sup>th</sup> of April, 2015 which approves currencies coming along with the passenger from abroad. These are also associated with the Funding the politics.

**Funding the politics is an important feature for creating equal opportunities in politics.**

## **Law no 298. Electoral Prohibitions in the Law about Elections' Essential Provisions and Register of Electors**

Delivering Publication and Materials for propaganda purposes

### **Article 57 – (Amended: 8/4/2010-5980/6 cl.)**

Political parties and candidates attending to the election are free to deliver any kind of introductory items like pamphlet, party flag, poster or CD, DVD which include sound or visuals from the first day of elections to the end of propaganda period. It is forbidden for political parties and candidates to deliver any kind of present or swatch except for the items aforementioned in this article by themselves or by 3<sup>rd</sup> parties or foundations and institutions.

### **Things cannot be done during the election period:**

Along with things mentioned in the article 63-62, those who took part in associations about general interests as officials and attendants have to conserve their impartiality during the elections.

For those who are mentioned above, depending on the 5830<sup>th</sup> law number's forbidden decrees, during the election period:

- a. Holding up and donating political parties and candidates regardless of any authority,
- b. Using, manipulating or letting any sort of equipment and opportunities to use for a political party or a candidate with officials and attendants is forbidden.

It is forbidden for the people written in the first article and organisations depending on Banking Law to deliver any kind of publications to manipulate the citizens' vote.

(1)

Any kind of book, pamphlet, poster and things similar to these items that were printed and published before depend on the same decree.

### **Prohibitions about ceremonies:**

Article 64 – (Change: 19/2/1987 – 3330/4 cl.)

From the first day of electoral propaganda to following day of voting, because of the works taking sources from the institutions depending on Banking Law; all of the boards, institutions and foundations are forbidden to organise ceremonies (including openings and ground-breaking), addressing, making statements and publishing any kind of things by means of anything about this subject.(...) (2)

### **Prohibitions for the Prime Minister and other ministers:**

Article 65 – (Change in the first article: 19/2/1987 – 3330/5 md)

From the first day of electoral propaganda to following day of voting, the Prime minister, other ministers and deputies cannot perform their visits for propaganda purposes with their

official cars or vehicles assigned to official services. In their visits for these purposes, ceremonies as a necessity of protocol for welcoming and send-off cannot be done and official feasts cannot be organised.

Within the time period written above, the Prime Minister and other ministers depend on these laws for their propaganda and speech.

### **Regulation which Approves “Buying Votes” as a Crime**

Greece’s Criminal Law’s 165<sup>th</sup> article (bribe in the elections) considers giving presents to manipulate the voter’s decisions as a crime. Sanctions include penalty fine and prison sentence for two years. With the Presidency Enactment in 2007 (96/2007) bribing in President Elections to affect the election results is sentenced from three months to three years.

### **Principles about Public Services which Take Place in State Officials Law numbered as 657**

#### **IMPARTIALITY AND LOYALTY TO THE STATE**

Article 7 – (Changed article: 12/05/1982 – 2670/2 cl.)

State officials cannot enrol to the political parties, they cannot act to the detriment of a political party, person or a group or for the benefit of them; they cannot discriminate people according to their languages, races, sexes, political ideas, philosophical ideas, religions or sects; by no means they cannot take part in any kind of political and ideological statements and they cannot attend those kinds of acts.

State officials have to protect the State’s benefits for certain. They cannot be engaged in activities which are against the Turkish Republic Constitution and laws, to the detriment of country’s independence and unity, and endanger Turkish Republic’s security. They cannot attend and support any kind of aforementioned movements, groupings, institutions or associations.

#### **TYPES OF DISCIPLINE FINES and ACTS AND MANNERS REQUIRING FINE**

Article 125 – (Changed article: 12/05/1982 – 2670/31 cl.)

D- Stopping advance by echelon: According to the action’s degree, official’s advance is stopped for 1-3 years.

*These are the acts and manners requiring stopping the advance by echelon:*

l) While performing duties, discriminating people for their languages, races, sexes, political ideas, philosophical ideas, religions or sects; or acting for or against their benefits.

o) To be engage in activities which are for or against the benefit of any kind of parties.

E- Cancelling their status of State Official: It is basically cancelling their public official for never accepting them as an official again.

*These are the acts and manners requiring cancelling being State official:*

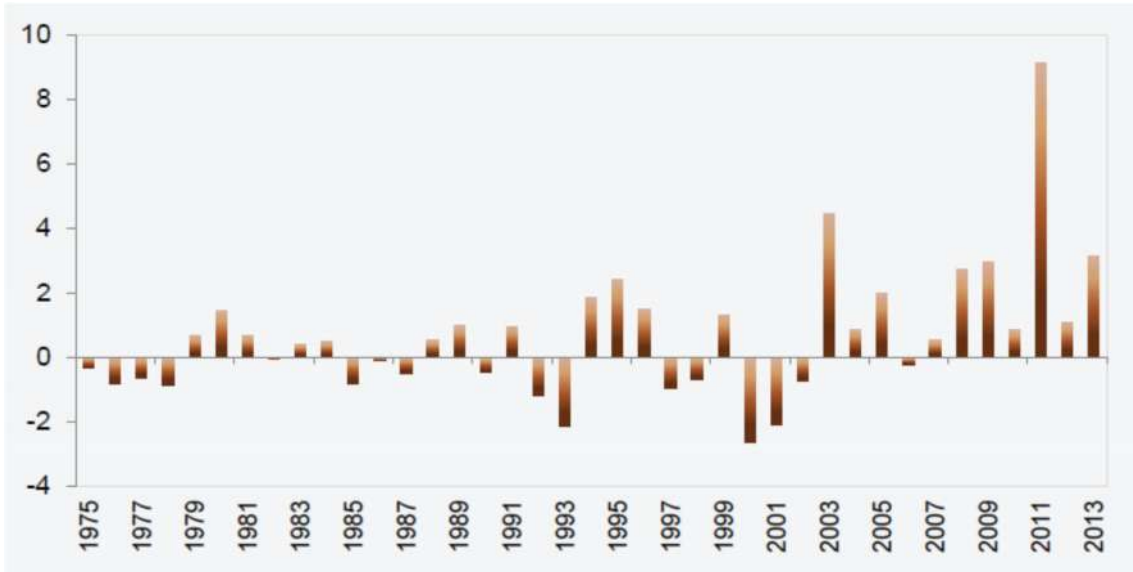
- a. Damaging institutions' peace, tranquillity and working system, boycott, occupation, (Changed clause: 25/028/2011 repeated Official Newspaper – 6111/111 cl.) "obstructing public services' conduction", attending to the slowing the pace of the work and strike or not coming to the work collectively for these purposes, recommending or helping these actions to be performed,
- b. Printing, reproducing, delivering or hanging up them to any place of the institution or making a display of any kind of publications or political or ideological announcements like posters, placards and the likes of them which are forbidden,
- c. Enrolling a political party

### **Inflow of Unrecorded Foreign Currency and the Relations of Political Finance**

Within the statistics of payments balance, Net Mistake Shortcoming (NMS) – (inflow of unrecorded foreign currency) items' fluctuant and high levels in some years in lots of countries including turkey draw attention. According to the available data, there is an immense increase in the rate of inflow of unrecorded foreign currency during election periods compared to inflow of recorded foreign currency. This rate is %2.7 in 1991 (Deputy Elections); %4.5 in 1994 (Local Administrations Elections); %4.3 in 1995 (Deputy Elections), %2.5 in 1999 (Deputy Elections and Local Administrations Elections); %0.2 in 2002 (Deputy Elections); %1.8 in 2004 (Local Administrations Elections); %0.33 in 2007; %1.94 in 2009 (Local Administrations Elections); %4.3 in 2011 (Deputy Elections) and % 15.99 in the first quarter of 2014 when Local Administrations and Presidential Elections. According to the data taken from T.C Central Bank, the lowest "hot money" inflow of all the times was recorded in 2001 since 1950; afterwards, it tended to increase constantly until the last quarter of 2005. During this period, although the fact maintaining that Turkey's economic developments which tempt foreign investors increased the amount of inflow of unrecorded foreign currency is right, it is clear that sudden changes especially during the election periods support the importance of 'unrecorded money' in elections' finance.

*Inflow of Unrecorded Foreign Currency (millions of U.S.A Dollars)), 1975-2013*

*Resource: T.C. Central Bank, The Report of Balance of Payments, 214-III, page 27 Graphic 1.*



**Law numbered 5018 on Public Financial Management and Control (Discretionary Fund)**

Article 24- Discretionary Fund is a fund which is added to the Prime Ministry budget and used for the State’s national security and surplus benefits, requirements of prestige of the State; political, social and cultural purposes and extraordinary services. Discretionary Fund may be given to other official institutes which conduct intelligence services required by the duties given by law. Discretionary Fund shall not be used except for these purposes and Prime Minister’s personal expenses along with political parties’ management, propaganda and electoral needs. The total amount of these funds in the stated year shall not be higher than the amount of total general beginning funds’ five per thousand.

The Prime Minister decides which documents will be given to the new authorized person if the usage areas of discretionary funds which take place in the Prime Minister’s office, who will manage the expenditures, the management system of recording accounts and checking out them.

Expenditures about the discretionary funds are performed and paid according to the enactment fundamentals signed by the Prime Minister, the Minister of Finance and other authorized minister.

