

**Report from
Turkey's Parliamentary Elections
3rd November 2002**



**Norwegian
Helsinki
Committee**

RKR

**Norwegian
Council for the Rights
of the Kurdish People**

Preface

As human rights NGOs our two organisations have followed the development of Turkey for several years, albeit from different perspectives. We have shared concerns for human rights and democracy in Turkey, and we have tried to help the development within our limited capacities.

The Norwegian Council for the Rights of the Kurds aims at informing the Norwegian public about the situation of Kurdish people, and to move Norwegian authorities into action to protect persons of Kurdish decent from the grave human rights violations that too often takes place in the various states inhabited by Kurds. Turkey is no exception.

The Norwegian Helsinki Committee has developed contacts with Turkish NGOs, academics and other concerned persons in Turkey that work for human rights. It has undertaken fact-finding missions and has reported on the situation within the field of freedom of religion. Presently the committee co-operates with the Human Rights Foundation on projects.

We hope that the present report will provide a useful background to the interested reader, foremost to Turkish authorities and others who monitor human rights and democracy in Turkey. We also believe the report will help the build up of an institutional memory of our two organisations and that of other entities committed to election observation.

These elections brought tremendous political change, as the Justice and Development Party (AKP) won a landslide victory; it received 34 percent of the vote and took 363 seats. The Republican People's Party got 19 percent of the vote and gained 178 seats. The last nine seats of the new national assembly are filled with Independent candidates. The parties that have constituted Turkey's political elite over the last decades did not gain one single seat.

These political changes, and the ongoing discussion on how to schedule Turkey's EU-accession process provides more possibilities for outside influence on Turkey's policies on human rights and democracy. It is vital that governments and NGOs throughout Europe and beyond utilise the present window of opportunity. We hope the EU will not forget the unsolved problems in Turkey and that the human rights community serve its purpose by reminding of the shortcoming on every possible occasion. This report is a modest contribution to that process.

We are grateful to all those who assisted the delegation in its work. In particular we would like to mention the *Human Rights Association* and *Human Rights Foundation* of Turkey. We would also like to thank the *Office of Democratic Institutions and Human Rights* of the OSCE.

All observers of the Norwegian team have contributed with their observations and views to the content of this report. It has been edited by *Ole B Lilleås* of the *Norwegian Helsinki Committee*.

Oslo, February 2003
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1. Introduction

A Norwegian delegation

The Norwegian Helsinki Committee (NHC) and The Norwegian Council for the Rights of the Kurdish (RKR) jointly sent a mission to observe the Turkish Parliamentary Elections of Sunday 3rd November 2002. Members of the delegation and the length of their presence in Turkey is listed here:

- *Vidar Birkeland, Oslo Labour Party, representing its Committee on international affairs (1st-4th November 2002)*
- *Erling Folkvord, author of the book “Kurdistan” (1st – 5th November)*
- *Ole B Lilleås of NHC (31st October – 5th November)*
- *Ragnar Næss of RKR (31st October – 4th November)*
- *Rannfrid Thelle, Oslo Labour Party, representing its women’s caucus (1st - 4th November)*
- *Per Thorsdalen of RKR (31st October – 4th November).*

Thorsdalen and Lilleås headed the delegation.

Purpose of the mission

The purpose of the mission was to gain more understanding of Turkish elections in general, and in particular of how the 2002 parliamentary elections were executed in light of the many deficiencies reported on the 1999 elections. The organisations were also motivated by the lesson learned from elections in other countries that an international presence tends to discourage various actors and officials from abuse and fraud, and encourage voters to exercise their rights.

International observers and the issue of official invitations and accreditation

The delegation took part in a larger loose network of international observers, logistically co-ordinated by the *Human Rights Association of Turkey*. This network included several members of the *EU parliament*. None of these observers enjoyed accreditation extended from Turkish authorities.

Members of the *Parliamentary Assembly of the Council of Europe in Strasbourg (CoE-PA)* were present, but they had no official accreditation and were consequently formally not observing the elections, as Turkey did not officially invite them.

Our own efforts to obtain accreditation through diplomatic channels failed.

However, Turkey had invited the *Office of Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe (ODIHR/OSCE)*. Within the confines of that invitation ODIHR sent a limited technical assessment team of five people to work from Ankara. We have exchanged some information with the ODIHR, and we hope that the present report will be of use to ODIHR/OSCE.

Domestic observers

Turkish Human Rights groups, in particular the *Human Rights Association of Turkey* actively monitored the election, albeit not with official accreditation. The Election law of Turkey provides for domestic party observers. During our observation we frequently encountered

such observers. It should however be noted that we also observed a pattern of severe inhibitions to the work of party observers, as will be elaborated below.

