



Party Law in Modern Europe

The Legal Regulation of Political Parties in Post-War Europe

Impact of Party Regulation on Small Parties and Independent Candidates in Turkey

Ömer Faruk Gençkaya

Marmara University

Turkey

faruk.genckaya@marmara.edu.tr

The Legal Regulation of Political Parties

Working Paper 41

February 2014



European
Research
Council



UNIVERSITY OF
BIRMINGHAM

© The author(s), 2014

This working paper series is supported by the Economic and Social Research Council (ESRC research grant RES-061-25-0080) and the European Research Council (ERC starting grant 205660).

To cite this paper: Gençkaya, Ömer Faruk (2014). 'Impact of Party Regulation on Small Parties and Independent Candidates in Turkey', Working Paper Series on the Legal Regulation of Political Parties, No. 41.

To link to this paper: <http://www.partylaw.leidenuniv.nl/uploads/wp4114.pdf>

This paper may be used for research, teaching and private study purposes. Any substantial or systematic reproduction, re-distribution, re-selling, loan or sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden.

ISSN: 2211-1034

Introduction

Political parties are an integral part of representative democracy (Norris, 2005) and contribute to the survival and consolidation of the democratic system (Diamond and Gunther, 2001; Bartolini and Mair, 2001; see also Olson, 1998; Katz, 2004; Webb and White, 2007).¹

The principal objective of political parties is to compete for political power through democratic elections. Therefore, the relationship between electoral system and party system has been studied widely (Duverger, 1954; Sartori, 1976; Weiner and Özbudun, 1987; Taagepera et al, 1989; Cox, 1997; Moser, 1999). The formation and evolution of party systems are determined mainly by economic as well as socio-cultural factors, and party identification and institutional factors (Lipset and Rokkan, 1967; Cox, 1990; Kitchelt, 1994; Mainwarring, 1999 and Kervonen et al, 2001).

On the one hand the expansion of public funding of political parties made the mainstream political parties especially a public entity (van Biezen, 2004). In other words, political parties with regular state funding control state-run media, and they adopt rules to prevent newcomers getting into the party system (Katz and Mair, 1995). On the other hand, in order to reduce party system fragmentation - especially in diverse societies - minority parties are excluded from or *marginalized* in the party system by means of political engineering (Birnie, 2004). These analyses are based on the argument that formation and activities of political parties are mainly framed by the constitutional/legal regulations and constraints (Reilly and Nordlund, 2008).

Political parties have been included in the constitutions (van Biezen, 2009) and later regulated by a special law, namely *party law* (Kervonen, 2007) since the Second World War.² The concept of *militant democracy* heavily influenced the party regulations in this period.³ The 1949 German Basic Law constitutes the first example followed by other Southern European democracies later on, among which Turkey is the main exponent. The main standards for party regulation in plural democracies are set by the European Convention of

¹ The ECtHR also asserts that political parties play a “primordial role” in the “proper functioning of a democracy”. *Refah Partisi (The Welfare Party) and Others v. Turkey*, Judgment, Strasbourg, 31 July 2001 (applications nos. 41340/98, 41342/98, 41343/98, 41344/98), including a joint dissenting opinion by Judges Fuhrmann, Loucaides, and Sir Nicolas Bratza.

² A proper definition of “party law” must include all relevant provisions set by the constitution, the electoral laws, and the rules governing the conduct and financing of political campaigns as well as standing orders of parliament. See Richard S. Katz, “Reform of Parties Through Legal Regulations,” http://www.cepchile.cl/dms/archivo_5011_3160/DOC_RKatz_Reform-of-Parties-Through-Legal-Regulation.pdf.

³ Karl Lowenstein and Karl Mannheim are the originators of the concept, which refers to “a form of constitutional democracy authorized to protect civil and political freedom by preemptively restricting its exercise” (Macklem, 2005; see also Sájó, 2004 and Thiel, 2009).

Human Rights, the decisions of the European Court of Human Rights, the Venice Commission's Recommendations through the Council of Europe and EU documents (Molenaar, 2010).⁴

Turkey, as being both a “second-”⁵ and “third-wave democracy” (Huntington, 1991), considered political parties as “indispensable elements of democratic political life” starting with the 1961 Constitutional period.⁶ However, the party regulations have followed a path from a more liberal to a more restricted regime since the 1960s.⁷ Until recently, political parties and the party system indicated a “deinstitutionalization” and organizational change in the major political parties followed a path from *cadre* to *catch-all* or *cartel* without a mass party model (Özbudun, 2000).⁸ Simultaneously, the party system has suffered from fragmentation, polarization and high volatility (Özbudun, 2013). Non-electoral sources such as military interventions, party switches and a ban on political parties has led to party system instability in Turkey since the opening of multi-party elections (Sayarı, 2008). In other words, Turkey faced ‘frequent and fairly extensive’ party system change as a consequence of several factors.

Political parties in Turkey have not been analyzed widely in terms of their constitutional/legal aspects until recently. However, some studies (Sayarı and Esmer, 2002; Rubin and Heper, 2002; Sayarı, 2008; Oder, 2009; Ayan, 2011; Özbudun, 2013 and Yardımcı-Geyikdağı, 2013) underlined especially how the uniform, centralist and restrictive nature of the party and election regulations helped the creation of leadership domination, centralization and anti-democratic organizational structures, including the rights of the members, nomination, policy development and party funding.

This article attempts to elaborate on the relationship between the constraints of party regulation and the organization and activities of political parties in Turkey since 1983. It is

⁴ Several international conventions also touch upon these principles. See International Covenant on Civil and Political Rights, Convention on the Elimination of All Forms of Discrimination against Women, International Convention on the Elimination of Racial Discrimination. See European Commission, Compendium of International Standards for Elections, 2nd edition (Brussels: European Commission), 2007. The OSCE Office of Democratic Institutions and Human Rights and the Venice Commission introduced *Guidelines on Political Party Regulation* which highlights basically full protection of freedom of association, proportionality, political pluralism and equal treatment.

⁵ The first attempt at full democracy was introduced in 1946.

⁶ The 1982 Constitution, Article 68/2.

⁷ While the 1961 Constitution directly refers to the term political party or party group - in case of parliamentary structure - in 18 articles (Articles 19, 26, 56, 57, 70, 79, 84, 85, 89, 90, 92, 94, 95, 109, 119, 148, 149 and Provisional Article 23), the 1982 Constitution included 13 articles (Articles 67, 68, 69, 83, 84, 94, 95, 99, 100, 114, 149, 150 and 162). The first Party Law No. 648 consisted of 137 articles and the Law No. 2820 includes 149 articles - 5 additional and 22 provisional. The current Party Law No. 2820 consists of 153 articles - 6 additional and 23 provisional.

⁸ For discussions of party models, see Duverger, 1954; Kircheimer, 1966; Sartori, 1976; Katz and Mair, 1995; Koole, 1996.

assumed that the centralistic, uniform and restrictive nature of the party and election regulations on the one hand and an unequal and unfair public funding system on the other, naturally and/or intentionally support the bigger and more central parties *vis a vis* small parties and independent candidates. Below, the critical provisions of the party regulation leading to these contradictions will be discussed with special reference to organization, prohibitions, political funding and electoral rules.

Basic Aspects of Party Regulation in Turkey

Political parties were subject to the Law on Associations and founded by a prior permission of the relevant authority during the Republican Period. The 1961 Constitution for the first time defined political parties as legal entities different than associations. The constitutional guarantees for the formation of political parties, membership and annual state aid to political parties (Article 56), restrictions on political parties' activities (Article 57) and finally, supervision of the activities and accounts of political parties and their dissolution by the Constitutional Court (the Court) were regulated by this Constitution.⁹

The major sources of party regulation in Turkey are the Constitution, the Party Law, the electoral laws, the Decisions of the Supreme Board of Elections, the Decisions of the Constitutional Court and of the European Court of Human Rights (ECtHR).¹⁰ The Constitution states that political parties shall be regulated by law (Article 69). As a reaction to the dissensus between and among political elites before the military intervention (Hale, 1993), the original text of the Constitution included more "restrictive" provisions rather than "guarantees" on party formation, membership, prohibitions and party funding (Öden, 2003).