**Discretionary Fund Allotments in Turkey, 2003-2014**

Year	Allotments of Secret Service Payments (millions of Turkish liras)
2003	103.0
2004	107.0
2005	85.0
2006	327.4

<b>2007</b>	436.4
<b>2008</b>	510.7
<b>2009</b>	634.4
<b>2010</b>	706.0
<b>2011</b>	951.0
<b>2012</b>	1.175.3
<b>2013</b>	1.243.1
<b>2014</b>	2.200.0

Source: T.C Ministry of Finance, Budget and Financial Control Management

### **Regulations for Using Public Funding in Selected Countries**

There is no regulation for using public funds which are used for election campaigns in France. Moreover, Electoral Law's Article no 52-8 forbids all of the supports and helps coming from legal entities. This law also explains that the candidates' campaign accounts who use financial sources and aid kinds within the framework of this prohibition cannot be accepted by the Committee of Campaign Accounts and National Political Finance.

Source: <http://www.idea.int/political-finance/>

In Germany, donations by public institutions and organisations are forbidden. (The law of Political Parties, article 25). Political parties do not have a right to public buildings or its opportunities. Also, if the public buildings are open for political parties, it should be conducted fairly for all of the parties.

Source: GRECO(2009) Evaluation of Germany's Transparency of Party Finance

In Poland, using financial, human and technic sources which belong to public institutions, autonomous managements, public companies and centralized or local administrations for supporting political parties' events and election campaigns except for the conditions determined by electoral laws.

The law of Poland's Political Parties' Events and Finance of Electoral Campaigns, 2006, Article 10/1.

### **e. Policies of Public Assistance and Managing voters' decisions:**

The relationship between the public assistance policies and "approaching" methods is a universal fact. Approaching methods affect the development of a country. As the best example of it, public assistance pose a threat for approaching relations and finally it exterminates these kinds of organisations. As the worst scenario, social assistances empower the approaching organisations and as a result, it hinders political rivalry by affecting poor people's vote decisions. Also, it prevents the system of give an account for the elections. Moreover, social policies provided by an "approaching" method give harm to poor

people's welfare. Lastly, "approaching" social policies hinder the development of social industries and this situation cause losses in the humanitarian developments in the long run. Recent studies conducted in Latin America, Philippines and South Africa prove these problems.

With legal and institutional changes applied as a requirement of a social state policy of the Constitution; the amount of social assistances in the general budget for different segments of the society, especially older, widow, orphan, disabled people and children has increased 15 times in the last decade. Important policies has been started to conduct for large mass of people especially in health and education areas. However, public's ratio of expenses for social assistance to gross domestic production is on average %22 in OECD (International Economical Collaboration Organisation) countries. In Turkey, this ratio is %12.4.

The vast majority of social assistances are coordinated and provided by the Ministry of Family and Social Policies. In addition to the assistances provided by non-governmental organisations that are comprised of provincial organisation of central administration and the fund of encouraging social assistances and supports; by means of other ministries; assistances such as education and coal are provided. There are social assistances organised by only the municipalities or coordinated with other social assistance institutions, too.

According to the ministry's booklet of 2015 budget, %40 of the total population, in other words; 10 million of 53.765.261 recorded voters announced by YSK get assistance from different categories of the state. The poor who have income less than 270 liras compose the one fourth of the population. In 2012, there were 6.7 million houses and 23.7 million people having social assistance; these ratios reached to 8 million of houses and 30.5 million people in 2014.

Last year, 20.393.000.000 was spent as a social assistance either as a cash or as a unreturned real for families or individuals who cannot provide their basic needs and had difficulty in surviving even in the last level of their lives. The data in the 2015 budget presentation of the Ministry of Family and Social Policies (MFSP) indicated that %39 of the population take place in the category of needy people.

By determining the rules of effective policy and program of social assistance, responsible institutions should be described and the mechanisms of giving account should be applied clearly and transparently. This matter is not only a problem for the developing countries or rising economies, but also for the developed countries. Because of the fact that the social assistances in Turkey depend on "rights", they are not conducted regularly and those who get assistance are not confident about the future. Sometimes, identifying people who will get the assistance base on "personal criteria". Assistance policy creates a negative impact on labour market by making people addicted and passive. Studies for forming "Central Control System" in order to monitoring and supervising the resources allotted to social assistances' effectiveness and usefulness are still continuing. However, because at least some parts of social assistances are consisting of several pieces and their management is not transparent and accountable enough, the claims saying that this process is used for "political purposes" and "affecting the voters' decisions" draw attention.

However limited, evaluations such as these assistances will be stopped if people stop supporting the party and citizens who explained that they are supporting the party under the influence of these social aids are especially make an impact on poor people open to all negative impressions. It is claimed that the most effective way to affect the decisions of voters is to assist them by favour of the municipalities. There were some news in the press about some officials who took part in these kinds of events just before the elections and their news about being sued. It is also claimed that the amount of lost produced coal, which also present in the reports of Court of Exchequer, was indirectly delivered to the poor. Shortly, even making the social policies a way of propaganda provides an unfair rivalry in politics. Opposition parties do not have such ways to balance this neither national nor regional.

On the other hand, social assistances are provided by lots of associations and foundations, too. It is not always possible to claim that these practices, which are ultimately humanitarian and required in terms of their purposes, have not relations with politics or guiding the voters. These sorts of social assistance foundations whose number were raised in the last years play an important role in areas where the State cannot reach. Moreover, it is an interesting fact that most of these foundations have close relations with the political part in power or with other parties or working collaboratively with them. It is possible to evaluate the emphasis of GRECO's recommendations to Turkey within the framework of Funding the politics saying that foundations and institutions' accounts, which have relations with political parties even indirectly should be inspected with the party accounts.

#### **Types and Amounts of Social Assistances, 2014**

<b>Types of Assistances</b>	<b>The Number of Families getting assistance</b>
To the families of soldiers	120.449
To sheltering	22.609
To education	2.002.346
To widowers	276.680
Food	675.193
Council estate	24.607
Fuelwood	2.145.272

Source: T.R. Ministry of Family and Social Policies, Activity Report of 2014, 2015

#### **Coal Assistances in Turkey, 2003-2015**

<b>Year</b>	<b>The number of houses</b>	<b>Coal Assistance (ton)</b>
2003	1.096.488	649.818
2004	1.610.170	1.052.379
2005	1.831.234	1.329.67



2013	2.103.324	1.992.549
2014	2.106.015	2.142.316
2015	2.145.272	2.232.700

Source: T.R. Ministry of Family and Social Policies, Activity Report of 2014, 2015

**By determining the rules of effective social assistance policies, it is required to identify the responsible institutions and apply the audition and accountability mechanisms clearly and transparently.**

### **Minimum Cash Income Support**

Minimum cash income support is a guaranteed caretaking system which is not distributive. It is determined in a specific country to provide everybody a minimum life standard. The amount of it is determined by law or administrative decision and it is applied to everybody equally. Social assistance is provided objectively for people who have certain criteria.

The implication of minimum cash income support is different in EU countries. In the first group, comprehensive income assistance, which is available for everybody, is provided not only for the target people, but also for everybody who do not have enough income. In this group, there are countries like Austria, Luxemburg, Malta, Poland, Romania and Slovakia. The countries where people take the income support as an ultimate remedy after trying every job opportunities are Germany, United Kingdom, France, Finland and Ireland. It is conducted for providing security people in certain groups (old, disabled and unemployed). Lastly, countries which have plans in different categories (Italy, Hungary and Greece) and countries which have no national income plans (Spain); minimum cash income support is not applied as the ultimate remedy. Belgium, Czech Republic, Netherlands and Sweden use minimum cash income support as comprehensive precaution; Bulgaria, Denmark, Estonia, Cyprus, Latvia, Lithuania, Slovenia and Portugal use it as a last remedy.

Source: Berra Zeynep Dodurka, Türkiye’de Merkezi Devlet Eliyle Yapılan Sosyal Yardımlar - Çalışma Raporu, Aralık 2014, [http://www.spf.boun.edu.tr/docs/faaliyet\\_raporlari/Sosyal\\_Yardim\\_Raporu\\_-\\_Aralik\\_2014.pdf](http://www.spf.boun.edu.tr/docs/faaliyet_raporlari/Sosyal_Yardim_Raporu_-_Aralik_2014.pdf)

### **f. Tender procedures and its relation to the funding of politics:**

Public procurements bear 3 risks in terms of governance: political unearned income, populist unearned income and bureaucratic unearned income. Political and bureaucratic unearned income occur in the procurement legislation most. Politics would like to turn the process of procurement into a capital stock to support it in order to strengthen its political power or the way that leads thereto. Along with it, changes applied in tender legislation occur because of unearned income anxiety and “the effects of time period and environment, too.

Tender, funding of politics and corruption processes are emphasized by institutions like OECD, the World Bank and GRECO. The law of tender, which was changed 32 times in the last 13 years- the whole tender legislation was changed 164 times- is the most important regulation and means for providing clarity, transparency and accountability for allocating certain public policies of public resources. Also, giving priority to some municipalities and

public institutions while procuring goods and service help these processes to be far away from transparency and accountability.

Tender processes, which take place in both reports of Exchequer Court and in press and submitted to the court, are administrated against the law and by constituting crime-conspire to rig bids on tender, bribe, etc.-. Between the years of 2012-2014, the complaints arrived at Institute of Public Tender were about the municipalities and Ministry of Health most. On average, the cancellation decisions are %6, readjustment decisions are %30. Service procurements take complaints at most. The number tender published in Public Tender Bulletin is 50 percent of all of the tenders on average.