2. Method and Organisation of the Election Observation

Organisation of the observation

The observers arrived in *Diyarbakir* on different flights on Friday 1st November and Saturday 2nd November and stayed in the area till evening Sunday 3rd and Monday 4th respectively.

The days before the election were used for interviews with human rights NGOs, political parties and independent candidates as well as familiarisation in the observation areas.

A team of *Thelle* and *Birkeland* visited 15 polling stations in *Bismil* District in the countryside of *Diyarbakir* province. The team *Folkvord/Næss* and *Lilleås/Thorsdalen* travelled to *Mardin* on Saturday 2nd to use that town as a starting point for the election day observation. On the day of the election *Folkvord/Næss* covered villages around the towns of *Midyat*, *Ômerli* and *Nusaybin*, whereas *Lilleås/Thorsdalen* travelled in the countryside around *Kiziltepe*, a town just south of *Mardin*. The two teams last mentioned linked up with the *Mardin* branch of *Human Rights Association* (HRA) and travelled with representatives of HRA most of the election day.

Meetings, interviews and other activities

- 1st November; *Women for women's Human Rights, Istanbul; Lilleås*
- 2nd November; CHP Party office in *Diyarbakir, Næss, Lilleås and Thorsdalen*,
- 2nd November; Independent Candidate *Abdulmelik Firat's* campaign office, *Diyarbakir; Næss, Lilleås and Thorsdalen*
- 2nd November; Chairman *Selahattin Demirtas* of *Human Rights Association, Diyarbakir Branch*,
- 2nd November; Secretary of *Human Rights Association, Mardin Branch; Folkvord, Næss, Lilleås and Thorsdalen*
- 2nd November; Meeting with various DEHAP representatives of *Mardin Branch; Folkvord, Næss, Lilleås and Thorsdalen*
- 2nd November; Meeting with DEHAP, *Istanbul office; Birkeland and Thelle*.
- 2nd November, Meeting with representatives of the women's movement, *Istanbul; Birkeland and Thelle*.
- 3rd November; Various interviews, visits to polling stations, hospitals etc by the three teams.
- 4th November; Meeting with *Human Rights Foundation, Diyarbakir Centre; Folkvord and Lilleås*
- 4th November; Meeting with the women's human rights group "KA-MER", *Diyarbakir; Folkvord and Lilleås*
- 5th November; Meeting with *Human Rights Foundation, Main office, Yavuz Önen and Metin Bakkalci; Ankara; Lilleås*

Method

The delegation interviewed members of political parties and human rights organisations to hear their view on the campaign and the particular problems expected on election day. The

information obtained in this manner was used in concert with reports on the deficiencies of the 1999 elections, to identify particular points of attention.

The delegation was dispatched to an area where the largest problems could be expected, namely in the countryside of the Kurdish-dominated areas of South-eastern Turkey, and it focused its attention on a particular set of expected problems.

In particular the allegations set forth by DEHAP, that a certain pattern of violations should be expected, was taken as a starting point in the delegation's work. The list of violations most likely included use of threats and force against villagers either not to vote at all or to vote not secretly in the presence of others for specific parties. There were also suspicions of "ballot stuffing", irregularities regarding voter's lists and other shortcomings. On election day, the use of threats and even violence against domestic observers came up as a major concern.

On the day of the election the Norwegian teams frequently linked with HRA and DEHAP officials to obtain information on alleged violations of electoral law or good practices. The Norwegian teams freely chose which of the allegations to follow in order to validate or invalidate them.

Even if cases observed are chosen randomly one can only make inferences about the general state of any election with uncertainty. Our selection of location was however not informed by a desire for statistical inference from a sample to the grand population of the country-wide election. Rather, the delegation wanted to validate reports of particular problems within the Kurdish-dominated areas of Turkey. Still, the observations within that context constitute only a sample. General conclusions about the Kurdish areas as a whole from that sample should be drawn with caution.

We hope that our attempts at diligence and accuracy and our efforts to check and cross-check information within the limited area covered has reduced the risk of flaws and errors within our limited sample and that our findings therefore will be a meaningful contribution to the lessons to be learned from the 2002 Turkish Parliamentary Election.

3. Political background and Campaign

Crises

These elections were held at the backdrop of deep political and economic crises and major challenges in international relations. The illness of *Prime Minister Bülent Ecevit* and the slow implosion of his three-party coalition caused the parliamentary to decide on 31 June 2002 that early elections should be held.

