



# THE ADMINISTRATIVE CAPACITY OF THE TURKISH GRAND NATIONAL ASSEMBLY

*SIGMA Peer Review Report*

**August 2010**



SIGMA

Support for Improvement in Governance and Management

A joint initiative of the OECD and the European Union, principally financed by the EU



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## EXECUTIVE SUMMARY

### *Remit, Substance and Working Method*

(1) The Report discusses the **administrative capacity of the Turkish Grand National Assembly (TGNA)**. It addresses the basic features of the TGNA; the committee system; the management of parliamentary business; executive-legislative relations, the legislative process and the quality of legislation; Parliament and EU accession; Parliament, the budgetary process and public accounts; parliamentary oversight and scrutiny; parliamentary groups and Deputies; the status, emoluments and entitlements of Deputies; and the administration and personnel of the TGNA, that is the General Secretariat. The focus is on **institutional matters** that are of direct relevance to the **performance of the TGNA's constitutional functions**. The Report does not, therefore, deal with purely managerial issues, such as, for example, the administration of National Palaces, the TGNA's physical infrastructure or improvements to managing the flow of visitors. The Report proceeds in three steps: on the basis of a survey of current parliamentary practices, it highlights key **capacity concerns**; sets out **options for change**; and identifies possibilities for **external involvement and assistance**.

(2) The Report has been drawn up by a **Peer Review Team** established by SIGMA at the invitation of the Speaker of the TGNA.<sup>1</sup> The Peer Review Team benefited from the input of Mr Edward Donelan, Mr Carlos Gutierrez and Mr Giovanni Rizzoni. The TGNA established three teams to support the Peer Review, including an **Advisory Group**, consisting of a member of the Bureau of the Assembly and of senior Deputies from party groups represented in the TGNA; a **Steering Committee** comprising of administrative leaders of the General Secretariat; and a **Working Group** consisting of expert staff of the General Secretariat.

### *Key Capacity Concerns*

(3) The Report highlights **key capacity concerns**. These were identified on the basis of a detailed analysis of current parliamentary practice in Turkey. They also take into account diverse experiences of parliamentary democracy in Europe as well as the TGNA's Strategic Plan and draft proposals for a revision of the TGNA's Rules of Procedure. The **institutional setting** is marked by **major imbalances amongst the main parliamentary functions**. In particular, a very high volume legislative business threatens to marginalise the detailed consideration of the budget and public accounts and executive oversight and scrutiny. A **marked government - opposition divide**, as expressed, for example, in the allocation of committee chairmanships and in the setting up of parliamentary agenda, leaves little room for cross-party co-operation and encourages politicisation of the administration.

(4) As regards **legislation**, the number of bills and draft laws, problems of advance timetabling, time pressures and uncoordinated amendments combine to put **the quality of legislation in jeopardy**. Such problems are exacerbated by obstacles to the systematic assessment of the budgetary, economic or social impacts of proposed legislation and its administrative implementability. Ineffective participation of NGOs and interest groups further weakens the parliamentary law-making process.

(5) **Parliamentary oversight and control** of the Government is **weak**. In part, this finding is explained by shortcomings in the design and use of oversight and scrutiny instruments. The key problem lies, however, in the **committee system**, which is characterised by very limited

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<sup>1</sup> The Review Team included Mrs Helen Irwin, London; Professor Klaus H. Goetz, Potsdam; Professor Ulrich Karpen, Hamburg; Mr Francis Hénin, SIGMA, and Mr Julio Nabais, SIGMA, both Paris.

oversight and scrutiny role of committees, uneven committee workloads, weak intercommittee relationships, and inadequate expert and administrative support for committees. Information extracted from the government is often not followed up.

(6) Parliament's role in the **budget process** and the **scrutiny of public accounts** further underlines **functional shortcomings**. Thus, committees other than the Plan and Budget Committee are, at present, excluded from consideration of the budget. Moreover, Parliament makes little use of the information provided by the Turkish Court of Accounts.

(7) **The parliamentaryisation of the EU accession process is underdeveloped.** Parliamentary structures and processes for handling EU-related business are insufficient to assess the compliance of draft legislation with the *acquis*; to monitor the developments in the accession process; to follow EU policies; to conduct relations with the EU institutions and with the national parliaments of member and candidate states; and, in particular, to effectively control the Government's EU-integration policy.