After the 1995 constitutional amendments the basic norms concerning the prohibitions leading to the dissolution of political parties were regulated by the principle of *numerus clausus*, so that only the constitutional provision (i.e. art. 69) could be applied. The Party Law was also revised pursuant to these amendments in 1999. Especially, the 2001 amendments were formulated in light of the Venice Commission's *Guidelines on the Prohibition and Dissolution of Political Parties and Analogous Measures*. Therefore, these changes together

⁹ See also Law No. 648 Articles 2, 3, 4 and 6. All linkages between political parties and associations were prohibited by this law.

¹⁰ Election Laws include Law No. 298 on the Basic Principles of Elections and Electoral Registry, Law No. 2839 on Deputies' Election and Law No. 2972 on the Elections of Local Administrations and Neighborhood Headmen and Elder Councils. Parties' statutes are mainly formulated in accordance with the major sources and are among the complementary sources.

with the amendments of 1995 created a considerably balanced situation in favor of guarantees for political parties (Sağlam, 1999).¹¹

The Constitution states that "... citizens have the right to vote, to be elected, and to engage in political activities independently or in a political party..." (Article 67). In this respect, Turkish nationals living abroad were entitled to vote constitutionally by the 1995 amendments (Article 67). Later, in 2008 and 2012 the rules governing the voting procedures for those citizens were added to Law No. 298 (Articles 10, 20, 35 and 94A, C and E especially). Thus, with few exceptions provided for by the law, about 1,5 million Turkish nationals abroad, including those who have ceased to be citizens, can vote in the next elections.

Law No. 2820 aimed at establishing uniform and centrist parties loyal to the state as organizations. Moreover, in order to stabilize the party system – less fragmentation - Law No. 2839 introduced a 10 percent national threshold to secure a two-and-half party system. Turkey's peculiarity, in this respect, lies on five dimensions which are set by Law No. 2820 and Law No. 2839: *requirements for formation of political parties and electoral participation, prohibitions on party activities, nomination, state aid and electoral threshold.*

Formation, Internal Organization and Termination

Although the Constitution states that the activities, internal organization and operation of political parties shall be in line with democratic principles (Article 69/1) the Party Law contains several anti-democratic provisions on party life, including organization and activities.

Political parties are defined as legal entities and it is assumed by the Party Law that they can contribute to the country's "level of civilization", "democratic order" and the "formation of national will" through "open propaganda of their programs in general and local elections" and organize and carry out activities throughout the country (Article 3).¹²

Eligibility age for party membership was lowered from 21 to 18 by the 1995 amendments (Article 68/1). Political parties can be formed by at least thirty Turkish citizens who are eligible to become a member of a political party (Article 8) as a national organization. Political parties shall obtain the status of a legal personality upon the

¹¹ The changes included the lifting of the ban on cooperation and solidarity between political parties and associations, expanding the scope of party membership, enabling political parties to open youth and women's branches and allocating state aid to political parties. In addition, a clear separation between the causes of permanent dissolution of political parties and other prohibitions was stipulated.

¹² The Court also emphasized political parties' contribution to democracy (AMK, E. 1988/39) and a pluralist structure (AMK, E. 2008/42).

submission of the declaration to the Ministry of Interior.¹³ The declaration shall include all personal information about the founders and shall be submitted together with five copies of the birth certificate and judicial records of each founder and the party program and statute undersigned by each founder (Article 8 of the Party Law). Before the Party Law was amended in 1999 (Article 9), the Office of the Chief Prosecutor reviewed the submitted documents a week or a month before the party started its activities.

The Party registry is kept by the Office of the Chief Prosecutor (Article 10),¹⁴ and the changes in this information must be updated regularly. If a party fails to respond to the request of the Office of the Chief Public Prosecutor concerning any information, following a second notice the Office of the Chief Prosecutor may open a file at the Court for deprivation of such party of state aid partially or completely (Articles 102 and 104).¹⁵ Political parties may object to such a request at the Court. However, it is unclear what kind of sanction shall be applied for those political parties which do not receive state aid.

The party organization consists of central and local units as well as parliamentary party groups, general provincial councils and municipal council groups (Article 7). As a requirement of the central and unitary state principle, the headquarters of political parties shall be in the capital city, Ankara (Article 8).

The Party Grand Congress, as the highest organ of a political party, elects the party organs, approves the program and budget and dissolves the party's legal entity (Article 14/5, see also Articles 109-110). The party statute regulates voluntary boards for consultation and research (Article 13/1), the women's branch, youth branch and suchlike subsidiary bodies, and establishes representatives in foreign countries (Article 7).

The Party Law imposes minimum and maximum standards for the elections to the party's administrative organs, quorums and nominations and some more detailed aspects of party life which can be regulated by their statutes separately. The right to dismiss local party organizations (Articles 19 and 20) and party members (Article 53), which is very widespread

¹³ As of November 2013, there are 77 registered political parties in Turkey. The Justice and Development Party (100 %), the Republican People's Party (99.6 %) and the Nationalist Action Party (98.9 %) organized themselves countrywide. However, the Peace and Democracy Party, a pro-Kurdish party, organized only in 33.6 % of the administrative units, which indicates rather a "regional" entity. Considering the number of political parties entering the parliamentary elections in 2007 and 2011 one can say that a total of 15-20 political parties completed their countrywide organization at the minimum level required by the Party Law. For the number of members, see Table 1.

¹⁴ According to Article 33, similar documents about the assigned persons in party organization at all levels shall be submitted in writing to the highest civilian authority of such district within 15 days following the date of election or assignment. The consolidated information is kept by the Ministry of Interior Affairs and the Office of the Chief Public Prosecutor.

¹⁵ Before the amendment of 2003, the provision included the banning of such a political party. See below the Green Party Case.

among the major political parties, provides an unlimited power in the hands of the party leadership which leads to leadership domination and weakens the internal party democracy. However, the dismissals are subject to judicial review (Article 57).

Some crucial improvements concerning internal party structure and parties' external relations were introduced following the 1995 amendments. Political parties are able "to form a women's branch, youth branch and suchlike subsidiary bodies and to establish representatives in foreign countries" (Party Law, Article 7). Also, the prohibition of political relationship and cooperation with associations, unions, foundations, cooperatives and professional associations (Article 92) was repealed.

Restrictions and Prohibitions Relating to Political Parties' Activities

Although the 1961 Constitution stipulated that "political parties operate freely" the current constitution requires of political parties that their activities must comply with the provisions set forth in the Constitution and law (Art. 68/3). In other words, the Constitution provides guidance and clearly defines the area of freedom for political parties by listing what they cannot do (Art. 68/4). Thus, political parties became "a branch of the state" by definition (Erdoğan, 2002) and under the close scrutiny of the relevant authorities such as the Office of the Chief Public Prosecutor. On the other hand, prohibitions set forth by the Party Law go beyond the constitutional prescriptions. It is argued by the majority of the doctrine (Erdoğan, 2002 and 2011; Özbudun, 1995; Teziç, 2001) that the Constitution becomes a "common program" for all political parties.

The Constitution enumerates the causes of dissolution in a restrictive manner (Article 68/4) and describes the sanctions to be applied (Article 69/5 and 6). Before the 1995 constitutional amendments, the causes of party dissolution were evaluated by means of the content of party statute and program. The 1982 (Article 68/4) and the 1961 (Article 57/1) Constitutions, inspired by the Basic Law of Germany (Article 21/2), limited the political sphere by the constitution, by basing it on the principle of a democratic state respecting human rights and freedoms.

In comparison to the system of party closure of the EU member states (Venice Commission, 1999 and Molenaar, 2010), this exclusive definition can be understood within the scope of *militant democracy*. First of all, a party which has been dissolved permanently cannot be founded under another name (Article 69/8; see also Article 96 of the Party Law). Secondly, the statutes and programs as well as the activities of political parties cannot be in conflict with the independence of the state, its indivisible integrity with its territory and nation, human rights, the principles of equality and rule of law, sovereignty of the nation, the

principles of the democratic and secular republic; they cannot aim to protect or establish class or group dictatorship or dictatorship of any kind, nor can they incite citizens to crime (Article 68/4).