In 2001 the Turkish economy shrank by approximately 10% in spite of IMF assistance on which Turkish financial stability has become heavily dependent. At the international stage Turkey's prime goal of EU membership is difficult to obtain, mostly due to its poor human rights record. The looming war in Iraq poses a problem to any leadership of the only predominantly Moslem country of NATO.

Freedom of expression and freedom to form political parties

Turkey has an overwhelmingly Muslim majority of more than 99 %. However, the doctrine of modernisation, a view of a unitary Turkish state not even acknowledging the existence of

minorities except the religious minorities expressly covered in the 1923 Lausanne Agreement, and a strict separation between religion and politics have all been cornerstones of the state-ideology of modern Turkey, known as “*Kemalism*“ after *Mustafa Kemal Atatürk*, the founding father of the nation.

The ideology has been held in particular regard by the military, which has a long track record of intervening into politics and civilian life through coups and various forms of pressure. Over the past decade, the Turkish state has repeatedly prosecuted and convicted leaders of political parties that claim Islamic preferences or has explicitly Kurdish relations.

In 1995, the Islamic Welfare Party won a majority in the parliamentary elections, and formed Turkey’s first Islamic-led coalition government in June 1996. Prime Minister *Necmettin Erbakan* almost immediately found himself at odds with the military, which regards itself as the guardian of Turkish secularism, over such government policies as allowing female civil servants to wear traditional headscarves. *Erbakan* resigned under intense military pressure in June 1997. *Erbakan* and five other leaders were banned from politics for five years by a court decision.

Similarly, political parties dominated by ethnic Kurds have been effectively neutralized by severe restrictions on basic civil and cultural rights, including laws prohibiting use of the Kurdish language in education and broadcast media. In 1994, *Leyla Zana* and three other Kurdish legislators; *Hatip Dicle*, *Orhan Dogan* and *Selim Sadak*, joined the newly formed *Democracy Party*. Turkish authorities had long maintained a practice of closing down political parties that address Kurdish rights issues. Authorities banned the *Democratic Party*, lifted the parliamentary immunity of *Leyla Zana* and her colleagues, and arrested them. In December 1994 the *Supreme Court* convicted *Leyla Zana* and her co-defendants and handed down sentences of 15 years' imprisonment for use of the Kurdish language and other offences.

The Turkish parliament passed a series of laws in 2001 easing restrictions on freedom of speech. It is however the second package of democratisation reforms which have been passed during 2002, which gives legal force to the constitutional amendments. The banning of political parties has been made more difficult. Instead of immediate closure, the courts can now cut off their state funding as a first step.

Even in the last days of the campaign there were speculations that the AK Party, then leading the polls, might be forbidden. The speculations were fuelled by an indictment against AK Party by the state prosecutor of Istanbul handed over to the court in the last week of the campaign. No doubt, the indictment and the general insecurity about the future of AKP candidates could have been harmful to the party’s campaign. Some voters may have believed that votes cast for AKP would be wasted; fearing a situation where the state would invalidate such votes at a later point after all.

According to the parliamentary electoral law, persons who have been found guilty of violating these laws unduly limiting freedom of expression cannot become Member of Parliament nor government. The winner of the 2002 elections; the AK party is confronted with such a delicate situation. The party leader *Recep Tayyip Erdogan* was ineligible for MP candidature and could not be appointed Prime Minister due to earlier “Islamic proclamations” and prosecutions for “threatening the unity of the state”. The further judicial process might however open for a redefinition in his case.

From the perspective of human rights the Turkish government have considerable challenges in order to repeal and amend all laws that violate international standards for free expression, including the preamble of the Constitution, which states that, "*No protection shall be given to thoughts or opinions that run counter to Turkish national interests, the fundamental principle of the existence of the indivisibility of the Turkish state and territory, the historical and moral values of Turkishness, or the nationalism, principles, reforms, and modernism of Atatürk.*"

Structure of administration, politics and power in the countryside of the East and South-east

The observation focused the countryside of *Mardin* and *Diyarbakir* provinces. As in most of the areas with a predominantly Kurdish population, the countryside in these areas exhibit a combination of the impact of many years of state of emergency on the one hand and semi-feudal social relations on the other.

Feudal relations have traditionally been encouraged by *Ankara* as a means to rule through local notables. Kurds are traditionally organized in clans (*asiret*) and the clan system has been preserved either as a means for self-defence, self-reliance or through the authorities' support of loyal clan leaders. The actual juridical regime in the Kurdish areas has moreover since the 1920-ies meant that the actual power of elected officials - compared to that of the direct representatives of the state (province governor, police, gendarmerie) - is lesser than in the rest of Turkey.