Present tender legislation was limited according to the norms of EU in terms of content, exceptions were increased, the authorisation of the Council of Ministers was increased about the price difference, criteria for attending the tender were regulated in a way of preventing rivalry, the content of directly procurement was enlarged, Public Tender Institute's authorisation for inspecting the events in press was invalidated and the prices of applying for a complaint were increased. Although procuring of goods and services and speeding up the constructing works are obligatory, it is essential to use public resources wisely by paying attention to clarity and accountability. Thereby, one cannot observe and evaluate the Tender Legislation, which was deactivated by unnumbered changes and exceptions. Thus, an uncontrolled area occurs.

Progress billings and money transfers to "imaginary" companies in the election periods are monitored in lots of countries. It is an important fact both in the world and in Turkey that rather than the company's capacity of working, tenders are delivered according to the closeness to the related party and the capacity of giving a "bribe". Although some of the services are provided with the help of tender process, inappropriate processes give birth to transferring funds from the welfare of people to these companies and naturally to the politics. These kinds of applications call forth decline in tax income because they increase black economy. Although some part of those money return as a contribution for company's social responsibility such as "social" assistance or road, school, potable water; the problems like "transparency and accountability" still become widespread. Rather than legal donation; the future of the resources transferred to the parties in this way is contradictive.

The statement of the Prime Minister's Principal Advisor saying "%70 of the subjects believe in corruption, but people prefer corruption than coups" is significant. However, it is clear that this kind of voters neglect macroeconomic factors such as budget in the short and long run, allotting sources and performing current operations. As a result, not being able to perform the tender process clearly and transparently, which is one of the best ways of administering public services in the most appropriate way, spark a debate about politics' impact on this process, whether conforming to public benefits or not, or how personal benefits and public benefits are combined. The essential reasons of these debates are about public officials, who use the power of public and who are chosen & appointed, are not conforming to principles like transparency and accountability or they are avoiding them in the processes such as distributing social assistances, tender, allotment, exceptions and etc.

### Statistics of Proper Tender, 2012-2014

Proper Statistics/Year	2012	2013	2014
The number of administration make a tender	13.366	12.960	12.974
The number of tender made before	157.558	175.724	157.879
Cancelled tender	39.357	18.400	15.979
The number of tender published in the bulletin of public of tender	105.874	100.635	85.979
The number of analysed complaint	5.282	5.093	3.942
The number of incompatibility judgements	5.111	5.039	4.251
The number of contractor	51.014	48.048	48.046
Contract price made within the law number 4734 (million TL)	76,634	89,237	97,420
Total contract price made within exceptions (million TL)	7,121	9,213	8,393
Amount of direct supply	10,554	6,433	7,419

Source: [http://www.ihale.gov.tr/ihale\\_istatistikleri-45-1.html](http://www.ihale.gov.tr/ihale_istatistikleri-45-1.html)

### Applications of Transparency and Accountability during the Tender in EU Member States

...Company gathers the tender needs from ministries, institutions of ministries, public institutions and government-owned corporations in the name of Finland government and prepares framework contracts for tenders open to rivalry. Also, it provides for consultancy service for singular tender projects. The contract prices of ...Company in 2012 is 687 million euros.

Framework contracts are popular in EU countries. They are thought to hinder rivalry because they contain conditions restricting new companies' approval for the system. The ...Company prepares contracts only for institutions and foundations of central government. Other foundations like local administrations supply with them according to their own needs. Also, decentralization may include some problems in terms of integrity (honesty): poor accountability, transparency problems and lack of professional capacity. Thus, application of central tender can be guiding for local administrations. There is a central tender system in Finland for local administrations, too.

In Italy, where tenders are mostly non-rivalry and open to corruption, along with the Law of Accountability of Public Funds, which was enacted in 2010, the Project of Creating Automatic Implications against the Leak of Criminal Provisions in Public Contracts (CAPACI) is a revolutionary approach. According to this system, companies which are sides of public tender contracts open an only bank account from which all of the activities are seen. Thus, financial activities about supplies in important public tender contracts and initiations of organised criminal enterprises' initiations for money laundering can be observable. After the pilot study in Italy, this system was started to be applied in the international level. Thus, services such as executing red flag implications by detecting doubtful implements, data, analysis, comparing and matching the information about bank accounts are provided.

Source: OECD, Political and other forms of corruption in the attribution of public procurement contracts and allocation of EU funds: extent of the phenomenon and overview of practices, Paris, 2013.

#### **g. Organising campaign and authorization and responsibility of giving permission:**

Another problem area of election campaigns is distributing billboards allotted by municipalities at the helm of city and province election councils. Because of the fact that in high favour places which are determined by the municipality is very expensive, they can be mostly used by the party in power.-probably because they got several allotments, they are quoted price differently-. Places which are not central or not crowded remain for oppositional parties. This matter creates an unfair and unequal situation for parties to reach crowds.

As it is known, because of the fact that the rivalry among the parties is paid attention in the last years, “filling areas” is an important factor. However rare, parties organise election meeting at the same day and place to increase rivalry. If it happens, as per law number 298 and YSK announcements, drawing lots between the parties is required. However, in these situations, it is maintained that the priority is given to the party in power.

### **The Law numbered 298 on Elections Fundamental Provisions and Elector Registrations**

#### **Announcement and Advertisement Places**

Clause 60 (Different: 8/4/2010-5980/8 cl.)

Political Parties and candidates can hang and post side flag, poster, banner and similar materials to the election bureaus from the beginning of the Election Day to the end of the election propaganda date. Political Parties can hang and post the foresaid materials to their centre, province, district and town buildings at any time.

Political Parties and candidates are free to use side flag, poster, banner and similar propaganda materials and advertisement materials in their open placed or chamber placed gatherings and their vehicles from the beginning of the Election Day to the end of the election propaganda date.

Foresaid materials are free to be used in the public meeting days, public meeting side and the surrounding territory to the end of the public meeting.

Except for the places that were mentioned above, propaganda posters and advertisement materials can only be used in places which are determined by the election rules according to the procedures and principals that are shown below.

Political Parties that are joining into the elections and independent candidates can benefit from the poster and advertisement places that are determined by election department and municipality equally in numbers, time and cost, in that election territory, in the purpose of hanging or posting posters, banners and advertisements beginning from 30 day ahead of the election day.

No cost is requested for the poster and advertisement places that were provided to the demanders in charge of no cost apart from the election times. Those places are shared equally among the Political Parties and independent candidates.

For the fixed poster and advertisement places that were established by the private person or institutions with the permission of municipality or the fixed poster and advertisement places that belong to the municipality but rented to the private person or institutions to be used in the purpose of propaganda by those people, upon the application to the election committee in this matter, it is necessary to be decided that those places are allocated by the district election committee according to these clause edicts.

District election committee determines the fixed poster and advertisement places 40 days ahead of the election day and informs all of the Political Parties and independent candidates that are joining in the elections with a written declaration. Political Parties and independent candidates, within the 3 days of the committee's declaration, submit which poster and advertisement places they want to benefit from and how long they want to benefit from it in written to the district election committee.

District election committee allocates the places among the Political Parties and independent candidates according to these rules.

In the case that more than one political side or independent candidates apply for the same poster and advertisement place, district election committee invites the applicants at the same time to deliver their last choices in written. If the Political Parties and independent candidates do not come to terms, poster and advertisement places are allocated in equal time, number and cost by lot. The lot is done in even periods for each poster and advertisement place, the whole propaganda time is divided into the applicant numbers.

Province election committee is authorized to do the same for the fixed poster and advertisement places that are located on the road outside the province. But the province election committee can assign this right to the district election committee.

After the lot, If a political side or an independent candidate renounce their right of the places that are reserved for the Political Parties and independent candidates in written, those places can be allocated to the other applicants.

Except than the places that are forbidden in this law, visual propaganda can also be done via fixed digital advertisement boards located in public areas that are suitable for posting posters and advertisements. But no audible propaganda can be performed through those devices. After it is determined by the election committee when these boards can be used for political propaganda, the sequence and period of time of the propaganda that will be performed in this time are determined according to the procedure that is shown above and they are allocated to the Political Parties and independent candidates.

Citizens, beginning from 30 days ahead of the election time to the ending of the propaganda date, can hang or post materials such as flags, banners and posters to their vehicles, workplaces or their residences. These posters and advertisements are exempted of any kind of taxes and fees.

The poster and advertisement materials that are stated in this clause, except than the places that are stated in the first subsection, cannot be hanged, posted and exhibited after the end of the propaganda date.

The procedures and principals related to the applications are determined by the Supreme Committee of Elections.

Prohibitions about the poster and advertisement places

Clause 61 - (Abrogated: 17/5/1979-2234/5 cl. ; Rearrangement: 28/12/1993-3959/4 cl. ; Amended : 8/4/2010-5980/9 cl.)

Beginning with the election day and the following voting day, it is forbidden for Political Parties, independent candidates, any institutions or person to hang, post or exhibit materials like advertisement banner, poster, placard including political interest or political side flag except than the places that are stated in this law. Otherwise, those banner and advertisements are removed and the cost is collected from those concerned. The transaction right about the prohibitions stated in this clause belongs to the Civil Offices from the beginning of the elections date to the 30th day before the election (voting) day, for the last 30 days the right belongs to district election committees.

Municipalities, upon the requests of the official authorities that are stated in this clause, are responsible to provide the required vehicle, material and staffs eliminate the adverse cases according to the clause.

From the beginning of the Election Day to the following voting days, outside the city or within the inner city, political propaganda containing broadcasting cannot be done in the advertisement places and devices located in the air, land or rail system vehicles that are used for the purpose of public transportation in public services. This edict is applied for the closed disembarking and embarking places that passengers use. District election committees do the necessary inspections via Civil Offices to prevent the adverse cases according to the prohibition in this subsection.