In fact, the Constitution regulates the reasons for dissolution originating from the party program and party's activities, separately. Thirdly, the provision stating that "no one shall be allowed to exploit or abuse religion or religious feelings, or things held sacred by religion" (Article 24/5) applies to political parties, too. Finally, political parties cannot accept financial assistance from foreign states, international institutions and persons and corporate bodies (Article 69/10). Clearly, these provisions draw the border of legal activities for political parties (Özbudun, 2005).

Prohibitions defined by the Party law can be categorized under three headings: formal, related to the foundation and related to the party activities. The first category is related to the formal restrictions concerning the name, symbol and emblems of the party. Furthermore, political parties shall not base themselves on principles of region, race, a certain person, family, group or community, religion, sect or cult; or use such names (Article 78/b). It is also prohibited to use "names, emblems, symbols, rosettes and similar signs of the political parties which have been dissolved permanently by the Constitutional Court or registered at the political party registration" (Article 96/1). Also, they cannot be established using "communist, anarchist, fascist, theocratic, national socialist names, the names of religion, language, race, sect and region, or names that have the same meaning, or use such names in the party names" (Article 96/3). In this respect, a general provision which obliged political parties to take the principles stated in the Preamble of the Constitution as the major goals was repealed in 1999.

The second category of prohibitions is regulated in a separate part and includes 20 articles. For example, political parties cannot seek to annihilate the independence of the state (Article 79), the unity of the state (Article 80) or the place of the Presidency of Religious Affairs (Article 89). The last provision was included in the Party Law as a component of the "laic state" principle, yet it serves beyond this objective. Surprisingly, for instance, one of the causes of the dissolution decision for the People's Labour Party, a pro-Kurdish party, was that the party advocated against the establishment of the Presidency of Religious Affairs in the state organization (AMK, E. 1992/1). Political parties cannot advocate any minority related issues including culture, language and religion or sect, regionalism and racism or any discriminatory policy (Articles 81, 82 and 83). However, the first groups of restrictions under minority based issues have been recently marginalized relatively within the scope of the Kurdish issue and became a part of the discussions without referring to the term "minority".

Above all, there is a general provision stating that “statutes, programs and activities of the political parties shall not be contrary to the provisions of the Constitution and the Party Law and cannot support any political party in the elections (Article 90)”. This means that political parties are expected to bind themselves by their programs and statutes.

According to the doctrine, such provisions were not formulated necessarily for the exclusion of anti-democratic/illiberal political parties but especially for the protection of democracy exclusively (Sağlam, 1999 and Özbudun, 2007).

Until the 1995 amendments were adopted, the Court considered that the expression of thoughts and opinions which might be conducive to causing social unrest and violating state security could be prohibited (AMK, E. 1990/1; AMK, E. 1992/1; AMK, E. 1997/1).¹⁶ The Court also expressed the view that listing the reasons for dissolution in the Constitution provides a guarantee for political parties without enabling the legislator to narrow down the scope of the freedom of political organization (AMK, E. 1988/2-1). In other words, the Party Law was the main reference for the banning of political parties (Gençkaya, 1998; Koğacıoğlu, 2004 and Belge, 2006).¹⁷ The Court’s decision on the case of the Democratic Peace Movement Party (AMK, E. 1996/3) in 1997 can be seen as an improvement towards the European Court of Human Right’s doctrine underlining the fact that dissolution of a party only on the basis of party statute and program cannot be accepted as a required measure. Later on, the Court also assessed the cases by taking these issues separately (AMK, E. 1996/1). In a recent interim decision, the Court considered that the unconstitutionality of a party’s name could not be taken into account as a serious cause for the dissolution of a party in 2004 and the file on the closure of the Communist Party of Turkey was dropped in 2009 (AMK, E. 2002/4).

Thus, the Party Law lost its weight for the Court’s decisions.¹⁸ According to the phrase added to Article 69/6 in 1995, permanent dissolution of a political party in relation to the above mentioned provision of Article 68 can only be possible when the Court determines that

¹⁶ As of April 8, 2013 a total of 49 dissolution cases had been filed by the OCPP since 1961 and 25 political parties, 6 of them from 1961 to 1980 and 19 of them in the 1982 constitutional period, were closed down permanently. <http://www.anayasa.gov.tr/Istatistik/>

¹⁷ The United Communist Party of Turkey was banned in 1991 on the grounds that its name incorporated the phrase “communist” contrary to Law No. 2820. See the judgment of the ECtHR on this case, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-58128>. Later, the Socialist Party was dissolved by the Court in 1991 on the grounds that it spreads separatism through its programs, election materials and oral speeches of the leadership. See the judgment of the ECtHR on this case, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-58172>. Finally, the Freedom and Democracy Party was dissolved by the Court in 1993 on the grounds that its program was apt to undermine national unity. See the judgment of the ECtHR on this case, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-58372>.

¹⁸ According to the constitutional amendments adopted in 2001 any unconstitutionality allegation against the provisions of Law No. 2820 can also be brought to the Court.

“the party in question has become a center for the execution of such activities.” Due to vagueness and confusion in interpreting this phrase and given the fact that the Court did not change its approach in the dissolution cases, Article 69 was amended in 2001 once again to define the conditions of becoming a center (see also Article 103 of the Party Law). In order to act, such activities must be carried out intensively by the members of that party, then be shared implicitly or explicitly by the party’s central organs including the parliamentary group and finally, carried out by determination of the above-mentioned party organs directly. However, it is argued that ordinary members, members of the superior organs of political parties and the deputies and ministers who have parliamentary immunity are considered under the same category, paradoxically (Sağlam, 2001).

To make the dissolution of a political party more difficult, this amendment also introduced an alternative method of punishment.¹⁹ The Court can rule that the party concerned may be deprived of state aid wholly or in part with respect to the intensity of the actions brought before the court (Article 69/7 and Article 101/last of the Party Law). This may cause some legal inconsistency and an equality issue from the point of view of those political parties which do not receive state aid.

Although all assets of a closed political party may be transferred to another political party by a decision taken by the absolute majority of a quorum for the meeting of a Grand Congress (Article 110), in case of dissolution by the decision of the Court all assets shall be transferred to the Treasury (Art. 107).

Regulations on Party Funding

The state aid to political parties was first introduced by Law No. 648 in 1965.²⁰ In line with the constitutional amendments of 1971 and 1973, Article 74 of Law No. 648 was amended so that “political parties which entered the last general elections and received at least 5 percent of the total valid votes or won seats sufficient to form a parliamentary party group” were entitled to receive state aid in proportion to the votes the party received in the last general elections.²¹

¹⁹ This amendment increased the minimum ratio of votes to 2/3 majority for dissolution (Article 149/3). Consequently, the Rights and Freedoms Party case was rejected (AMK, E. 2002/1).

²⁰ In 1967, the Reliance Party, a split from the center-left Republican People’s Party, was provided state aid without legal grounds and then an amendment to the law was adopted to legitimize it in 1968. In 1970, the Court found the state aid constitutional in principle yet annulled the state aid on the ground of “fairness” and “equality.” Later on, in 1971 the Court found it unconstitutional when the new regulation on state aid was reviewed.

²¹ During 1965-1980, the total amount of state aid to political parties was about 430 million Turkish Liras (Gençkaya, 2000: 230). In this period, average USD exchange rate was 20 Turkish Liras.