The basic administrative unit is the village (*köy*). In many rural areas a village consists of one core cluster of buildings and smaller clusters (*mezra*) at a distance up to several kilometres from the core. In the village, the elected headman (*Muhtar*) functions as a generalized intermediary between the various state agencies and the villagers. He has a general supervisory role and represents the villagers. The *Muhtar* is assisted by a council or "*group of elders*", has a small budget at his disposal and may impose small fines for minor offences. Several villages together or single agglomerations of houses with a population above a certain limit receive the status of municipality (*belediye*).

Above the municipality level is the district (*ilce*) and the province (*il, vilayet*). At both these levels there are elected leaders and an elected assembly on the one hand and corresponding state officials on the other. The Turkish system is highly centralized. The state officials at the appropriate level must sanction most decisions, and clearly all decisions having economic implications of some importance. In the South-east the elected officials tend to be Kurds while the state officials are almost exclusively Turks.

The state of emergency obtaining in many provinces in Turkey for many years meant that responsibility for a number of tasks, mainly in the area of security (widely understood) were transferred from the ordinary executive agencies to specially appointed state of emergency officials. State of emergency also meant that a number of rights were curtailed, the most important and disputed one being the extended possibility to take people into custody for long periods of time without the right to see an attorney or have the case tried by a court of law. In *Diyarbakir* province, the state of emergency was still in place during the elections.

Political parties

The main Turkish parties have traditionally centered around leaders and political platforms who intermittently have had to change their party programs and party names as they have

been outlawed. Several political groupings have thus appeared under different names in the course of the last 10-15 years. The parties have emerged from roughly five types of platforms/leaders:

1a. AKP: (earlier named MSP, *Refah Partisi*, *Fazilet partisi*, now "*Ak Partisi*") is the islamist party, whose long term leader was *Necmettin Erbakan*. *Recep Tayyip Erdogan*, a former *Istanbul* mayor, today heads the party. As he was convicted for a non-violent expression of opinion, he was barred from taking office as a prime minister or becoming a member of parliament. Therefore *Abuallah Gul* was elected prime minister instead, following AKPs landslide victory.

1b. *Saadet Partisi*: small splinter party from the islamists. Headed by *Recai Kutan*.

2. MHP: a Turkish nationalist party. Their long-term leader, *Alparslan Turkes*, is now deceased. The present leader is *Devlet Bahçeli*. MHP was the second largest party in the 1999-2002 parliament and took part in the pre-election coalition government.

3a. ANAP is a rightist party representing big capital and advocating extended civil rights in some areas, boasting the influential prime minister and later president *Turgut Özal*, who died in 1992. *Mesut Yılmaz* today heads the party. It governed Turkey from 1983 to 1991 and was a partner in the pre-election coalition government.

3b. The more populist rightist party DYP with its long-time leader *Suleyman Demirel*, former prime minister and former president. The party has a strong appeal in the countryside. Former prime minister *Tansu Ciller* headed the party during the 2002 elections.

4a. CHP and successors: CHP, the party founded by *Atatürk* in 1923 ruled Turkey until 1950. It was originally a statist party enjoying full political monopoly, but lost power following introduction of a parliamentary system. It adopted a center-left platform under the leadership of *Bülent Ecevit* in the 1970-ies. Being banned in 1980, it was re-established formally by *Ecevit's* wife under the name of DSP in 1985. *Deniz Baykal* heads the old CHP, and campaign on a platform of public sector and market reform. In addition to AKP, CHP is the only party that will be represented in the new parliament.

4b. DSP: center-left successor party to CHP, headed by *Ecevit*, the largest party in the 1999-2002 parliament and member of the then coalition government.

5. HADEP: pro-Kurdish party, originally splinter group from the DSP. The predecessors HEP and DEP, were both banned.

Campaign

In the campaign for the 1999 parliamentary elections HADEP, the predecessor of DEHAP, experienced severe inhibitions to their work. For instance, authorities closed party offices in *Diyarbakir* province, and there were numerous reports telling of campaigning material being removed. In 2002 DEHAP officials themselves said they operated with less restrictions. The Norwegian observers visited several DEHAP offices the days before the elections. We also found DEHAP posters and banners on streets many places.

We also interviewed *Abdulmelik Fırat* who stood as an independent candidate from *Diyarbakir* district. *Fırat* told us about how he had been arrested for speaking Kurdish

language at an election rally in the province. He told that he was kept in custody for several hours. There were also other reports of such harassment from other parts of Turkey during the campaign, while the consensus seems to be that it was considerably less frequent than in the 1999 elections.

4. The Electoral System

A total of 550 representatives are elected from 85 constituencies with theoretically 1 to 18 seats each that are distributed with exact proportionality between independent candidates and party lists of parties that obtain more votes than the 10 percent overall threshold.