(8) A final set of major capacity concerns relate to the **Secretariat General**, including, in particular, a **deficient human resources policy and management**, evident in the absence of clear and transparent and consistently enforced rules regarding the hiring, deployment, promotion and remuneration of personnel; problems with the **influx and advancement of contract personnel**; and the **threat of political intervention in personnel policy**.

#### *Options for Change*

(9) Against this background, and with frequent reference to European parliamentary practices, the Report suggests options for change. Most of these can be realised through amendments to the Rules of Procedure of the TGNA and/or decisions taken by the Speaker, the Bureau and the Secretary-General of the TGNA, respectively.

(10) Proposals concerning the institutional setting include changes to the management of the TGNA's business and the role of opposition parties. Part of the agenda of both committees and the Plenary could be reserved for business suggested by the opposition or, at a minimum, approved by the opposition. Certain committee chairmanships might be reserved for members of the opposition parliamentary groups.

(11) In the field of **legislation**, the Report recommends that **the TGNA should require the Government to produce a rolling, authoritative legislative plan** for a period between six to twelve months. To improve scrutiny of legislation, a **first plenary hearing for major pieces of legislation** is suggested with a counterbalancing proposal to restrict the Plenary's subsequent amending powers. The Government should make available to the TGNA its own Regulatory Impact Assessments (RIAs) on each bill. A system of *rapporteurs* in the legislative process is also suggested.

(12) **Committees should become central sites for executive oversight and control.** This requires, *inter alia*, greater advance planning of committee and plenary agendas. To improve committees' legislative and oversight and control capacity, a **formal protocol governing consultation with Government, interest groups and NGO representatives** should be adopted.

(13) Concerning the budget, the Report recommends a general plenary debate on the budget law and accompanying legislation prior to referral of the budget law to committees. It suggests the introduction of a memorandum setting out the mechanisms for early consultation between the Government and members of the Plan and Budget Committee on the budgetary plans of the Government prior to the presentation of the annual budget bill. There should be a role for other standing committees in the annual budget process. The working relationship

between the TGNA and the TCA needs to be intensified. Two sub-committees of the Plan and Budget Committee should be established, focusing on the budget and final accounts, respectively. The Budget Analysis Unit ought to be upgraded in terms of its staff resources and its competences.

(14) In respect of the EU accession process, a legal framework for the respective responsibilities of the Government and the TGNA and their cooperation in the EU accession process is proposed. The EU Harmonisation Committee should have the status of a standing committee with equal rights to other standing committees and be given the powers to monitor closely the accession negotiations. All legislation should be screened so as to ascertain its compatibility with EU law.

(15) As regards the Secretariat General, **a detailed assessment of personnel needs** arising from implementation of the Strategic Plan and the draft new Rules of Procedure is required and a **thorough grading and pay review for TGNA staff** is proposed, notably those serving Deputies, committees and the Plenary. This should include measures to set the competences required for each grade; to create clear job specifications and related skills profiles; to design open and competitive recruitment processes as the norm; to establish simple and transparent procedures for performance appraisals and promotions; to provide thorough training so that appraisals are carried out professionally by managers trained for the task; and to build a new rewards system that is fully transparent and abolishes political involvement in decisions on individual remuneration. Plans for a permanent centre for the provision of high-level training and development in the form of a **'Legislative Academy'** should be taken forward. To allow greater transparency, **approval by the Bureau of the appointment of the Secretary-General** is proposed and publication of all decisions by the Speaker and the Bureau concerning personnel matters. Finally a **'Staff and Management Council'** is suggested.

#### *Sustaining reform and external involvement and assistance*

(16) The Report concludes by highlighting priority areas where further external involvement and assistance might be especially useful, including plans for a **Legislative Academy**; the development of a **framework governing the participation of interest groups, NGOs, experts** and others in the parliamentary process; a comprehensive framework for **human resources policy**; a framework for **augmenting the TGNA's role in the EU accession process**, and the elaboration of detailed proposals for the **future funding and organisation of Deputies' direct support services**.



## **I. INTRODUCTION: REMIT, FOCUS, METHOD AND APPROACH**

### ***I. 1. Remit and Focus***

(1) The present report discusses the administrative capacity of the Turkish Grand National Assembly (TGNA). This analysis covers the TGNA's position in the Turkish political system as established under the Constitution of the Republic of Turkey of 1982; the main parliamentary functions and processes; and the political and administrative organisation of the TGNA.