The original text of the 1982 Constitution did not include any provision regulating the state aid to political parties. However, the newly elected Grand National Assembly of Turkey (GNAT) enacted an additional article to Law No. 2820 and political parties were enabled to receive annual state aid by passing a certain threshold in 1984. After almost a decade, in 1995, a new paragraph was added to the Constitution saying that the state provides “equitable financial means to political parties” (Article 69/final).²²

According to the current Party Law (Additional Article 1) which was adopted by the newly elected civilian parliament in 1983 as one of the first legislative initiatives, political parties which passed the ten percent national threshold for obtaining a seat in the parliament could receive annual state aid in proportion to the parties’ valid votes in the 1984 local elections (30 % of the aid) and the number of seats (70 % of the aid). Later, the criteria for receiving state aid became subject to political manipulation and constitutional review again.²³

To avoid the complication caused by the different criteria of seats and votes in a two party parliament, the government and opposition party, representing a real *cartelization* sample, deleted these categories from the Party Law in May 2005 following a significant party change of deputies and fragmentation of the parliamentary party system in early 2005.²⁴ Thus, only those political parties which entered the last general elections can receive state aid in proportion to the votes they received. According to the current system of state aid two per five thousand of the total amount of the Column B of the Revenues of the General Budget of that year is allocated to political parties which were entitled to enter the last deputies’ election by the Supreme Board of Election (the Board) and passed the ten percent countrywide threshold (Law No. 2839, Article 33).²⁵ This allocation is paid to political parties in proportion to valid votes they received in the last general elections. Political parties which failed to pass the countrywide 10 % threshold but received more than 7 % of the valid votes cast are also eligible to receive state aid. This aid is calculated in proportion to the minimum

²² As a part of state funding of political parties, the deputies’ salaries and allowances have been regulated by the first Ottoman Constitution of 1876 and the Republican Constitutions of 1924, 1961 and 1982 (Articles 18, 82 and 86 respectively). For details, see Bakırcı, 2006.

²³ For example, in 1987, parliamentary party groups, even though these parties did not enter the last general elections in 1988, and political parties which failed to pass the 10 % threshold but secured 7 % of valid votes at minimum and were represented in the parliament, became able to obtain public funds. The Democratic Left Party and the Welfare Party were the major beneficiaries. Finally, in 1990, Provisional Article 16 described two more categories in terms of number of seats: parties with at minimum 3-10 seats and parties with more than ten but less than twenty seats. The People’s Labour Party, which entered the elections on the Social Democrat People Party’s ticket in the 1991 elections, received state aid for two years until it was banned by the Court. For details, see Gençkaya, 2000: 176-82.

²⁴ In this period, 8 deputies from the JDP and 16 from the RPP resigned.

²⁵ Column B of the Revenues of the General Budget includes tax, enterprise and real estate, capital and similar revenues.

amount of state aid given to the political party and the votes that party received in the last general election and given as much as three times in general election year and as much as twice in local administration elections. Upon the application of the Freedom and Solidarity Party to the ECtHR it was concluded that a 7 % minimum share of the vote – on objective and reasonable grounds - was not contrary to Article 14 taken in conjunction with Article 3 of the protocol 1.²⁶ Since 1984 about 1,189 million Turkish Liras has been allocated for the annual state aid to political parties (see Table 2).²⁷

The Party Law does not regulate how the state aid is to be distributed among the party units such as local, youth and women, which may receive financial aid from the party center irregularly, especially during the elections, and mostly stand on their own feet (Ayan, 2009).

In addition to the state aid, Party Law (Article 61) also defines other legal sources of income such as membership fees; the “deputy fee” paid by party MPs; the “special fee” for candidacy, paid to run for nomination in the elections; the earnings from selling the party’s materials; the earnings from the party’s properties and donations.

Except for small parties, the amount of membership dues constitutes less than 1 percent of bigger parties’ income on average (Gençkaya, 2002). Donation is the second biggest source of party revenue, especially during the campaign period, but is not registered properly. No state entity can donate movable or immovable property to any political party. However, private persons and corporations, including public professional organizations such as trade unions, associations, foundations and cooperatives can donate to political parties in accordance with the special provisions set by their laws (Article 66). Although there are clear provisions in these special laws that political parties cannot donate to such organizations, there is neither any prohibition nor a clear definition of how and how much these organizations can donate to political parties.²⁸ The donation ceiling is determined every year in accordance with the revaluation ratio set by the Ministry of Finance and is 30,710 Turkish Liras (13,068 EUR) in 2013.

Both the 1982 Constitution (Article 69) and the Party Law (Article 66 and 67) prohibits political parties from engaging in commercial activities and from accepting financial assistance - in cash or in kind - from foreign states, international institutions and persons, corporate bodies and any public organizations. Moreover, political parties may acquire real

²⁶ Case of *Özgürlük ve Dayanışma Partisi (ÖDP) v. Turkey*,

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-110866>.

²⁷ Average USD exchange rate for the 1984-2004 period was 347,048 Turkish Liras. The New Turkish Lira system was introduced in 2005 and the average USD rate between 2005-2013 was 1,55 Turkish Liras.

²⁸ The Court deleted the phrase “political parties” from Article 7 of the Law on Associations; therefore, the associations cannot receive from or give donations to political parties.

estate only for their residential needs, purposes and activities and use revenue from their immovable property only in line with their objectives (Article 68). Furthermore, political parties can borrow money or take loans from any legal or natural person only in order to meet their needs.

As an instance of indirect state funding, political parties were first entitled to have free air time on the state radio in 1949, yet this was prohibited by law in 1954. During the 1961 Constitutional Period, all competing parties were allocated radio and television broadcasts in the general elections but not local administration elections (Law No. 298, Articles 52-55).

In 1984, the government was given thirty minutes broadcast time each month on the state television to promote the government's activities, in compliance with the principles of broadcast carrying any political objective without the right of reply or without carrying any political objective and private channels may also broadcast this program simultaneously or later (Law No. 2954 on TRT, Article 19). Considering the unequal share of the government party(ies) in the state and private media, this extra time further increases the unfair competition between political parties.

In the mid-1980s, several pirate television stations broadcast without any regulation. Meanwhile, paid political advertising on radio and television was adopted (Law No. 3270) and amended (Law No. 3330) in 1986. Both the President of the Republic and the main opposition party (Social Democrat Populist Party) of that time filed annulment actions. The Court found the paid advertisements on the state run TRT unconstitutional on the grounds that this would violate the principle of "equality" by providing privileges to the parties with greater financial resources and that of the "neutrality" of the TRT as a public agency by broadcasting paid political advertisements (AMK, E. 1986/13, 1986/17, 1987/3 and 1987/6). However, no unconstitutionality action has been filed for paid advertisements in the newspapers or magazines until now.

In order to deregulate public broadcasts and to end the chaotic broadcasting environment in Turkey, Law No. 3984 on the Establishment of Radio and Television Enterprises and Their Broadcast was adopted in 1994. Broadcasts during election periods are regulated by the Board (Article 27)²⁹ and monitored by the Supreme Council of Radio and Television (Article 32) accordingly. All registered parties that enter the general elections are allocated radio and television broadcasts in the general elections but not local administration elections. Article 52 of Law No. 298 states that "every political party which enters the

²⁹ See also Articles 52, 54, 55, and 55A of Law No. 298 on the Fundamental Principles of Elections and Electoral Registry. See also Articles 5, 20, 22 and 23 of Law No. 2954 on Radio and Television of Turkey.

elections is entitled to have two propaganda broadcasts on the first and last day of the broadcast propaganda period which begins on the seventh day prior to the polling day until 6pm on the day before the polling day, each broadcast lasting 10 minutes. Every parliamentary party group is given an additional 10 minutes broadcast time. The government party, or in the case of coalition government the larger party in government, are given an additional propaganda time of 20 minutes; and minor government parties are given 15 minutes extra broadcast time. The main opposition party is also given 10 minutes additional broadcast time. These audio-visual records can also be broadcast by all radio and television channels in Turkey at the same time.”

In a recent amendment to the Law No. 298 (Article 60) adopted in 2010 both political parties and independent candidates are given equal opportunity in terms of duration, number and cost in using the common advertisement boards provided by the municipalities or the township election boards directly.

Campaign finance of the political parties and candidates was considered to be an important issue in the 1990s. Until then the prohibitions during the election period which are regulated by Law No. 298 were the only provisions in effect (Articles 63-66). All public officials and officials of the benevolent organizations cannot contribute to political parties or candidates under any name whatsoever; officers and servants as well as all of their equipment, supplies and facilities cannot be used for the benefit or under the order of a political party or a candidate (Article 63). Moreover, members of the Council of Ministers, including the Prime Minister, cannot use their official vehicles or vehicles assigned to public service during the election period (Article 65).

The 1995 constitutional amendment added a provision requiring that “election... expenditures of political parties and candidates are regulated by law” (Article 69/final). In fact, the campaign finance figures of the party organizations are attached to their annual accounts, yet candidates are not subject to any regulation in terms of transparency of political funding. With the exception of the rules on campaign financing of presidential candidates (Law No. 6271 on Presidential Elections of 2012, Article 14), no regulation has been introduced until now.