The elections are organised by a permanent *National Election Commission* (also referred to as *Supreme Board of Election*) appointed by the *Plenary Assembly of the Council of State* and the *Plenary Assembly of the Court of Cassation*. At the next level there are 85 Provincial Election Commissions, then County Election Commissions in every county and finally Ballot Box Committees for each cluster of up to a maximum of 300 voters.

In this report our ambition is not to give a full overview of the electoral system of Turkey, but rather to focus some elements that gives rise to particular concern from the perspective of international election standards.

10 percent threshold

All electoral systems need to strike a balance between proportionality (fairness) and efficiency. The Turkish system leans heavily towards efficiency with its 10 percent threshold provided in article 33 of the *Parliamentary Election Law*. 45 percent of the votes cast in these elections were for parties that failed to pass the 10 percent threshold.

DEHAP is a very popular party in areas that are mainly inhabited by Kurds and receives more than 50 % of the votes in several constituencies. But as the party obtained only 6,2 % of the vote at the national level, DEHAP received no seats.

Indeed, the 10 % threshold makes representation of parties formed along cultural or linguistic lines very difficult given the socio-linguistic structure of Turkey. There may be differing views as to whether or not this is desirable, but an effective political representation of Kurdish interests in parliament seems a necessary condition for long-term social and political stability in Turkey.

The threshold also drains the idea of representation of constituencies of meaning as candidates with minuscule support may enter parliament. In theory one vote may win 18 parliamentary seats once all votes for parties below the threshold have been removed from the contest.

We would like to suggest that the efficiency lost by a reduction or an abandonment of the threshold could be compensated by changes to the distribution of candidates. Article 34 of the *Parliamentary Election Law* decides that seats shall be distributed by the factors 1-2-3-4- etc up to the number of candidates (*d'Hondt's method*), which is the optimal approximation to proportionality within constituencies. A higher first divisor or some similar change would allow for both efficiency and representation.

Voting in very small “Ballot box zones”

Article 5 of the *Law on Basic Provisions on Elections and Voters Registers* provides that each *County Election District* is divided into *Ballot Box Zones* that essentially cover 200 voters in villages and 150 voters in towns and cities. A *Ballot Box Zone* is geographically defined even when several ballot boxes are found in the same polling station. This means that results might be broken down geographically at an extremely detailed level. We will certainly argue that this breakdown makes Turkish elections too transparent. We recommend that when there is more than one ballot box in a polling station under the present system, there should be only one box (of higher quality) replacing all the old set of boxes.

The problem of too transparent elections is best understood in conjunction with a pattern of threats and promises set forward by politicians and others towards communities. Such promises or threats may regard supply of water or electricity, construction or maintenance of roads or other public services or utilities. During these elections we were told of numerous instances where such threats had been put forward. The problems of secrecy are illustrated by some of our election day observations outlined below.

Appointment of election officials

The members of the *County Election Board* and the *Ballot Box Committee* officials have one member nominated by each of the four (respectively five) political parties which received the highest number of votes at the corresponding level in last elections, provided the party are running in the election at hand. This rule would normally not be problematic in any democracy following international standards.

However, Turkey has had a practice of banning political parties. Political parties that are banned tend to re-emerge under new names and slightly different programs. These successor-parties in no way inherit the right to nominate election officials, and thus there is another negative and undemocratic effect of the practice of banning political parties.

5. Observations from the Election

Problems of secrecy

In an interview taken by Norwegian team (name of interviewee withheld) in *Diyarbakir* province, we were told that all *Muhtars* had been called to a meeting that was chaired by a judge of the *District Court*. A military commander and other official representatives were also said to be present. According to testimony, the judge instructed that voting in the district should not be secret, to avoid votes for DEHAP. The interviewee claimed that he was present at the said meeting. We have the interview on videotape.

Even if such meetings might have take place at a wider geographical scale, it is not justified to say that the practice of “voting in public” took place everywhere all over the countryside in *Mardin* and *Diyarbakir* provinces. However, our observations and the observations of other international representatives strongly suggest that secrecy of the vote is not systematically respected in these areas. In our view there is a pattern of well-founded allegations to this effect.

A witness (name withheld) interviewed by a Norwegian team informed that the military came to the village of *G* (name withheld) between 3 and 4 am the night before the election and

assembled all the people in the village, first in the mosque and then in the school. The military reportedly instructed the villagers not to vote for DEHAP, otherwise they would face all sorts of difficulties, including hindrances to wood gathering, their most important source of income or loss of electrical supply. “*You can vote for any party you want, but not for DEHAP*” the officer, whose name was *K (withheld)*, had said. According to interviewees (names withheld), a person who was to be a party observer for DEHAP (name withheld) had protested. As a result he received rough treatment and was then taken into custody. We learned that the would be party observer had been released later during election day.