### **Regulations about the Billboards in the European Union Member States**

Billboard usages and leaflet distributions are subjected to some limitations just little time before the elections. For Example, the Minister of Interior Affairs in Baviera issues a notice and declares the rules and regulations for the use of streets and roads in the district for the use of election propagandas. The billboards in state highways, and propaganda with loudspeakers can be practised till 6 weeks before the Federal and European Parliament elections, till 4 weeks before the provincial elections, till 2 weeks before the local elections. In accordance with this notice, local administrations make the general regulations about the highways under their control.

German Federal Constitutional Court's decision in 2002 states that the political parties are allowed to hand posters, fliers, and similar campaign materials during the election campaigns. On the other hand, the political parties have to abide by the administrative and civil court provisions by utilizing their corresponding rights. For example, they have to respect to individual right to reject campaign fliers in personal mail boxes. They have to abide by the rules of using billboards that are determined by the authorized municipality.

Source: BVerfG, reasoned chamber decision denying certiorari, Aug. 1, 2002, reprinted in NEUE JURISTISCHE WOCHENSCHRIFT 2938 (2002). Verwaltungsgericht München, decision of May 26, 2002, BAYERISCHE VERWALTUNGSBLÄTTER 732 (2002).

In Estonia, the citizens believe that utilizing billboards in elections campaign is the most expensive means of advertisement and propaganda and they do not suppose using the billboards are utterly necessary. The Law on European Parliament Elections (Article 71), Law on Local Administration Council Elections (Article 672) and Law on Estonian National Assembly Elections (Riigikogu) (Article 732) states in their amendments in 2005 that advertisement of political parties, their logos and campaign materials are prohibited to be exhibited in streets, roads, constructions, buildings, public transportation means and taxis during the official campaign periods.

#### **h. Nomination Process:**

How should the candidates to participate in the elections be determined – mainly in the form of center survey or primary election – and how should the independent candidates apply for candidacy have all been determined in detail in The Political Parties Law, Parliamentary Election Law and Local Administrations, Law on The Election of Village and Neighbourhood Mukhtars as well as The Board of Alderman. The proliferation of the use of technology in elections at every level stresses the importance of the financial resources starting from the nomination process one more time. In other words, the effect of private benefits show their face even in the nomination process. It is quite prevalent to define some candidates or deputies not for the representatives of people but for the representative of a particular “group/company/holding”. It is impossible to prevent this. Beside this, the fact that the financing of the election campaign of the candidates hasn’t been regulated against the imperative provision of the Constitution in order to grant more “freedom” to the candidates against their parties and private benefits poses the most important obstacle. While it was recommended to determine the candidates by the members of the parties and deputies like a primary election so as to extend the democracy, the arrangement of the records and elections of members and deputies in accordance with the democratic policies is of capital importance. It is impossible for the deputies that were determined by the party rule to determine the candidates with their free wills. It is claimed that the “financial” sources that are not visible for the candidates that were determined by the members or deputies of the party rule in the primary election just like the representatives of the private benefits were placed in the list from the “contingent” came into play. For this reason, it will be suitable if the election boards observe and inspect the effecting processes in this regard at least during the primary election process in order to carry out the primary elections fair and square.

It is asserted that during the nomination process, it is asserted that the candidates who create problems with the local organizations with the effect of the tendency survey, Central Executive Board and party rule try to take place near the top with a very high amount of financial contribution to the party. How possible it is to prevent these processes that are unrecorded and considerably important for the financing of politics? It is stated that such attempts will be the first steps of the abovementioned tender, politics, corruption and misuse of authority which will embody some certain “alteration” expectations within



themselves in the future. It is also states that many unlawful and unethical organs are also used in this process. Even if all kinds of attempts such as buying votes, unrecorded financial sources, hate speech, the threatening of the voters, corruption in the decisions related to the elections, the exclusion and abasement of some parts of the society during the electoral process are not related with the financing of politics, they prevent the procurement of competition and the development of democracy. The violation of the ethical principals during the campaign along with the declaration of property and financial sources of the candidates constitute the main problem areas. In fact, Ethical Principles and Rules of Conduct for the elections that include the principles of clarity, transparency and accountability are among the significant shortcomings in the financing of politics. In this respect, notwithstanding that resigning for nomination candidacy means, in one sense, to accept to part company with the institution; the fact that some people return to their previous posts by means of executive act after resigning from their nomination candidacy sparks a debate in terms of “objectivity”.

Notwithstanding that there is no clear legislation in the Law number 298 with regard to the candidates for nomination making propagandas by means of billboard, television and internet channels as well as on-vehicle advertising; such activities have started to increase a lot especially prior to the 2015 Parliamentary Elections. The authority to receive permission so as to make such propagandas as well as the conditions under which they are carried out should be regulated by laws and inspected and observed by the related institutions – the election boards in any case. Making high amount of contribution apart from the subscription that the candidates for nomination pay to the parties and “mediators” so as to rank on the top of the lists is quite common though it is limited. It is positive that many parties make a positive discrimination or don’t receive subscription from women candidates. The regulations in the law number 2839 and 2972 related to the application fee for candidacy that the independent candidates transferred to the Fiscal Directorate in order to participate in the elections have a deterrent effect on the candidate inflation during a period when the election campaigns are quite expensive. The application fee for independent candidates which was 446 Turkish Liras in The Parliamentary Elections in 2007 rised to 7734 Turkish Liras in 2011. A total of 1,593,304 Turkish Liras should have been collected from those who applied for candidacy in 2011. As only 35 independent candidates could be chosen in these elections, the amount of 1,322,514 Turkish Liras that was collected from the other candidates was accepted as a revenue of the Public Purse. Besides, in the case that the candidates are not selected, the fact that the aftermath of these subscriptions is different from that of the elections of deputy and local administrations doesn’t comply with the equity and fairness principles. According to the explanation of YSK, in accordance with the second subclause of the article no. 21 of the Parliamentary Election Law numbered 2839, the independent candidates of the parliamentary elections of 2015 should invest in the related subdivison of treasury the amount of 10,617 Turkish Liras which is the gross amount of all kinds of payments made to the high ranking officials within the scope of financial rights for safekeeping. The fact that there is no obligation for mukhtars (headman) that receive a salary from the state and are considered as an official in the eyes of the state according to the Village Law creates a different privilege area.



Ethical Principles and Rules of Conduct for the elections that include the principles of clarity, transparency and accountability are among the significant shortcoming in the financing of politics.

Lastly, the discrimination against the individuals having different identities (ethnic, religious, denominational, lingual etc.) and LGBT (lesbian, gay, bisexual and transexuals) during the candidacy process is stressed. This case is against the Article number 10 of the Constitution as well as many human rights regulations.

### **Law Numbered 2820 on Political Parties**

#### **Determination of Party Candidates:**

Article 37 – (Amended: 28/3/1986 - 3270/9 cl..)

During the Parliamentary and By-elections, the political parties can make the determination of the candidates among those who applied for candidacy and those whose candidacy applications were approved with several or any of the procedures and principles that they will determine in the regulations within the framework of free, equal, secret vote, open counting principles. (Annex: 31/7/1998 - 4381/7 cl.) The political parties can nominate their city, election district and its place on the candidate list as central candidates in the election districts where they made a primary election without exceeding 5 percent of the total member number of the Turkish Grand National Assembly under the condition that the Supreme Election Board is notified of this at least ten days before the primary election. In places where no primary election is made, the right of the political parties to determine candidate with several or any of other procedures or central survey is reserved.

The party candidate elections apart from the primary election shown in the regulations of the parties are done under the supervision and management of election boards. The regulations of this Law regarding the primary elections are applied in the primary election that the Parties will make with the participation of all the members around an election. The day on which the determination of the candidate will be made is determined by The Supreme Election Board on a date that is at least 75 days before the general elections and declared. The candidate determinations that all political parties that will participate in the elections make in the cities and counties according to the procedures in their regulations are made on the same day within the whole country. The election district accepted for the general elections is taken as a basis for the determination of candidate.

Nomination candidacy and central candidacy in political parties: Article 40 – (Amended first subclause: 28/3/1986 – 3270/11 cl) Under the condition that it won't be against the legislations stated in the laws and Constitution, the political parties are entitled to indicate in the regulations what kinds of conditions the candidates should have. During the primary elections and central candidacy, One person cannot participate in primary election from more than one election district for the same elections from various political parties or the same party. One cannot be nominated as a central candidacy after participating in the primary election or preselection from one party and he/she is not nominated as an independent candidate unless he/she resigns from his/her party.

## **Parliamentary Election Law no. 2839**

### **The Application of Independent Candidates**

Article 21 – 2. Those who apply for independent candidacy should transfer the one-month gross amount of all kinds of payments that are made to the state officials within the scope of financial rights in the related subdivision of treasury for safekeeping and add the receipts to the necessary application documents in order to be elected as a deputy.

Ethical Principles and Rules of Conduct for the elections that include the principles of clarity, transparency and accountability are among the significant shortcoming in the financing of politics.

### **The Procedures The To Follow About The Money That Independent Candidates Deposited For Safekeeping :**

Article 41 – (Amended first subclause: 27/10/1995 – 4125/20 cl.) If the number of the votes that the independent candidate receives is not enough for her/his to be elected as a result of the Parliamentary Elections, the Money that is deposited by the candidates for safekeeping is accepted as a treasure to Public Purse.

The Money that was deposited for safekeeping is refunded to the candidates who passed away or backed down from being a candidate or those who were rejected to be a candidate or the independent candidates who received more votes than the amount mentioned in the subclause above and their legal heirs under the condition that they make an application for his after the elections.