In accordance with the constitutional prescriptions, political parties’ revenues and expenditures must be in line with their objectives. The Party Law defines the procedures to be applied in obtaining revenues and spending (Articles 69 and 70). Although the Party Law sets a ceiling for donations, there is no ceiling for expenditures. However, it is required to document the expenditures above a certain limit (33 EUR in 2013). Although political parties

are exempted from paying advertisement tax within the scope of political activities described by the Party Law, independent candidates are not granted such a privilege.³⁰

Both the 1961 (Article 57) and 1982 (Article 69) Constitutions stated that “auditing of the income, expenditure and acquisitions of political parties ... shall be regulated by law.” While Law No. 648 did not include any provision concerning the internal auditing of the local party branches and left it to the party statute (Article 79), Law No. 2820 provided procedures and principles concerning financial responsibility as well as revenues and expenditures (Articles 69, 70 and 71). According to the former law the Office of the Chief Public Prosecutor was in charge of preliminary examination of the submitted documents of the former year in April and then the Court supervised the accounts (Article 81). In the present system, political parties are obliged to submit a copy of the last year’s final accounts of the party organization, including provincial and township branches, to both the Court and the Office of the Chief Public Prosecutor, with information until the end of June (Article 74). The former Party Law stipulated three sanctions: *confiscation* and *light* and *heavy imprisonment* (Articles 78, 123-125). In addition to these sanctions, the current law provides for a range of criminal, administrative and civil sanctions to be imposed on political parties, party officials/party candidates or other persons (e.g. donors) – depending on the circumstances – for violations of party financing provisions (Articles 76-77, 111-118). If a political party was in contravention of the statutory provisions of the Law and it was not corrected within six months after the second notification, the Office of the Chief Public Prosecutor could open a dissolution case against the party. In 1994, the Green Party was banned simply because of the fact that the party failed to submit the annual accounts in proper manner (AMK, E. 1992/2). Later, this provision was deleted from the law in 2003.³¹

The presidential campaign finance rules cover transparency, registration and reporting to the Board which is different than the annual reporting authority for political parties. (GRECO, 2012). Thus, three institutions will deal with the supervision of political finance, namely the Court in collaboration with the Turkish Audit Court and the Board.

Although the current system seems to be more centralized and tighter the parties’ accounts were examined according to “whatever political parties return and information and documents are available” (Gençkaya, 2000). Lacking a standardized format and independent accountants, the quality of auditing is low (GRECO, 2009).

³⁰ Law No. 2464 on Revenues of Municipalities, Article 14/7.

³¹ The phrase “dissolution...” was replaced by “deprivation of the political party of State aid either partially or wholly.” However, in 2009, the Court found this phrase unconstitutional on the ground that it would cause an advantageous situation for those political parties which do not receive state aid (AMK, E. 2008/5).

Electoral Rules and Party System Development

Turkey has a unicameral parliament, composed of 550 members, representing 81 provinces and elected by proportional representation in multiple constituencies.³² The Constitution stresses the principle of “fairness in representation” and “stability in government” in regulating electoral rules (Article 67/last). According to the election laws (Law No. 2839 and 2972) elections are held freely, by secret ballot and are conducted on the basis of equal, universal and direct suffrage with an open count and classification of votes.

Those political parties which do not meet the organizational requirements of the Party Law may not enter the elections.³³ In order to be entitled to participate in elections, the political parties should have established their organizations in at least half of the provinces - at least one third of the districts of each province - and have held their Grand Congresses a minimum of six months prior to Election Day, or they should have a group in the Turkish parliament (Article 36).³⁴ In accordance with this provision this Board determines the names of political parties entitled to enter the elections (Law No. 298, Article 14/4).

The Board, as a permanent body, and the provincial and township election boards, which serve during the election period (Law No. 298, Article 10), are entitled to conduct the elections in Turkey (Law No. 2820, Article 21) as well as the pre-elections for party candidacy (Articles 40-50). The decisions of the Supreme Board are final and cannot be appealed; however, its decisions, especially on the disqualification of elected deputies after the election minutes are finalized, seem to be contradictory and political.³⁵ The Board sometimes considered that the parliament is the sole authority to decide on loss of deputyship on the basis of post-election ineligibility allegations (YSK, 1988/311 and 1999/1585) yet sometimes disqualified the deputies directly (YSK, 1996/71 and 1999/371). Moreover, although there was a clear violation of the provisions of the Party Law by means of forgery of documents, the Board rejected the application of the Chief Public Prosecutor about the

³² Provinces with from one to 18 deputies form a single constituency; those with from 19 to 35 deputies are divided into two constituencies; Istanbul, which has more than 35 seats, is divided into three constituencies.

³³ In the 1983 elections, the party lists were subject to the approval of the National Security Council. The True Path Party, the Social Democratic Party and the Welfare Party were banned from the elections because of the opinion that these were the successors of the pre-1980 political parties.

³⁴ Earlier parties were obliged to organize themselves in at least half of the provinces. Later, the Motherland Party majority government adopted a higher requirement, asking parties to organize themselves in at least 2/3 of the provinces, which meant establishing organizations in at least 2/3 of the towns in each province. This provision was annulled by the Court in 1987 (E.1986/17). Currently a political party is expected to organize itself in at least 200 administrative units – provinces and towns – roughly.

³⁵ A. A. Bingöl, Yüksek Seçim Kurulu ve Yüksek Seçim Kurulu Kararlarının Demokratik Seçime Etkileri (Supreme Board of Elections and the Impact of Its Decisions on Democratic Elections), Unpublished Ph.d. Dissertation, Gazi University, Ankara, 2007.

disqualification of the People's Democracy Party from the 2002 elections and correction of the election results accordingly on the grounds of "expiration time" and the "final" status of its previous decision on the matter (YSK. 2003/832). Finally, the Board nullified the elections held in Siirt province in November 2002 due to the violation of the proper conduct of the elections – three villages boycotted the elections and one ballot box was broken. The Board considered that the Siirt election would be "continuation" and "repetition" (not renewal), therefore, the countrywide threshold would be in effect, those political parties which failed to pass the threshold in November 2002 would not compete and no new independent candidate would enter the repeated election (YSK Kararı 2002/989). Meanwhile, the constitutional/legal disqualification of the leader of the Justice and Development Party was corrected by a series of amendments and his candidacy in the Siirt election which was held in March 2003 made possible. It is argued that several constitutional/legal violations were incorporated in this process.³⁶

The eligibility criteria are listed by the Constitution (Article 76; see also Law No. 2820 Article 37; Law No. 2839 Articles 10-12 and Law No. 2972 Articles 9-10). Political parties may designate the candidates by one or several of the procedures and principles determined by their statutes (Law No. 2820 Article 37). However, the central executive committees of parties (leadership) decide on the ranking of candidates in most of the political parties.³⁷ This is a less costly approach and increases further centralization, party discipline and the control of the leadership over the MPs, starting from the nomination process (Özbudun, 2000 and Ayan, 2009).

Political parties may require a nomination fee (Law No. 2820 Article 61/c). Independent candidates for deputyship elections deposit a nomination fee which is equal to the amount of the monthly gross salary of the highest ranked civil servant and consigned to the revenue department of the provincial election board where s/he shall enter the elections (Law No. 2839 Article 21/2). If an independent candidate fails to obtain enough votes to win a seat this deposit shall be registered as an income to the Treasury (Article 41/1).³⁸ The number of independent candidates entering the general elections has been decreasing sharply (729 in 2002, 465 in 2007 and 249 in 2011 general elections). The last drop can be explained by the increase in the nomination fee from 446.34 YTL (about 223 USD) to 7.734 YTL (about 3.867 USD). However, this amount is directly registered to the Treasury without

³⁶ *ibid.*, especially 192-214.

³⁷ Only the Republican People's Party conducted pre-elections for the party's nominations in 29 out of 81 provinces during the last parliamentary election of June 2011.

³⁸ If the candidate withdraws or dies before the election this amount is returned to him/her or the legal heirs.

regard to whether the candidate is elected or not in local administration elections (Law No. 2972 Article 13).