The same Norwegian team went to the village of *B* (name withheld) in *Mardin* province in order to investigate allegations that the military had threatened the inhabitants not to vote for DEHAP. They interviewed the village headman who confirmed the allegations. The military arrived some minutes later in an armoured car and the officer in charge (name withheld), denied the allegations even if the headman repeated them in his presence. The officer claimed that he had been called to the village “*because of conflict*”.

Oddly, the headman admitted that he had asked the voters in the village to not vote secretly and to cast their votes in favour of DEHAP. Similar attitudes of double standards towards this issue were also conveyed to Norwegian observers some places in *Diyarbakir* province. These examples illustrate a certain collectivistic understanding of voting. One may argue that this understanding has cultural roots. The extent to which these notions are used in attempts to manipulate the elections seems to vary very much between villages in the area.

The Norwegian observers heard numerous allegations of this malpractice from several villages. In the village of *Dikmen* in *Mardin* province a crowd of thirty to forty people met us at the entrance to the village. Those who spoke said that they had all had been denied entry into the polling station, as they would not accept the condition to not vote secretly and in favour of parties other than DEHAP. We were allowed into the polling station and briefly interviewed a lady responsible for one of the eight ballot boxes in the station. We had a brief look into the booth. It was rather difficult to get into as one had to cross over a low piece of furniture on the way. There was no stamp there and the very small “table” seemed inappropriate for voting. When we were in the station one person came to vote, the staff sent him into the booth to vote, but forgot to give him the stamp. We were in no way convinced that voting took place secretly in *Dikmen* village.

In a village in *Bismil* District many people said they had been forced to show their ballot when voting. The military officer present denied these allegations saying that assistance had been rendered to illiterate voters. The polling station was closed on our arrival, just after noon. At that time the election officials and the military had lunch together inside the polling station. According to one interviewee the whole room had already been rearranged. One could safely assume that voting ended early in that station, and there is cause of concern as to how genuine the result from that polling station is.

Military presence, village guards, police and secret police

All the Norwegian teams frequently encountered military checkpoints. Military personnel were found at or inside of more than 80 percent of the stations visited, as illustrated by the example just above. When present at polling stations the military kept a high profile, and in some stations they were even inside the station for no apparent reason. In one instance it was alleged that the military had been present inside the polling station nearly all day, even if the chairperson of the polling station had asked them to leave.

In a village near *Salat*, a Norwegian team observed that the military intervened in a huge argument between an election official and a DEHAP party-observer about where the observer would be allowed to stand and when he would be allowed to enter. It was the military that in fact dictated the conclusion of the discussion.

The military were particularly eager to follow up on the movements of international observers. At every checkpoint and at nearly every polling station we were asked to present our passports and an explanation about the purpose of our visit to the military commander on site. The military commander, despite the fact that formally, military commanders obviously have no legal competence in inviting observers, usually allowed observers into the polling stations. Even more intriguing though is the fact that they generally followed us into the polling station and listened in to our conversation with the staff inside.

Given the recent war in the Kurdish areas of Eastern and South-eastern Turkey that ended only in 1999, the military can hardly be seen as an impartial state institution. It is an understatement to say that it is definitively not seen as one by many Kurds. In short, military presence is intimidating to voters, especially in Kurdish dominated areas, and should be minimised.

There might be a need to undertake measures to protect polling stations against disruption or violent attack that are either emerging or manifested. According to international standards one would require the presence of civil police in such cases, with a mandate to protect victims and the voting process when under clear and present threat. Organised military presence in or very close to a polling station is only tolerable in an extreme emergency situation, regardless of the fact that the State of Emergency in *Diyarbakir* province was only lifted some few weeks after the election.

The Norwegian observers were frequently followed by secret police in civilian clothes, especially in *Mardin* province and especially on election day. Their presence was indiscreet enough to reveal their identity. At one point they even called one of our interpreters to learn of our location.

To international observers themselves, the presence of secret police is puzzling, and generally not very frightening. The official story, that they are there for your protection, is not believable. However, their presence clearly has an inhibiting effect on the work of any international observer, as it has a potentially intimidating effect to any person interviewed, and local partners and assistants alike.