## **The Law no 2972 On The Elections of Local Administrations, Neighbourhood Mukhtars and Board of Alderman**

### **Candidacy**

Article 10 – e/2. A subscription of application whose amount will be determined by the authorised bodies of the head office of the party can be demanded from the party candidates during the elections of local administrations. The amount of this subscription cannot exceed the gross salary of a top-ranked official. Subclause number 2 of the article number 21 of Parliamentary Election Law no. 2839 as well as the article number 41 of the same law are upheld for the independent candidates for Mayorship. At the end of the elections, the deposit payment is refunded to the candidate who was elected for mayorship regardless of the number of the votes he/she received.

### **Regulations On The Financing of Politics During The Candidacy Period in Selected Countries**

Every candidate has to pay 350 Australia dollar for candidacy application fee during the elections that was held in Victoria state of Australia. Those who received less than 4 percent in the elections are given the money they paid.

Source: <http://www.vec.vic.gov.au/CandidatesAndParties/BecomingaStateCandidate.html>

*500 pounds for candidacy in Scotch and Wales Parliaments along with British Parliament (House of Commons),; 150 pounds for candidacy in North Irish Parliamentary Elections, 1,000 pounds for election district for London Metropolitan Municipality Aldermanship, 5,000*

*pounds to take place in the London list and 10,000 pounds for London Mayorship are taken from the independent candidates as application fees. While the candidates who receive 5 percent of the valid votes are refunded, this proportion is the 25 percent of primer elections in North Ireland.*

*Source: <http://www.democraticaudit.com/?p=1587>*

In Ireland, the candidates apart from the parties or people who were nominated as a candidate by 30 voters have to pay an amount of 500 Euros for candidacy fee. This amount is refunded after the elections to the candidates who receive 25 percent of the valid votes in one negotiable voting system. The candidates who exceed this vote rate are also entitled to receive the governmental support for the election campaigns expenditures.

*Source: Elections (Amendment) Law, 2007, Article 48*

### **Rules of Conduct For Parties and Candidates**

The Codes of Conduct that were accepted for the elections by Elections Board in India include some issues that the parties and candidates should pay attention to. The purpose of codes of conduct is to ensure “equal conditions” for the candidates. According to this,

1. The political parties and candidates should get permission and license from the relevant authorities before using tools like speakers during the election campaigns.
2. The rival candidates and those who make campaigns should abstain from carrying out election campaigns and convoys near the residential areas and election district of the rival candidate.
3. Campaign meetings shouldn't obstruct the traffic.
4. Investment programs like road construction and water supply networks for the ruling party and government officials shouldn't be commenced and the officials shouldn't participate in openings.
5. They shouldn't enter into cooperations with the officials that perform their duties near the polls on the elections days. Using political symbols and voting without an identification card shouldn't be allowed.
6. The observers should report their complaints to the relevant authorities.
7. The ruling party shouldn't use its status as its campaign targets.
8. The ministers of the ruling party should abstain from making assignments that will effect the preference of the voters

*Source: Model Davranış Kuralları için bakınız: <http://ibnlive.in.com/news/full-text-election-commissions-model-codeof-conduct/220276-53.html>*

#### **i. Gender Inequality:**

One of the most important or maybe one of the most leading problem areas in front of providing competition is the gender inequality about the candidacy and finance. It is stated that the finance of politic and gender equality cannot be thought independently of each other. The national and international studies show that the most important obstacle in front of the women participating actively in the politics is financial sources. Besides, because the majority that determines the candidates is men, male candidates are preferred instead of

female candidates. The women are faced with very striking negative conditions related with the finance during the local administration and general elections.

It is not known exactly how much budget the political parties that receive state support allocated for women organizations and women candidates. On the other hand, it is obvious that many parties use women as an agent of collecting vote or as a “showcase ornament”. When the increase in the number of the women deputies, the representation of women in parliamentary and local administrations is quite low. Only the 268 out of 7695 candidates during the elections in 2011, 531 out of 9861 candidates during the elections in 2015 were women. It is obvious that the double increase in the number of women candidates will effect the number of 78 women deputies that were elected in 2011. The primary reason behind this is the thought that politics is man’s work not women’s. The second reason is that the incomes and expenses of the candidates are not based on legal regulations. As was tried to explain above, starting from the nomination candidacy period, the elections turn into a financial competition. It is quite hard for women who don’t have economical independence to participate in politics. It is not only universal but also a fact for Turkey as well that private financial sources prefer and support men rather than women.

Besides, the elections campaigns of women cause bring two times more costs than they do for men. Even if the upper limit for grants ensures an equality in Turkey, the fact that the election expenses are not regulated makes it hard for women population whose participation rate is quite low to put in place different financial sources. The majority of the women who were elected to Parliament is either very wealthy from their families or they are qualified people who are needed by the party and who made way to a certain level in their careers – they are generally nominated on a high rank. The number of women who advance in the party management is low. The determinations made above show similarity when the rates of women within organizations as well as their duties and authorities are taken into consideration. In other words, that women take active part in the party ranks still poses a problem. It is quite hard to say that this problem was overcome even in the parties that have organization models that are based on gender equality.

It has been meaningful that male candidates are elected for the duties of the party from the gender quota. In short, it is not expected that political independence for women can be ensured without an economical independence for them. Not only the candidate determination systems but also the elections systems have positive or negative impact on female candidates. The election threshold which is 10% brings forward the male candidates that push the limits to win the game. Even in the parties that apply gender quotas, men are preferred in the front rows of the list. Women are effected negatively by the majoritarian and single member systems and effected positively by proportional representation and party list systems. In the recent years, it has been around that many parties have been implementing “gender quota” implicitly or explicitly. Beside that, it is of significant importance that female candidates should be placed according to the sequences apart from those in the list. In this context, the efforts of The Association For Supporting Female Candidates are effective especially during the general elections. The approaches and facilities should be provided for women to create the “working majority” which they can perform their tasks effectively and actively as well as to increase the representation of women in the Parliament.

## **Principles On Financial Regulations For Women**

*The procurement of the finance for the support of female candidates by the parties cannot be regarded as a discrimination and considered in the light of the conditions related to private measures stated in the Article no 4 of The Convention of Elimination of All Forms of Discrimination Against Women (CEDAW). About the equal participation of women and men in the decision-making processes in political and public fields, as was openly stated in 2003/3 of The Recommendation of The Committee of Ministers of The Council Of Europe, the designation of public resources to parties are based on the condition of the participation of women. It is important that the respect should be shown for political parties being able to assign their internal affairs related to the candidate determination and political program preference of political parties freely yet, the fact that (political parties) make use of state supports can be limited depending on a set of conditions.*

*Source: Venedik Komisyonu ve Avrupa Güvenlik ve İşbirliği Teşkilatı Demokratik Kurumlar ve İnsan Hakları Ofisi, Siyasi Parti Düzenlemeleri Hakkında Kılavuz, Varşova, 2011, paragraf 191.*

### **Financial Positive Discrimination Provisions For Women in Political Party Bylaws in Turkey**

*AKP Bylaw: There is no provision on this subject.*

*CHP Bylaw: Article 41-a/5:*

*Every district and province has to designate an adequate amount of share, being minimum 10 percent of its annual budget to the Women's branch and Youth Branches. Also the Head Office designates an adequate amount of the annual budget of the party to the General Directorate of Youth Branches and General Directorate of Women's branch. While determining this amount or shares, the opinion of the relevant branch management is taken.*

*HDP Bylaw: There is no provision on this subject.*

*MHP Bylaw: There is no provision on this subject.*

### **Regulations To Ensure Gender Equality in European Union Member Countries**

The Countries Having Regulations for Gender Equality

Germany, Austria, Belgium, Bulgaria, Czech Republic,

Denmark, Estonia, France, Croatia, Letonia, Lithuania, Hungary, Slovenia, Greece

Yes

Letonia, Lithuania, Hungary, Slovenia, Greece

Yes

Croatia, Ireland, Italy, Malta, Portugal and Romania No

*Source: <http://www.idea.int/political-finance/>*

### **Financing Samples For Gender in Selected Countries**

If the numerical difference between the numbers of the female and male deputies of a political party is less than 2 percent since 1999, that party receives the state support in a less proportion that is equal to 75 percent of gender difference. With the decision that was made by French Constitutional Council in 2000, this provision promotes the implementation of the principle of men and women benefit from the right to stand for election on the same level in accordance with the Article no 3 and 4 of the Constitution rather than giving punishments to the parties.

### **GRECO (2009) Evaluation on The Finance of French Political Parties**

According to the model that was accepted in 2010 in Bosnia-Herzegovina, while 30 percent of the state support given to the parties is given by being proportioned with equal, the 60 percent is given by being proportioned to valid votes; an 10 percent share is distributed by being proportioned in accordance with the number of female deputies.

**Law on Political Party Finance (2012) , Article 7/3**

In 2005, The Netherlands took the decision not to give state support to the parties that make discriminations against women. The Appeal Court broke this decision yet The Supreme Court of Netherlands and European Court of Human Rights invalidated the decision of Appeal Court under the condition that the parties don't make discriminations against women during the elections period.

**Parliamentary Elections Law (200), Article 40/a**

*The fact that the political parties that receive state support in Finland designate 12 percent of the amount that they take to the Women's Branch is imposed by the annual decision made by the government.*

Source: [www.idea.int](http://www.idea.int)

**2.2. TRANSPARENCY:**

Many international documents, notably being the Advisory Jurisdiction titled Joint Rules On Fight Against Corruption Regarding The European Commission Parliamentary and United Nations Convention On Fight Against Corruption drew attention to the transparency question in the finance of politics.