Political parties cannot attain seats unless they obtain, nationally, more than 10 percent of the valid vote.³⁹ More importantly, in the 1983, 1987 and 1991 elections, a double threshold system was applied.⁴⁰ By contrast, no such threshold applies to independent candidates for election who may be elected by simple majority of the votes cast in their electoral district. According to the Law No. 2839 (Article 34), valid votes received by the political parties which pass the countrywide threshold are divided by one, two, and three and finally the number of seats to be elected from that electoral district. The quota number for each seat to be received by political parties and the votes of independent candidates are ranked from the highest to lowest and the seats are allocated accordingly.

According to the Law No. 2972 two different methods for the elections of mayors, municipal assemblies, provincial general assemblies and headmen, who are elected every five years among party candidates and independent candidates, are applied. The simple plurality electoral system is used for mayoral elections at all levels (metropolitan cities, cities and towns) and for headmanship and elder council elections (Article 22). By contrast, in order to win a seat in local assemblies (provincial general assembly and municipal assembly), a candidate must secure one more vote than one tenth of the valid votes in that electoral district (Article 23). Since 1983 five out of eight elections brought about single-party governments. However, the percentage of unrepresented votes increased gradually until recently (19.4 in 1987, 0.4 in 1991, 14.0 in 1995, 18.3 in 1999, 45.3 in 2002, 23.1 in 2007 and 4.6 in 2011). On the other hand, fragmentation in the party system both in and outside the parliament increased (see Table 1). Small political parties and independent candidates attempted to figure out how to circumvent electoral obstacles. Some parties formed hidden electoral alliances by nominating the candidates of other parties from the list of one of them.⁴¹

³⁹ Turkey's electoral threshold is the highest amongst European democracies. The Parliamentary Assembly of the Council of Europe (Resolution 1547 (2007) paragraph 58) recommends for parliamentary elections a threshold not higher than 3 %.

⁴⁰ In the 1987 and 1991 elections, a countrywide and district level double threshold was applied together with a system of contingent candidacy in electoral districts where 6 or more deputies were to be elected. A political party which received a majority of the votes was provided with an extra seat in these electoral districts. In 1991 52 out of 450 deputies were elected by the preferences by obtaining 15 percent of their parties' votes in that electoral district. The constituency thresholds varied from 20 to 33 % in 1987 and 20 to 25 % in 1991. The Motherland Party came to power with 33 percent of votes (9 percent less than the votes received in 1983) yet controlled 65 percent of the seats (12 percent more than the seats in 1983) in 1987.

⁴¹ In the 1991 elections, Democracy Party candidates were listed on the Social Democrat Populist Party list and elected to the Parliament. On the other hand, the Welfare Party, Nationalist Work Party and Reformist Democracy Party formed a hidden electoral alliance under the name of the Welfare Party and overcame the 10

In 2002 elections, while eighteen parties participated in the elections, only two passed the threshold. The Justice and Development Party (AKP) received 34.26 percent of valid votes and in return secured 363 seats (66 percent). On the other hand, The Republican People's Party (CHP) received 19.4 percent of valid votes and controlled 178 seats (33 percent). Four political parties received votes varying between 5 to 9.5 percent yet were outside the parliament.⁴² In this election, the Democratic People's Party (DEHAP), a pro-Kurdish party, received over 20 percent of votes in 13 eastern and south-eastern provinces - in five of them it polled more than 40 percent of votes - yet did not get any seats due to the failure to secure the 10 percent countrywide threshold. Eventually, the province of Şırnak was represented in the parliament by three representatives who received less than 23 percent of the valid votes. Upon the allegation of the Party's representatives, the ECtHR decided by a majority that a 10 % threshold is exceptionally high yet did not violate Article 3 of Protocol 1 of the ECHR (right to free elections) in the given political context, where a high threshold is introduced to minimize fragmentation and no threshold is applied for independent candidates.⁴³ Only nine out of 190 independent candidates were elected to parliament in 2002.

In the next parliamentary elections of 2007, the strategy of becoming an "independent candidate" was used by some political parties to circumvent the countrywide threshold.⁴⁴ A total of 764 independent candidates entered the elections and 23 from the Democratic Society Party, a pro-Kurdish party, and 3 other candidates were elected.

The 2011 parliamentary election is considered to be a critical election which brought about a parliament with a high representation (95 percent of the valid votes). A total of 203 independent candidates, 65 of them from the "Labour, Democracy and Freedom Block" entered the elections and 36 of them were elected and joined the Peace and Democracy party later. The names of the independent candidates were listed on the ballot paper, too. In this election, the Supreme Board of Election reallocated the seats for each electoral district; however this did not make any crucial change in the seats between political parties.

However, these strategies may have some drawbacks as well as advantages as described above concerning independent nominations. For instance, an independent candidate must secure the votes to be elected or a smaller party may lose its independence when its

percent threshold. In several elections, a few independent candidates were elected from the list of the biggest party.

⁴² The True Path Party polled at 9.54%, the National Action Party polled at 8.36%, the Young Party polled at 7.25%, the Democratic People's Party polled at 6.22%, and the Motherland Party polled at 5.13%.

⁴³ See *Yumak and Sadak v. Turkey*, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-87363>.

⁴⁴ The leaders of the ÖDP, BBP and ANAP also entered the parliament as independents.

candidate is listed in a bigger party's name. On the other hand, the names of the independent candidates were not printed on the ballot paper to be used at the border polling stations.⁴⁵

General Evaluation

The recent amendments to the Constitution basically indicated a transition from a strong militant to a moderate militant regime for political parties. However, the Party Law still includes several restrictive provisions concerning membership, internal organization, party finance and dissolution.

The Party Law also reflects the general characteristics of Turkish political/administrative culture, such as hierarchical party organization, centralization and an exclusive nomination process. The state aid to political parties further increases this pyramidal structure based on the leadership domination and cartelization in the party system. In fact, this framework is reproduced by the party leadership in order to control the party organization. This leads to a less competitive, less pluralist and less representative party system.

The dissolution of political parties is an exception in a democratic system. In this respect, the Venice Commission's Report (2009) found the party regulation still insufficient "to raise the general level of party protection in Turkey to that of the ECHR and the European common democratic standards." Although the Court's approach to party dissolution has changed in line with the democratic standards, the Constitution itself needs comprehensive reform with regard to organization, finance and dissolution of political parties.

The current electoral system has produced a similar ratio of single party and coalition governments. Therefore, the lawmaker must focus on how to increase the representation of votes as well as of the smaller, regional and minority parties. In order for this to happen, the countrywide threshold needs to be eliminated completely or lowered to a reasonable level in compliance with universal tendencies.

References

Aikin, S. (2011) 'Underrepresentative Democracy: Why Turkey Should Abandon Europe's Highest Electoral Threshold', *Washington University Global Studies Law Review*, vol.10, no. 2, pp. 347-369.

⁴⁵ For several other drawbacks see S. Aikin (2011), Underrepresentative Democracy: Why Turkey Should Abandon Europe's Highest Electoral Threshold, *Washington University Global Studies Law Review*, 10 (2): 347-369.