Possible “ballot stuffing” and similar fraud

In *Dikmen* village Community leaders in the crowd that addressed the Norwegian observers said that they believed that someone else had voted in their name. (One should keep in mind that the group also claimed that they had been denied access to the polling station.) As we entered the polling station we observed eight ballot box committees present. We found that the pile of ballot paper at one of the tables was only about 20 percent of the piles of six out of the seven other tables. A stamp was kept at that table. According to Article 27 of the *Law on Parliamentary Elections* all *Ballot Box Committees* are given the same amount of ballot paper, a practice confirmed by the lady of the said ballot box committee.

In *Yüceli* village in *Mardin* province a group of 50-60 people approached the Norwegian observers on entry to the village. Those who spoke said that soldiers had beaten five party observers and that the teacher of the village who was also the chairperson of the polling station had told people that they should not have a secret vote. The spoke persons said that they had refused and alleged that someone else had voted in their name. The observers entered the polling station and observed that the ballot boxes were not sealed properly. In fact the “seal” allowed an eager party observer to put his hand into the box and remove a vote (which was of course returned into the box). The box also had marks of a broken seal, which the chairperson said was from last election. When the box was opened as far as the “seal” allowed, one could get a clear view of the votes. The box was almost full, which was at odd with the chairperson’s statement that only 81 votes had been cast by that time of the day. The stamp was kept at the same desk as the ballot paper, as unfortunately prescribed by the electoral law.

All three Norwegian observer teams noticed a high frequency of ballot boxes with poor quality and insufficient seals.

In *Bismil* District our team saw one box fall open. The box was closed again, but not sealed. On the other hand the same team experienced that most party observers interviewed, mainly from DEHAP, said they had been allowed to witness the sealing of ballot boxes before opening of the polling stations.

Norwegian observers also made a very brief stop at the *Asagi Azikli* village of *Mardin* province. We travelled there with a DEHAP supporter who said that he had not yet voted and that he was worried that someone else had voted in his name. We were allowed a look at the voters lists and found that many voter’s signatures were in fact quite similar. As far as we could observe everyone on the list had voted by 12.45, but we did not have time to examine the lists completely, as we were interrupted by a very heated discussion and physical contact between the DEHAP supporter / voter and a person believed to be the *Muhtar* of the village. As more people joined in, tension was building and we found it best advised to run for the car and make a quick exit. On departure someone hurled a stone into one of our cars.

In a village of *Bismil* District, when the Norwegian team arrived ten minutes before the polling station was scheduled to close, they found it completely deserted. Interviewees from the village told us that the station had not been opened all day. On the other hand, in a long interview the village *Muhtar* told us just the opposite, that voting had taken place in the village. We found his statement, which is all video taped, absurd and contradictory. One witness came forward and told us he had been beaten for demanding to vote. When telling his story he was harassed and other members of his family was threatened. As we departed from the village we could see that the family was evicted from their home. These observations are videotaped and confirmed from several observers.

Other rumours of fraud

At both the Saadet Partisi office and the DEHAP office in Midyat we heard about a mini bus carrying several thousand votes reportedly involved in a collision with a truck. The incident led to ballots being spread out in the road. At both party offices the election officers reacted strongly, suspecting that the incident was organised by state official or government party officials in order to falsify results.

Threats and use of violence against party observers and independent observers

In the villages of *Dikmen*, *Yüceli*, *G* and town of *Nusaybin* in *Mardin* province and in a village close to *Salat* in *Bismil* District, where the elections were problematic as illustrated by the accounts given above, there were also allegations that the military and supporters of parties that also enjoyed the support of the *Muhtar* or the local notables chased party observers away, and in some cases even beat them or held them in custody or locked them up.

On the other hand, most DEHAP party observers interviewed at polling stations in *Bismil* District were active and confirmed that they had been allowed to see the sealing of ballot boxes.

In the hospital of *Kiziltepe* we interviewed three DEHAP party observers from the village of *Y.Azikli*. They all presented their party observer identity cards to us and told they had been attacked and chased from the polling station by about twenty CHP supporters after disagreeing with the plans of the polling station chairperson for everyone to vote not secretly in favour of CHP. We saw the wounds for which the observers wanted treatment.

The *Muhtar* who gave testimony to the Norwegian observers on irregularities in the village of *B* (name withheld) in *Mardin* province said on Thursday 7 November that he had received "*threats from everywhere*". He was frightened and said that he dared not live in his house.