The crises that continue to grow in the global economy cause the citizen to ask for more transparency in the public management. There are the risks of conflict of interests in the context of both monitoring the principle of the interests of the public and the independence of the political actors on the other hand in the finance of politics. The scandals that took place because of financial problems, the deficiencies in audit and inspections in addition to imposing no sanction bring into question the the subject of transparency in the finance of election campaigns and politics.

Political parties are the institutions that are most recognizable with corruptions. On the other hand, the trust in the public management administered and conducted by political parties and laws determined again by political parties decreases in time.

As a result of the Corruption Perception Index of International Transparency Organization in 2014, Turkey go back to the 64<sup>th</sup> position after losing 5 points among 164 countries in 2013. In the field study that was carried out by Southern Europe Leadership and Democrat Attempt (SELD) in 2014, the corruption perception of Turkey increased and the public opinion that corruption will not decrease even if a lot of precautions are taken is common. According to Turkish Social-Political Tendencies Research in 2014, almost half of the samples defined political parties and media as the least trusted institutions. In spite of all these negative developments, transparency is the first step both to increase the communal and administrative trust and the systems being in a sustainable order.

**a. The Announcement of the Finance of Campaigns:**

The Advisory Jurisdiction No 1516 of The Council of Europe Parliamentary Assembly (AKMPM) adopted that the party accounts have to be inspected by an independent supervisory board in order for the political parties to ensure transparency at least one time in each year and that the results should be announced to the Public along with the identities of the grantors. More detailed provisions on transparency take place in the advisory jurisdiction titled Joint Rules On Fight Against Corruption In The Finance of Political Parties and Election Campaigns.

The fact that election campaigns are not regulated in Turkey creates both an irregularity and a gap. The incomes and expenses of the candidates are not subject to any inspection and audit. For this reason, the dimensions of the finance of politics are calculated pro forma. This case complicates the description of private interests and money. It is a fact that a huge amount of recorded money in politics is caused by the parties rather than the candidates themselves. On the contrary, the finance of the election campaigns of the elections and candidates is a problem area to answer the question “whose candidate” or “whose representative”. In this respect, as it is not known under which conditions the candidates can use the public or private resources, this case constitutes an actual state. Apart from the official campaigns period stated in the law no 298, how far the party member or nonpartisan candidates should use the public authorities, public entities, hardware and personnel? The problem above observed in terms of the parties in municipalities, centralised government and field organizations are as a matter of fact directly related to the candidates. When it is considered that the campaigns are conducted around the election districts, the importance of the arrangement of the finance of campaigns can be understood. Currently, under the condition that the local organizations of the parties don't pose an important problem, they are not inspected very much and constituted a very small amount when compared with the total values.

It is necessary to consider the finance of politics along with the finance of campaigns. However, the fact that “constant campaign” strategy is followed by especially the ruling party in the recent years in Turkey brings to the agenda a new question regarding how the campaigns during the official elections and the campaigns between two elections can differ from each other. This case is regarded as a primary problem in the inspection and audit of the finance of politics which will be discussed below.

For example, with regard to the Presidency elections that were made in 2014, though there is no clear provision in the Law, taking into consideration the difficulty a candidate has during the organization of the campaigns within the scope of Turkey, YSK stated that the parties can organize campaigns on behalf of the candidates they support. How much expense the parties did depending on this can be found out after the inspection of the accounts of the year 2014 by the Constitutional Court. YSK completed the audit and inspection of the candidates during the election campaigns of Presidency elections and the final decision was announced to public. There is no regulation on the matter of third parties supporting a candidate or party or organizing a campaign directly or indirectly on behalf of the candidate or party that they support in relation to the finance of campaigns. Besides, the law no. 298 states that it is forbidden for a political party to broadcast for and against the particular candidate or party by means of written, verbal and mass media and press organs as well as public opinion polls, questionnaires, predictions, information and communication telephones under the name of mini referendum in a way to effect the voting of the citizens in any way “during the period of 10 days before the elections day”



Besides, the Law no 2820 and 6356 regulate the prohibitions related to the cooperations between the political parties and the trade unions. There is no obligation for political parties in Turkey to announce their annual accounts of expenses to the Public. Besides, some parties publish their general balance sheets on their official websites. After the audit of the accounts of political parties by Constitutional Court, they are published in general terms on the Official Gazette and the web page of the Court. The details regarding the accounts such as the identities of the grantors and the details of expenses are not known. The Court gives information only about the incomes and expenses against the Law. There is no legal regulation related to the election campaigns of the candidates. For this reason, the candidates don't share the incomes and expenses with the Public. This subject matter is an important problem area in terms of transparency.

### **Obligation For The Candidate and Parties To Give Notice**

*Article 32. Every party submits the report of the previous year confirmed by the inspector (audit company) of the previous years to the Court of Accounts on the first day of February. This report or notice includes the incomes of the party (the membership fee, grants, the identities of the real persons paying membership fees, the real identities of the persons making the grant, the state support and broadcast incomes along with the incomes made from the other activities) and the expenses of the party (election expenses, various expenses, fees, business travel costs etc.) as well as the information related to the acquisition of movables and immovables (the real states, the number and type of vehicles, their total values and bank accounts )*

Source: Gürcistan Vatandaşların Siyasi Birlikleri Organik Kanunu, (28.12.2011, Sayı 5661)

[www.legislationline.org/documents/id/17741](http://www.legislationline.org/documents/id/17741)

### **b. The Announcement of Party Accounts**

*The audit of party accounts last several years at most under the best conditions. As required by the Principles of Clarity, transparency and accountability, it is a primary problem that parties that receive the state supports don't share their current accounts with the public. Some parties broadcast the incomes and expenses on their webpages under the basic titles. Besides, the investigations of the confirmation of these information will be done in the wake of the audit done by the Constitutional Court. Another matter is that the details of these information are not known and their up-to-dateness is not clear. The fact that the indication of the currency accounts of the parties on their webpages in detail was not regulated by law creates a problem.*

*As a result of the examination of the integrated accounts that the parties submitted to the Constitutional Court, the information about how much donation they got from whom is given in detail as total securities. For this reason, it is not known which natural and legal persons the parties supported by. Probably the real grantors make other people make grant. Transparency is always beneficial regardless of its scope yet this implementation is not enough without accountability. Besides, in the case that the numbers that the parties announced on their webpages don't comply with each other after the audit by the Constitutional Court, the misinformation of the public is in question. As this process is not monitored by any non-state or non-governmental establishments, it is not exactly known how much transparency is ensured.*

The candidates in France have to carry out some transactions in France. First of all, every single candidate informs the II administrations of the financial consultant who is responsible



for financial works before the election campaigns. The financial accountant opens a bank account where all the incomes and expenses are recorded. The candidates have to obey the upper limit during the election campaigns. The election accounts of every candidate who have incomes and expenses to be announced should be approved by a certified auditor. The candidates submit all forms of balance sheets along with the documents related to the payments and invoices of all kinds to the Election Campaigns and The Finance of Politics National Commission

Source: CNCCFP-Presentation, [www.cnccfp.fr/presse/kit/cnccfp\\_en.pdf](http://www.cnccfp.fr/presse/kit/cnccfp_en.pdf)

### **Regulation On The Announcement of Party Accounts On The Internet**

*In accordance with the Law no .29/2 of Political Parties Act of Bulgaria, political parties keep records of the identity of the grantors, the type of donation, the amount of donation, its value and purpose as well as its type of acquisition. They announce the accounts of the acquisition of movables and immovables over 2500 Euros as well as the accounts of the annual and elections campaigns. In accordance with the Provision no 40/2 of the Law, the financial status is to be published in three months. If they are published online, it is ensured that the citizens have access to these information for free and stays published for 3 years.*

*The Court of Accounts publishes the party accounts of the previous years (including the names of the parties that didn't submit their accounts) on its own page until the 15<sup>th</sup> of April. The accounts related to the election campaigns are announced within one month subsequent to the elections by the Court of Accounts.*

Source: GRECO(2010) Bulgaristan Parti Finansmanının Şeffaflığı Değerlendirmesi.

Source:: CNCCFP-Presentation, [www.cnccfp.fr/presse/kit/cnccfp\\_en.pdf](http://www.cnccfp.fr/presse/kit/cnccfp_en.pdf)

### **c. The Upper Limit of Expense and Its Statement**

The Constitution and The Law no 2820 regulated that the parties could make the incomes and expenses in compliance with their purposes. The expenditures areas were released according to the income sources. Besides, some expenditures of leading parties were found illegal according to the audit of Constitutional Court. In this context, a member of the party who is responsible for the financial affairs of the party and an ex-deputy was sued. On the other hand, as a result of irregularities against the powerful parties in the audits of Constitutional Court, the Law no. 6111 extended the documentation and scope of the expenditures. This case provided a relative easiness for the parties. **The fact that there is no maximum spending limit causes politicians who are close to funds to be considerably dependent on unrecorded grants.** Secondly, the absence of maximum spending limit causes the voters to be purchased in return for activities like open public houses and concerts. Finally, spending limitlessly provides easiness for trivial matters to be on the agenda instead of basic questions related to politics and thus distracts the attention of the public.

### **Political Parties Act No. 2820**

#### **The Procedure For Making Expenses:**

Article 70 – (Addendum: 12/8/1999 – 4445/9 cl.). the expenses of political parties cannot be against their objectives. All of the expenses of a political party are made in the name of legal entity of that political party. It is not an obligation to certificate expenses up to 5 million Turkish liras with documents like receipt or an invoice. However, it is an obligation that all expenses should be based on the decision of an authorized organ or authority. Under the condition that it was predicted in the budget confirmed by the authorized organ, there is no need for another decision for expenses that don't exceed five million Turkish liras and expenses based on general tariff. (2) Without prejudice to the provisions related to the longer period shown in specific laws, the retention period of the documents of expenses is five years starting from the date of notification of the first instance decision of Constitutional Court of the related party. Party management is responsible for giving the upper stage that it is dependent on an account during the period shown in the party bylaw about the incomes and expenses. This period cannot exceed more than six months.