- Ayan, P. (2009) *Theorizing Authoritarian Party Structures: The Case of Turkey*, Unpublished Ph.D. dissertation, Bilkent University (Ankara), Turkey.
- Ayan, P. (2011) *Authoritarian Party Structures and Democratic Political Setting in Turkey*, Palgrave MacMillan, New York.
- Bakırcı, F. (2006) 'Meclis Üyelerinin Aylık ve Diğer Ödenekleri' (Salaries and Other Allowances of the Members of Parliament), *Yasama Dergisi*, no. 3, pp. 25-70.
- Bartolini, S. and P. Mair (2001) 'Challenges to Contemporary Political Parties', in *Political Parties and Democracy*, eds L. Diamond and R. Gunther, Baltimore: Johns Hopkins University Press.
- Belge, C. (2006) 'Friends of the Court: The Republican Alliance and Selective Activism of the Constitutional Court of Turkey', *Law & Society Review*, vol. 40, no. 3, pp. 653-692.
- Birnir, J.K. (2004) 'Stabilizing Party Systems and Excluding Segments of Society? The Effects of Formation Costs on New Parties in Latin America', *Studies in Comparative International Development*, vol. 39, no.3, pp.3-28.
- Cox, G. (1997) *Making votes count*, Cambridge University Press, Cambridge.
- Cox, G. (1990) 'Multicandidate Spatial Competition', in *Advances in the Spatial Theory of Voting*, eds J. Enelow and M. Hinich, Cambridge University Press, New York.
- Diamond, L. and R. Gunther (eds.) (2001) *Political Parties and Democracy*, Johns Hopkins University Press, Baltimore.
- Duverger, M. (1954) *Political parties: Their organization and activity in the modern State*, John Wiley, New York.
- Erdoğan, M. (2011) *Türkiye'de Anayasalar ve Siyaset (Constitutions and Politics in Turkey)*, Liberte Yayınları, İstanbul.
- Erdoğan, M. (2002) *Anayasa ve Özgürlük (Constitution and Liberty)*, Yetkin Yayınları, Ankara.
- Gençkaya, Ö.F. (1998) 'The Turkish Constitutional Court and Dissolution of Political Parties: Comparative Perspectives', *Prof. Dr. Suna Kili'ye Armağan(In Memory of Prof. Dr. Suna Kili)*, Bogaziçi University Publications, İstanbul, pp. 165-84.
- Gençkaya, Ö.F. (2000) 'Siyasi Partilere ve Adaylara Devlet Desteği, Bağışlar ve Seçim Giderlerinin Sınırlandırılması – Karşılaştırmalı Bir İnceleme ve Türkiye İçin Bir Öneri' (Public Funding of Political Parties and Candidates, Donations and Limitations on Electoral Expenses – A Comparative Study and A Proposal for Turkey),” in *Siyasi Partilerde Reform (Reform in Political Parties)* eds. A. Çarkoglu et al., TESEV Publications, İstanbul, pp. 127-234.

- Gençkaya, Ö.F. (2002) *Devletleşen Partiler – Siyasi Partilerin Gelir Kaynakları, 1983-1998 (Stateness of Political Parties – The Sources Political Parties' Revenues)*, ANSAV Publications, Ankara.
- GRECO (2012), Third Evaluation Round Compliance Report on Turkey, Incriminations (ETS 173 and 191, GPC 2) and Transparency of Party Funding, Strasbourg, 22-23 March.
- GRECO (2009), Third Evaluation Round Evaluation Report on Turkey on Transparency of Party Funding (Theme II), Strasbourg, 26 March.
- Hale, W. (1993) *Turkish Politics and the Military*, Routledge, London.
- Huntington, S. (1991) *The Third Wave: Democratization in the Late Twentieth Century*, University of Oklahoma Press, Norman and London.
- Katz, R.S. (2004), "Democracy and the Legal Regulation of Political Parties," USAID's conference on "Change in Political Parties," Washington, D.C., 1 October. <https://www.aswat.com/files/Democracy%20and%20the%20Legal%20Regulation%20of%20Political%20Parties-%20EN.pdf>
- Katz, R.S. and P. Mair (1995) 'Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party' *Party Politics*, vol. 1, no. 1, pp. 15-28.
- Karvonen, L., S. Kuhnle and S.M. Lipset (eds.) (2001) *Party Systems and Voter Alignments Revisited*, Routledge, London.
- Karvonen, L., (2008) 'Legislation on Political Parties: a Global Comparison', *Party Politics*, vol. 13, no. 4, pp. 437-455.
- Kirchheimer, O. (1966), 'The Transformation of Western European Party Systems', in *Political Parties and Political Development*, eds J. LaPalombara and M. Weiner, Princeton University Press, New Jersey, pp. 177–200.
- Kitchelt, H. (1994) *The Transformation of European Social Democracy*, Cambridge University Press, Cambridge.
- Koğacıoğlu, D. (2004) 'Progress, Unity, and Democracy: Dissolving Political Parties in Turkey', *Law & Society*, vol. 38, no. 3, pp. 433-461.
- Koole, R. (1996) 'Cadre, Catch-All or Cartel? A Comment on the Notion of the Cartel Party' *Party Politics*, vol. 2, no. 4, pp. 509-525.
- Lipset, S.M. and S. Rokkan (1967) *Party systems and voter alignments: Cross-national perspectives*, The Free Press, Toronto.
- Lowenstein, K. (1937), 'Militant Democracy and Fundamental Rights I' *American Political Science Review*, vol. 31, no. 3, pp. 417-33.

- Molenaar, F. (2010) *The Development of European Standards on Political Parties and their Regulation*, The Legal Regulation of Political Parties Working Paper 4, ESRC and Leiden University,
<https://openaccess.leidenuniv.nl/bitstream/handle/1887/21087/wp0410.pdf?sequence=2>
- Macklem, P. (2005), *Militant Democracy, Legal Pluralism, and the Paradox of Self-Determination*, [University of Toronto, Legal Studies Research Paper No. 05-03](#).
- Mainwaring, S. P. (1999) *Rethinking Party Systems in the Third Wave of Democratization: The Case of Brazil*, Stanford University Press, Stanford, CA.
- Moser, R.G. (1999) "Electoral Systems and the Number of Parties in Postcommunist States," *World Politics*, vol.51, no.3, 359-3894.
- Norris, P. (2005) *Democracy in Theoretical and Practical Perspectives, Developments in Party Communications*, NDI, Washington, DC.
- Oder, B.E. (2009) 'Turkey', in ed. Thiel, pp. 263-310.
- Olson, D.M. (1998) 'Party Formation and Party System Consolidation in the New Democracies of Central Europe, *Political Studies*', vol. 46, no.3, pp. 432-464.
- Öden, M. (1983), *Türk Anayasa Hukukunda Siyasi Partilerin Anayasaya Aykırı Eylemleri Nedeniyle Kapatılmaları (Banning of Political Parties in Turkish Constitutional Law on the Ground of Their Unconstitutional Activities)*, Yetkin Yayınları, Ankara.
- Özbudun, E. (2005) *Türk Anayasa Hukuku (The Turkish Constitutional Law)*, 8th edition, Yetkin Yayınları, Ankara.
- Özbudun, E. (2000) *Contemporary Turkish Politics: Challenges to democratic consolidation*, Lynne Rienner Publishers, Inc., Boulder, CO.
- Özbudun, E. (2007) 'Türk Anayasa Mahkemesinin Yargısal Aktivizmi ve Siyasal Elitlerin Tepkisi' (Judicial Activism of the Turkish Constitutional Court and the Reaction of Political Elites), *Ankara Üniversitesi Siyasal Bilgiler Fakültesi Dergisi*, vol. 62, no. 3, pp. 257-68.
- Özbudun, E. (2013) *Party Politics and Social Cleavages in Turkey*, Lynne Rienner Publishers, Boulder, CO.
- Özbudun, E. (1995) 'Siyasi Partiler ve Demokrasi' (Political Parties and Democracy), *Siyasi Partiler ve Demokrasi Sempozyumu (Political Parties and Democracy Symposium)*, TESAV Yayınları, Ankara.
- Reilly, B. and P. Nordlund (eds.) (2008) *Political Parties in Conflict-Prone Societies: Regulation, Engineering and Democratic Development*, UN University Press, Tokyo.
- Rubin, B. and M. Heper, (eds.) (2002) *Political parties in Turkey*, Frank Cass and Company Ltd., London.