*Part II* highlights key findings on the capacity of the TGNA with an emphasis on basic features of the TGNA; the committee system; the management of parliamentary business; executive-legislative relations, the legislative process and the quality of legislation; Parliament and EU Accession; Parliament, the budgetary process and public accounts; parliamentary oversight and scrutiny; parliamentary groups and Deputies; the status, emoluments and entitlements of Deputies; and the administration of the TGNA (the General Secretariat). In each case, the report briefly summarises current arrangements and practices before setting out related capacity concerns.

*Part III* discusses options for change. These options need to be seen against the background of European parliamentary practice; current political debates on a comprehensive reform of the TGNA's Rules of Procedure; and the TGNA's Strategic Plan 2010 – 2014. Whilst the reform of the Rules of Procedure focuses on the TGNA's political functions, processes and organisation, the Strategic Plan is concerned with the operation of the TGNA's General Secretariat, i.e. Parliament's administrative support system.

*Part IV* briefly sets out priorities for sustaining reform and possible external involvement and assistance in parliamentary capacity building.

### ***I. 2. Method***

(2) This report has been drawn up by the Peer Review Team established by SIGMA. The Review Team includes senior experts with parliamentary experience, two academic advisors and SIGMA staff:

Mrs Helen Irwin  
Clerk of Committees (retired)  
House of Commons  
United Kingdom

Professor Klaus H. Goetz  
Dean, Faculty of Economics and Social Sciences  
Chair of German and European Politics and Government  
University of Potsdam  
Germany

Professor Ulrich Karpen  
Chair of Law (emeritus)  
University of Hamburg  
Germany

Mr Francis Hénin  
Senior Advisor  
SIGMA

Mr Julio Nabais  
Former Deputy Secretary-General  
Assembly of the Republic, Portugal  
Senior Advisor  
SIGMA

The Peer Review Team has also benefited from the input of Mr Edward Donelan, SIGMA; Mr Carlos Gutierrez, Deputy Secretary-General, Congress of Deputies, Spain; and Mr Giovanni Rizzoni, Director, Office of Publications and Public Relations, Chamber of Deputies, Italy.

The TGNA established three teams to support the Peer Review, including an Advisory Group, a Steering Committee and a Working Group. The Advisory Group, consisting of a member of the Bureau of the Assembly and of senior Deputies from party groups represented in the TGNA, included Mr. Nevzat Pakdil, Deputy Speaker, Mr. Vahit Erdem, Deputy for Kirikkale (AK Parti), Mr. H. Hasan Sonmez, Deputy for Giresun (AK Parti), Mr. M. Akif Hamzacebi, Deputy for Trabzon (CHP), Mr. E. Haluk Ayhan, Deputy for Denizli (MHP), and Mr. Hasip Kaplan, Deputy for Sirnak (BDP). The Steering Committee comprising of administrative leaders of the General Secretariat, included Mr. Saadettin Kalkan, Secretary-General, Mr. M. Ali Kumbuzoglu, Deputy Secretary-General, Mr. Ibrahim Arac, Deputy Secretary-General, Mr. Sadik Yamac, Deputy Secretary-General, Mr. Gunduz Dincer, Head of Acts and Resolutions Department, Mrs. Hatice Engur, Director of Parliamentary Budget Office, and Mr. Irfan Neziroglu, Director of Acts and Resolutions Directorate. The Working Group consisting of expert staff of the General Secretariat, included Mr. Mustafa Bicer, Deputy Director of Parliamentary Budget Office, Mr. Habip Kocaman, Deputy Director of Acts and Resolutions Directorate, Mr. Aziz Aydin, Legislative Expert, Mr. Tufan Buyukcan, Legislative Expert, and Mr. Ibrahim Emre Cengiz, Assistant Legislative Expert. The Review Team is greatly indebted to all individuals concerned.

The present report takes account of meetings and consultations of the Review Team during four missions to Ankara in June and October 2009 and February and June 2010; written information provided to the Team by the TGNA – notably the Strategic Plan 2010-2014 and of the draft revised Rules of Procedure; and other written material consulted by the Team (see Appendix). The Review Team met with a range of senior parliamentarians, including, in particular, the Speaker of the TGNA; deputy speakers; members of the Bureau; members of the Board of Spokesmen; current and former committee chairmen; deputy chairmen of parliamentary parties; and members of the working group that has drawn up new Rules of Procedure. On the administrative side, interviewees included, amongst others, the Secretary-General of the TGNA; the three Deputy Secretary-Generals: heads of departments; and heads of directorates. The Review Team also met with the Deputy Prime Minister responsible for relations with Parliament; legislative experts from the Prime Minister's Office; and a range of representatives from interest groups and civil society organisations.