#### **The Consign of Final Account:**

Article 74 – (Amended: 12/8/1999 - 4445/10 cl.)

The financial audit of political parties is done by Constitutional Court. Constitutional Court audits the legality of incomes and expenses as well as the property acquisition of the political parties. (Added sentences: 13/2/2011-6111/180 cl.) Yet, the legality audit cannot be made in a way to restrict the activities that are deemed beneficial for the political parties to attain their goals. The real essence of the expenses is taken as a basis in audit. The shortcomings related to the type and procedure don't require the expenses not to be accepted.

(Added subclause: 13/2/2011 – 6111/180 cl.) The political parties can make all kinds of expenses they deem necessary to attain their objectives.

(Added subclause: 13/2/2011-6111/180 cl.) The political parties are supposed to certificate their expenses and In the cases that they cannot have access to provide these invoices they should certificate with other documents under the provision that these documents will have the content that will confirm the expenses. Yet, in the cases that the original documents cannot be submitted because of disappearance, tearing and burning, certified copies to be taken from authorities where these documents were originally taken can be used.

(Added subclause: 13/2/2011 – 6111/180 cl.) The political parties can record the expenses related to the accommodation and transportation of the persons during their domestic and foreign travels that are employed by political parties in order to attain their goals as well as health and social relief expenses of these persons that they employ temporarily or permanently for a fee.

#### **Maximum Limits Related To The Campaign Expenses of Political Parties and Candidates**

<b>Country</b>	<b>Limit On Party Expenses</b>	<b>Maximum Spending Limit</b>
<b>United States of America</b>	<b>Yes/No</b>	There is no maximum limit in some local elections. Maximum limit is voluntary during Presidency elections.
<b>Belgium</b>	<b>Yes (During the elections )</b>	1 million Euros
<b>United Kingdom</b>	<b>Yes</b>	18,8 million pounds (Only for the parties except for the candidates)
<b>Bulgaria</b>	<b>Yes (During the elections)</b>	more than 1,5 million Euros

France	Yes	During the presidency elections, one candidate and party cannot make more than 16 million Euros in the first stage and 20 million Euros in the second stage. The upper limit for the candidates and parties during the presidency elections is 40 thousand Euros, besides, it is 0,20 Euro for every person living near the election district.
Ireland	Yes	Upper limit is determined for every candidate in every election.
Spain	Yes	Determined by Court of Accounts in every election period.
Italy	Yes	Upper limit is determined for every candidate in every election. It is determined separately for parties that nominate candidate in every election district.
Canada	Yes	Determined by Principal Returning Officer in compliance with the Canada Election Law.
Hungary	Yes	Upper limit is determined for every candidate in every election.
Poland	Yes	3,5 million Euros (Presidency elections)
Portugal	Yes	3 million Euros

Source: E. Falguera, S. Jones ve M. Öhman (derl.) *Funding of Political Parties and Election Campaigns: A Handbook on Political Finance*, Stockholm: International IDEA, 2014.

#### d. Areas of Usage of State Support

The Law no 2820 states that the state support is to be used for the activities of the parties. This definition allows that approximately 90 percent of the sources of income of especially the powerful parties are comprised of state support and gives the impression that with the flexibility that became available as a result of the Law number 6111, the state support can also be used in other areas apart from the spread of democracy, the higher participation of women and young people, the increase of research and development opportunities. Thus, main objectives like the assurance of gender equality and the development of democracy get ineffective. When the annual accounts audited by the Constitutional Court are examined, it is known that how much money was spent specifically for the spread and development of democracy as well as seeing that expenses of the political parties that take state support are not given in detail. While the state support decreases the parties to be under the effect of "specific" interests; the possibility for specific interests to effect the political parties by means of tenders, concession agreements etc. increases. It is necessary that the expenses of the parties should be examined in detail and where the state support goes in proportion with this should be evaluated.

#### Political Parties Act No. 2820 2820 sayılı Siyasi Partiler Kanunu

Added Article 1

(Amended 4<sup>th</sup> subclause: 2/3/2014 – 6529/4 cl.) The supports to be given in accordance with this article are used only for the needs of party or in the activities of the parties.

#### Regulations On How The State Support Should Be Used

In accordance with the Law no 18 of Irish Elections Law, the state support should be used in the following fields for the activities of the parties and for legal purposes without making any discrimination: the general administration of the party, research, education and training, policy making, the coordination of the activities of party members and party units. The state support can also be used to increase the participation of the women and young people in political activities. State support cant be used for election and referendum expenses.

Source: GRECO (2009) Evaluation on The Transparency of Irish Party Finance

Romanian Political Parties and Election Campaigns Finance Law expressed that the State Support could be used for the following matters with regard to the election campaigns: a. The maintenance and operation of party building b. The Needs and Expenses of The Personnel c. Media and Propaganda Expenses d. Political activities e. Domestic and Foreign Travel Expenses f. Communication Expenses g. The expenses for meeting foreign missions h. the subscription fees to be paid to the international organizations of which the party is a member i. The Purchase of Movabla and Immovable Property Necessary for the party i Protocol expenses j. office expenses k. election campaign expenses.

Source: GRECO (2010) Evaluation on The Transparency of Romanian Party Finance

#### **e. Election Safety and Audit:**

The conduct and audit of elections is carried out by a different source to be allocated from the state budget by YSK. YSK is an ultimate authority which also covers the audit procedures during the administration and conduct of elections. YSK is an institutional foundation which is comprised of 4 substitute members and 7 original members that they choose among their own members, 5 members from Council of State and 6 members from Supreme Court. The boards that established in the states and provinces during the elections period perform their duties under the auhority of YSK. Even if the source that is allocated from the state budget and spent for the conduct of the elections is not given to the parties or candidates, it is considered as an "indirect" finance source of politics. In this context, the polling boards have to work in line with transparency, clarity and accountability principles jut like the provincial and district election boards that were established in order for the elections to be conducted within a pure impartial environment fairly and equally.

Whether the sanctions with regard to the electoral limitations are imposed or not is now known. According to the available information, there are an overall 39 parliamentary immunity missives related only with the deputies violating their propaganda duration. This case decreases the dissuasive effect of the sanctions that are imposed on the use of public tools and personnel. While a general manager resigns for nomination candidacy, the indirect introduction message that is sent to all the personnel by the Public Information Advisory of that organization creates a conflict of interest rather than doing a favour to the previous general manager. In this context it is asserted that, in accordance with Constitution and the law number 298, YSK adopts a conflicting and timid manner during the conduct and audit of the elections.

Because of the fact that the election of the members of the Constitutional Court is based on the parliamentary majority, whether the financial audit of the parties is made with an

“independent” and “impartial” manner creates an anxiety among the members. The Court audits the accounts of the parties with the technical help that it gets from Court of Accounts. Knowing that a much more effective structuring emerges in Court of Accounts; this audit is made within the framework of “the bag of information and documents submitted”. In addition to being under the authority of constitutional and legal power, the Court doesn’t make site survey and demands additional information and documents in case of problematic situations. The fact that there is no site-survey prevents the revelation of illegal and illegitimate financial sources. Notwithstanding that the audit procedures of the Court are considered partially adequate by the GRECO Evaluation; the audit it completed late and gets ineffective. As a result of the audit, whether there is any lawsuit brought by the Prosecutor’s Office against them because of irregularity or how the case ended if there is any is not known. At this point, what is needed is the illuminative information to be provided by notably the Chief Public Prosecutor’s Office and other investigation units. In cooperation with the Court, Chief Public prosecutor’s Office ensures the general tracking of the parties as well as of their accounts. Because of the fact that the election of the members of the Constitutional Court is based on the parliamentary majority, whether the financial audit of the parties is made with an “independent” and “impartial” manner creates an anxiety among the members. The Court audits the accounts of the parties with the technical help that it gets from Court of Accounts. Knowing that a much more effective structuring emerges in Court of Accounts; this audit is made within the framework of “the bag of information and documents submitted”. In addition to being under the authority of constitutional and legal power, the Court doesn’t make site survey and demands additional information and documents in case of problematic situations. The fact that there is no site-survey prevents the revelation of illegal and illegitimate financial sources. Notwithstanding that the audit procedures of the Court are considered partially adequate by the GRECO Evaluation; the audit it completed late and gets ineffective. As a result of the audit, whether there is any lawsuit brought by the Prosecutor’s Office against them because of irregularity or how the case ended if there is any is not known. At this point, what is needed is the illuminative information to be provided by notably the Chief Public Prosecutor’s Office and other investigation units. In cooperation with the Court, Chief Public prosecutor’s Office ensures the general tracking of the parties as well as of their accounts.

RTÜK ( Supreme Board of Radio and Television) audits the enforcement of the principles in the Constitution and laws related to the radio and television broadcasts. As was stated above, the procedure of the election of RTÜK members prevents the implementation of the principles of impartiality and independency up to the hilt. The report that was prepared regarding the duration determined by RTÜK that was allocated for the parties to broadcast on the screens of the channel TRT created a huge impact. Later on, within the framework of the violation assessment of RTÜK, it was implemented by YSK that some organizations that were the proponents of the ruling party should be punished. There doesn’t exist any tracking and audit board related to the candidates. Non-absence of the non-governmental organizations that are possible to make an audit or tracking prevents the absence of an impartial evaluation. As a result of an actual state to arise from a Constitutional and Legal gap, what kind of a lesson YSK will give in the election campaigns of Parliamentary Elections is awaited patiently. In this context, it is thought that the fact that the applications of both parties are rejected due to “lack of jurisdiction” will prevent the election take place both in a

competitive and the conduct of the elections within an impartial environment. In short, the independency and impartiality of the institutions that are responsible for auditing and tracking the legal violations and the conduct and management of election campaigns as well as the funding the politics poses the most important problem.