- Sağlam, F. (1999) *Siyasi Partiler Hukukunun Güncel Sorunları* (Current Issues of Political Party Law), Beta Yayınları, İstanbul.
- Sağlam, F. (2001) “Türk Siyasal Partiler Kanunu - Tarihçesi, Eksiklikleri, Reform Çalışmaları” (Turkish Political Parties Law – History, Deficiencies, Reform Initiatives), *Türkiye ve Avrupa’da Siyasal Partiler Kanunu ve Seçim Yasası (Political Parties and Electoral Laws in Turkey and Europe)*, Konrad Adenauer Vakfı, Ankara.
- Sájó, A. (2004) *Militant Democracy*, Eleven International Publishing, Utrecht.
- Sartori, G. (1976) *Parties and Party Systems, A Framework for Analysis*, Cambridge University Press, Cambridge.
- Sayarı, S., (2008) ‘Non-electoral sources of party system change in Turkey’, in *Ergun Özbuduna Armağan (In Memory of Ergun Özbudun)*, Volume I , eds S. Yazıcı *et al.*, Yetkin Yayıncılık, Ankara.
- Sayarı, S. and Y. Esmer, (eds.) (2002) *Politics, Parties & Elections in Turkey*, Lynne Rienner Publishers, Inc. Boulder CO.
- Taagepera, R. and M. S. Shugart (1989) *Seats and Votes: The Effects and Determinants of Electoral Systems*, Yale University Press, New Haven, CT, and London.
- Teziç, E. (2001) *Anayasa Hukuku (Constitutional Law)*, Betz Yayınları, İstanbul.
- Thiel, M. (2009) ‘Introduction,’ in *The Militant Democracy Principle in Modern Democracies*, ed. M. Thiel, Ashgate, Surrey.
- van Biezen, I. (2004) ‘Political Parties as Public Utilities’ *Party Politics*, vol. 10, no. 6, pp. 701-22.
- _____. (2009) Constitutionalizing Party Democracy: The Constitutive Codification of Political Parties in Post-War Europe, The Legal Regulation of Political Parties Working Paper, ERC, University of Leiden and University of Birmingham, 3 November.
- Venice Commission (2009) Opinion on the Constitutional and Legal Provisions Relevant to the Prohibition of Political Parties in Turkey, Strasbourg, 13 March 2009, Opinion No. 489/2008, Cdl-Ad (2009) 006. <http://www.tesev.org.tr/Upload/Publication/3cb537dd-9350-4f5a-9eeb-466527a89624/Venice%20Commission%20Report%2013-14%20March%202009.pdf>
- Venice Commission (1999) Guidelines on Prohibition and Dissolution of Political Parties and Analogous Measures, [http://www.venice.coe.int/webforms/documents/CDL-INF\(2000\)001-e.aspx](http://www.venice.coe.int/webforms/documents/CDL-INF(2000)001-e.aspx)
- Webb, P. and S. White (2007) *Party Politics in New Democracies*, Oxford University Press, Oxford.

Weiner, M. and E. Özbudun (eds.) (1987) *Competitive Elections in Developing Countries*, Duke University Press, Durham, NC.

Yardımcı-Geyikdağı, Ş. (2013) 'Party institutionalization and democratic consolidation: Turkey and Southern Europe in comparative perspective', *Party Politics*, 7 June, <http://ppq.sagepub.com/content/early/2013/06/02/1354068813487110>

Table 1. Parties and elections in Turkey (1983-2011)

Party Names/ Voter Turnover %	2011		2007		2002		1999		1995		1991		1987		1983		No. of Members
	Vote %	Seat	Vote %	Seat	Vote %	Seat	Vote %	Seat	Vote %	Seat	Vote %	Seat	Vote %	Seat	Vote %	Seat	
	83,2		84,2		79,1		87,1		85,2		83,9		93,3		92,3		
Bright Turkey Party			0,3														
Changing Turkey Party							0,1										
Communist Party of Turkey	0,1		0,2		0,2												2.247
Democracy and Peace Party							0,1										
Democrat Party	0,7		5,4				0,3										714.333
Democrat People's Party					6,2												
Democratic Left Party	0,3				1,2		22,2	136	14,6	76	10,8	7	8,5				100.682
Democratic Society Party							0,6										
Fatherland Party					0,9												544
Felicity Party	1,3		2,3		2,5												209.737
Freedom and Democracy Party			0,2		0,3		0,8										4.387
Great Turkey Party			0,5		0,5												23.398
Great Unity Party	0,8				1		1,5										
Justice and Development Party	49,8	327	46,6	341	34,3	363											8.083.665
Justice and Equality Party	0,3																
Labour Party	0,1		0,1				0,2										16.394
Labour Party			0,4		0,5		0,2		0,2								6.235
Liberal Democrat Party	0		0,1		0,3		0,4										6.342
Motherland Party					5,1		13,2	86	19,6	132	24	115	36,3	292	45,1	211	
Nation Party	0,1				0,2		0,3		0,5								

Gençkaya: Impact of Party Regulation on Small Parties and Independent Candidates in Turkey

Nationalist Action Party	13	53	14,3	71	8,4		18	129	8,2								364.475
Nationalist Democracy Party														23,3	71		
Nationalist Workers Party												2,9					
New Democracy Movement									0,5								
New Party									0,1								
New Turkey Party					1,2												
Peace Party							0,2										
Peace and Democracy Party																	49.938
People's Democracy Party							4,7	4,2									487
Populist Party														30,5	117		
Rebirth Party							0,1	0,3									
Reformist Democracy Party												0,8					
Republican People's Party	26	135	20,9	112	19,4	178	8,7	10,7	49								973.363
Rise of People Party			0,5														9.584
Social Democrat Populist Party										20,8	88	24,8	99				
Socialist party										0,4							
Socialist Workers Party							0,1										
True Path Party	0,2				9,5	12	85	19,2	135	27	178	19,1	59				
Virtue party						15,4	111										
Voice of People Party	0,8																
Welfare Party								21,4	158	16,9	62	7,2					
Youth Party			3		7,2												57.766
Independents	6,6	35	5,2	26	1	9	0,9	3	0,5		0,1		0,4		1,1		
Total		550		550		550		550		550		450		450		400	

Electoral System	Country threshold + d'Hondt		Country threshold + d'Hondt		Country threshold + d'Hondt		Country threshold + d'Hondt		Country threshold + d'Hondt		Double threshold + d'Hondt +Contingent		Double threshold + d'Hondt +Contingent		Double threshold +d'Hondt	
Underrepresented Votes	4,6		23,1		45,3		18,3		14		0,4		19,4			
Contestants	16		15		19		21		13		7		8		4	
Parties in Parliament		4		4		3		4		5		5		3		3
Vote Fragmentation	66,25		72,89		81,59		85,28		83,75		78,62		75,7		64,92	
Seat Fragmentation		57,58		55,67		45,5		79,51		77,26		72,12		51,33		60,27
Effective Number of Parties		2,3		1,4		1,18		4,8		4,3		3,5		2		2,5

Source: Compiled and calculated by the author. Data collected from TÜİK, <http://tuikapp.tuik.gov.tr/secimdagitimapp/secim.zul>. Only the parties which entered the elections are included.

Table 2. Annual State Aid to Political Parties (2000-2013)

Party	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Democratic Left Party	3,6	5,5	28,8	-										
Fatherland Party	-	-	1,0	-										
Felicity Party	-	0,5	11,3	-										
Freedom and Solidarity Party	-	-	0,8	-										
Justice and Development Party	-	0,1	11,3	22,5	52,8	31,8	40,0	141,2	45,7	111,3	52,7	186,5	72,5	81,5
Great Unity Party	-	-	1,2	-	-	-		-						
Motherland Party	2,1	3,2	17,3	-	-	5,1	8,5	-						
Nationalist Action Party	2,9	4,4	23,4	5,5	12,8	7,7	9,8	34,4	14,0	34,1	16,1	57,1	18,9	21,3
Republican People's Party	1,4	2,1	11,3	12,7	29,9	18,0	22,7	79,9	20,4	49,9	23,6	83,6	37,8	42,5
Social Democrat Populist Party	-	-	-			1,3	-	-						
True Path Party	1,9	2,9	15,7	6,3	14,7	8,8	11,1	39,3						
Virtue Party	2,5	3,2	-	-	-									
Youth Party				4,8	11,1	6,7	8,5	29,9						
TOTAL	14,4	21,9	122,1	51,8	121,3	79,3	100,6	324,7	80,1	195,3	92,4	327,2	129,2	145,3

Author's note: Read the Columns for 2000, 2001, 2002, 2003 and 2004 in trillion TL and for 2005 – present in million New TL

Sources: Compiled from the Audit Court, *Treasury Operations Reports, 2000-2010*, the Replies of the Minister of Finance to the Oral Questions on State Aid, <http://www2.tbmm.gov.tr/d23/7/7-4697c.pdf> and <http://www2.tbmm.gov.tr/d24/7/7-17987c.pdf> and the 2013 General Budget.