Srdar Kilicarslan of the Human Rights Association of Turkey was attacked simply for monitoring the elections (Photo: Vedat Kursun)

The Norwegian teams in *Mardin* province travelled in company with representatives of the local branch of the *Human Rights Association*. The secretary of the branch, *Mr Serdar Kilicarslan* went in our car to *Dikmen* village. While we were talking to the military that required our passports and checked with their commander over radio whether or not to allow us anywhere nearer the polling station, a crowd of 20-30 local people, said to be supporters of ANAP,

approached *Mr Kilicarslan*. They asked him why we came to their village, and exclaimed, "*This is our village*"; "*This is Turkey.*"; "*These are our elections.*"; "*Leave us alone*". The mob then attacked him angrily. He received several heavy blows to his head and was later hospitalised. The military interfered, but belatedly and hesitantly in *Kilicarslan's* view. Even if we were held back by the military, and therefore unable to observe every detail of the event, we have no reason to doubt his account.

6. Conclusions and recommendations

Conclusions

This reports refers to problems that may be particular to the countryside of South-Eastern Turkey. We do not claim that the findings presented in any way question AKP's electoral victory, nor the defeat of the parties that have constituted Turkey's political elite over the last decades.

In the region in which we observed the elections, we noted positively that reports and statements from opposition parties said that since the 1999 election campaign, significant improvements had been made in that the political parties and candidates were considerably freer to campaign.

However, we also made several findings that give rise to concerns. These findings refers to the part of Turkey visited, and are not necessarily generally true for the whole region:

- There were credible statements that the system of very small *Ballot Box Zones* was used to pressure members of small communities to vote in specific ways.
- A certain collectivistic understanding of voting seems to occur in the countryside in parts of the region, the extent to which these notions are abused seems to vary very much between villages.
- There is reason to believe that the secrecy of the vote is not respected everywhere, as credible statements indicates that voters were forced to show their ballots when voting, and that others were denied the right to vote if the refused to show their ballot.
- There are reasons to suspect outright fraud in some polling stations, as we were simply not convinced that voting had taken place at all in some villages, as some places the spending of ballot paper beat logic and other observations and as many seals and ballot boxes were of poor quality not fit to hinder fraud.
- There was a frequent and high profile presence of military in the elections, including presence inside polling stations for no apparent reasons. This has an intimidating effect on many voters, particularly in the area observed.
- The military and the secret police made our election observation more difficult by tailing, repeated ID-checks and intimidation to interviewees and local partners by their sheer presence.
- Interviews revealed substantiated allegations that accredited domestic party observers had been denied entry into polling stations, that some had been chased away with violence or were subject to violence, we even learned of one party observer that was even detained during election day.
- We directly observed one non-partisan observer falling victim to violent attack simply for monitoring the elections.

We also regret that:

- Turkey did not invite international election observers in sufficient time as to facilitate a proper observation mission and that international observers were not facilitated with accreditation.
- Turkey's laws on freedom of expression and the right to organise political parties fall short of international standards. The banning of political parties and the fact that the non-violent expressions of certain views are punishable, call for particular concern.

- Convictions under those sub-standard laws makes a person ineligible for political posts, which is an undue limitation in political rights as defined by international human rights law.
- That Turkey has a 10 percent threshold in parliamentary elections.

We recommend:

- That Turkey removes or dramatically reduces the 10% threshold from her Parliamentary Election Law.
- That Turkey replaces the system of Ballot Box Zones with a system that better protects the secrecy of the vote.
- That Turkey amends its electoral law to provide for the presence of international election observers and domestic non-partisan observers.
- That Turkey sends invitations for all future elections to all member states of the OSCE and the Council of Europe, specifically inviting those organisations to organise and accredit international election missions that are free to operate within the confines of international standards of election observation. These invitations should be issued well in advance allowing for the organisation of proper observation missions.
- That Turkey disbands the village guard system.
- That Turkey carries out bona fide investigations on all allegations of irregularities, fraud and violence during these elections. Perpetrators of crimes should be investigated and punished if convicted regardless of whether they are state officials or local strongmen.
- That Turkey limits the role and the presence of the military in civilian affairs in general, and in elections in particular. For instance a law could prescribe that all military personnel in uniform must stay in military barracks all election day, unless called on by a specific civil authority whose call is transparent.
- That Turkey changes its laws and practices on freedom of expression so that any persons under Turkey's jurisdiction may freely enjoy the human right of freedom of expression.
- That Turkey changes the laws regulating eligibility to political offices to make them in conformity with international standards.
- That Turkey review its laws regarding banning of political parties to allow for expression of non-violent political views within the limits of freedom of expression, as defined by international human rights law.
- That the European Union and other countries and international institutions follow the legal and factual developments on human rights and democracy closely and not grant Turkey undue benefits until an acceptable standard of human rights obligations has been achieved, and that positive developments are generally considered to be irreversible. At a minimum an acceptable standard is not achieved until all human rights violations that are systematic and widespread have ceased.