### **The Foundation Of Tracking and Audit Institution:**

#### **United Kingdom:**

*In accordance with the Political Parties, Elections and Referendum Law (SPSRK), political parties and other organizations that are subject to amendment make their election statements to the Election Commission. The Commission is not a technical Elections Audit Office as it doesn't have any authority with regard to the management and conduct of the elections. As was stated in the related law, make their statements related to the donations and expenses of campaigns to the relevant returning officer. The election accountant who fills in the statements prepares the details about all donations that are over 50 pounds and about those which are not permitted by law. The candidate and accountant confirms and signs the statement. Besides, he/she sends a copy of the forms related to the statements to the Commission. The Commission inspects the legality of the information stated that complies with the law. The official auditing process includes whether the Commission took into consideration the advice related to the subject and that the inspecting and auditing procedures are fulfilled compatibly.*

*The audit mandates of the Commission are regulated in the Article no 146 of SPSRK. The Commission may make a request for an account, document, registration, information from the organization to be audited or from the relevant person if it is a person ( it can also be an organization or person even if they were audited before) or an explanation related to the expenses of the organization or the persons within a reasonable time. The Commission can reproduce the documents mentioned above. The Commission may demand a help to conduct audits in the relevant places. These mandates are considered as necessary mandates in order for the officials to carry out their duties effectively. The investigations of the commission are commenced in different ways (For example, the complaints made to the commission, the questions defined as a result of the inspection of the documents declared etc.). There are works carried out on the subject of cooperation with the law enforcement officers and attorney general's office and the preparation of a guide about the reporting procedures and rules that the Commission will take into consideration in case of suspected violations. The Parliamentary Commissioner for Standards is present in the The House of Lords and The Commons in order to keep the Register of Members' Financial Interests. Independent Parliamentary Standards Authority provides the auditing and management of the expenses of Parliamentary. Committee On Standards in Public Life has an independent structure and gives advice to the government by making evaluations that cover the subject of the finance of the campaigns.*

Source: [www.idea.int](http://www.idea.int).

### **2.3. ACCOUNTABILITY**

#### **a. Democratic deficiency of the mechanisms of intra-party auditing:**

When we consider the total amount of state support that was given to the political parties in Turkey in 2015, which is approximately 540 million Turkish Liras; it can be asserted that parties bear the characteristics of a public Corporation. For this reason, it is a must for political parties to create an effective internal auditing system.

In many democratic countries, the units that audit and inspect the financial accounts of parties are comprised of the current members of the parties and/or they are responsible for party organs. Some parties allow external audits in special cases. As was stated in GRECO reports, some developments that could be regarded important were made regarding the fact that the accounts of the parties should be kept in accordance with the international accounting standards. Especially the powerful parties formed professional units about this matter and they even went into mutual trust and cooperations. Along with this, it is seen that the party accounts especially the local party administrations didn't work in a certain manner and order. This case is closely related with the abovementioned principles of transparency and competition. Local party administrations are deficient in the auditing and inspection of provincial and district presidents. This case considerably effects intra-party democracy, decision making and especially nominacy periods. The head offices of powerful parties follow a less democratic procedure and way by being dependent on state supports. In short, the undemocratic structure of the internal auditing mechanisms of parties cannot achieve the goals of clarity, transparency and accountability.

#### **b. The Parties/Candidates That Make The Organizations and Persons That They Kept in Company With (Collabored With ) Known Publicly:**

The fact that the annual accounts of the foundations, associations, waqfs that got into acts and carried on programs in line with the parties as well as the subsidiary organs of these parties in addition to the organizations of political parties should be calculated with the accounts of the party itself takes place among the GRECO recommendations. The reason behind this is that some parts of the activities of especially the powerful parties are carried out by the organizations or associations apart from the parties. The parties follow this procedure both in terms of financial and workforce saving. Along with this, these organizations and foundations become integrated with the parties in time and they turn out to be the secret supporters (third persons) of election campaigns. Such a situation is against the Laws.

#### **GRECO 3<sup>rd</sup> Process Evaluation Recommendation Theme II Finance of Politic**

*It is recommended that the annual accounts of political parties should include the a) revenues and expenditures that the selected representatives of the political parties as well as the candidates made for the election campaigns along with the activities that they conducted in the name of their parties in addition to the individual expenses, b) the accounts of organizations that are under the control of or related to the political parties if deemed appropriate*

Reference: [http://www.coe.int/t/dqhl/monitoring/greco/evaluations/round3/ReportsRound3\\_en.asp](http://www.coe.int/t/dqhl/monitoring/greco/evaluations/round3/ReportsRound3_en.asp)

#### **The Financial Audit of Political Parties and Organizations Affiliated To Parties**

With an addendum to Political Parties Act of Finland in 2011 (Article 8/c), it was projected that the current statements of account of the parties should also include the party



foundations as well as organizations that are related with the parties. In this context, a constitution of political party that is registered in the Party Registry, briefly the central office or organization of a party (Article 1); represents the constitution that is affiliated or subscribed to a political party in accordance with the rules and regulations of the party (Article 8a(1)); and the institution represents a company or organization or a company or organization management that is related to the party. With the permission of these foundations, the related political party reports accounts of these organizations to the National Audit Office.

In this way, the recommendation of GRECO which is that the annual accounts of the parties should also include the accounts of the organization that are under the audit and control of the political parties if deemed appropriate is fulfilled and the transparency of the expenses of third persons was tried to be ensured.

### **PRIVILEGED PROBLEM AREAS INSTEAD OF OUTCOME**

In general terms, the financing of politics particularly the election campaigns is an important question that should be considered in tandem. During the parliamentary elections period, the political parties are given three times more state support at most than they used to receive during the normal period. Apart from this, there is no other regulation except for the provisions of the law number 298 in relation to both parties and candidates. There hasn't been regulations for the candidates according to the imperative provision of the Constitution. For this reason, the financing of the elections campaigns has turned into a problem all by itself. While this subject matter draws an attention with the political party system and regulations, it has a capital importance in order to maintain democracy on the other hand.

In the light of the determinations mentioned above, we can align the problem areas of the highest priority like the following:

1. Transparency should be given a particular importance in the financing of politics both as a principle and a process. It is quite obvious that the inspection process of the offerings, grants, expenditures made starting from nomination process is not shared with the public in detail and with transparency and that the principle of accountability is not ensured by the political parties that receive the support of the state.

2. It is seen that the political parties that compete with each other during the elections cannot make use of state support and propaganda advantages through television and radio fairly enough to be able to compete under equal conditions. Within this context, the cartelization that emerges both in state radio and televisions and in private media channels ignores the expectations and demands of the majority of public.

3. Before anything else, a gender-based approach is ignored in candidacy, financing and campaigns; the participation of women that constitute the half of the whole population is prevented by the male-dominant rules and guidances that were created officially and



unofficially and thus under-representation is caused. There are no regulations with regard to the financing of the politics that will ensure the effective participation of women.

4. Trying to inactivate the opposition which is the most important factor of a democratic system by the implicit use of public resources on various levels in the campaigns by the ruling parties in spite of the prohibitions cannot be prevented. Taking advantage of the fraud of the legislative regulations or amending these regulations or by using the audit tools on the media and other communication sources lopsidedly is quite widespread in Turkey as is the case with other developing democracies.

5. The steps that are taken by the institutions and organizations (Constitutional Court, Supreme Election Board, Radio and Television Supreme Council) that are assigned to watch over, inspect and impose sanctions on the election campaigns and financing of politics in order to lessen the problem stated above are either ineffective or inadequate. It is beyond any doubt that the increase in some of the problems mentioned above are possible with new legislative regulations and amendments. Along with this, with an attempt to create a fair and equalitarian laws, some of the leading and guiding principles and values of these institutions within these regulations should present advises for the system. In contrast, the "independent and impartial" structure of these organizations and institutions prevent them make such attempts.

6. It is seen that some social aids that are distributed by means of the social welfare centers and carried out by local administrations or centralised government cause political orientations in the elections because of the sectional structure and ineffective registration, monitoring and evaluation processes.

7. As it always has been, political-business World and media relationships cause unfair competition as well as creating unregistered financing sources. For this reason, "independent" and "impartial" media structure is needed along with the clarified and transparent procurement legislations.

8. The fact that the financial accounts of the organizations (association, foundation, platform etc.) that take joint action implicitly with the political parties within the framework of the laws and Constitution cannot be calculated along with the accounts of political parties creates both an unlawful and an uncontrolled area in the matter of the election campaigns of 3rd Persons and their contribution to politics.

9. By taking into consideration the clarity, transparency and accountability of financing sources, making negative political propagandas without complying with the ethical principles during the election campaigns and using both public and private all kinds of tools extends and generalises relationships based on self interests that will cause unregistered and corruption as well as illegality.

10. An effective civil society observation is needed in addition to "independence" and "impartiality" of official audit and inspection organizations and institutions in the financing of politics. Thus, it will get easy for the "civil" impact, transparency and accountability

processes to develop and that will be made on the political parties and candidates to develop and be put on the right track.

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