### ***I. 3. Approach***

(3) The Report concentrates on those areas where interviews and written material clearly point to significant capacity concerns. This implies that, in part, the Report reinforces points highlighted in the Strategic Plan and addressed in the draft Rules of Procedure. The Report does not claim to cover all aspects of the TGNA's activities and operation. Most notably, it does not address the Secretariat General's role in the running of historical palaces and the management of the TGNA's physical and technical infrastructure. Substantively, the Report focuses on parliamentary practice in Turkey. However, parliamentary practice in European Union member states is considered both in identifying capacity concerns and, in particular, in discussing options for change. The Report does not seek to identify 'ideal' standards against which the current Turkish situation is to be assessed and benchmarked. Rather, the Team has taken as its starting point the fundamental conditions under which the political and administrative parts of the TGNA operate, including, in particular, the Constitution of the Republic of Turkey, the Parliamentary Elections Law and the Law on Political Parties. It considers strains and fault lines in the TGNA's organisation and discusses options for improvements within the context established by constitutional and other fundamental legal norms.



## II. KEY FINDINGS

### II. 1. Basic Institutional Features of the Parliament

(4) The Turkish political system is, in essence, a parliamentary democracy (notwithstanding a constitutional requirement for the direct election of the President). Under Article 8 of the Constitution, executive power is exercised and carried out by both the President of the Republic and the Council of Ministers, which consists of the Prime Minister and other ministers, but executive authority is principally vested in the Council of Ministers. The position of the TGNA in the political system, its functions, its *modus operandi* and both its political and, to some extent, its administrative organisation reflect the mutual dependence between government and Parliament (and here, in particular, the party or parties supporting the government) that typifies parliamentary systems. Thus, the Prime Minister must be a Deputy and ministers are typically also members of Parliament. A newly formed Council of Ministers must submit its Government Programme to a parliamentary vote of confidence and, under Article 111 of the Constitution, the Prime Minister may seek a vote of confidence at any time. As Articles 99, 100, 111 and 116 of the Constitution make clear, the Government can only operate with the confidence of the majority of the Parliament. Conversely, as will be discussed below, the Government possesses many formal and informal means to guide and steer the work of the TGNA.

(5) Amongst the key features of the Turkish variant of parliamentarism are a strongly disproportional electoral system, which favours large governing majorities in Parliament; a strong influence of the Government on the parliamentary agenda, exercised through the Prime Minister's Office; executive dominance during the parliamentary legislative process; limited powers of Parliament over the budget; an emphasis on the legislative functions of Parliament at the expense of executive oversight and scrutiny; parliamentary groups that are tightly controlled by the party leadership, with limited room of manoeuvre for individual Deputies; and, finally, a pronounced divide between the governing and opposition parties. Most of these features and their consequences are discussed in greater detail below, but it is important to highlight at the outset the basic political logic that informs how the TGNA works. Thus,

- Parliament, consisting of 550 Deputies, is elected for a four-year term (although early dissolutions are common) in 85 multi-member constituencies through a party list system. Since, under the Parliamentary Elections Law, a high threshold of 10 per cent of the nation-wide valid vote applies for parties to gain parliamentary representation, the electoral system encourages concentration in the party system and a stable majority for the largest party. Thus, with 46.52 per cent of the vote in the 2007 elections, the Justice and Development Party (AKP) achieved 341 (i.e. 62 per cent) of the seats.
- The governing party provides the Speaker of the Assembly, all chairs of parliamentary standing committees and the majority of the members of the Assembly's Bureau. Although all party groups are represented on the Board of Spokesmen of the TGNA, which plays a key role in planning the legislative agenda (see below), disputes over the plenary (legislative) agenda can be resolved through a majority vote in the Plenary. The control of key parliamentary positions by the governing party and formal and informal procedural devices to ensure the priority of government bills put the Government in a very strong position when it comes to

steering its legislation through Parliament. If anything, the Government's position is even stronger when it comes to the annual state budget.

- The overwhelming part of committee time and most of plenary time is taken up with legislative work. By contrast, committees are very rarely used for purposes of executive oversight and scrutiny. Even plenary time that is, in principle, reserved for this purpose is often reallocated to law making. Thus, Parliament serves primarily as a legislature.
- Party groups dominate in the operation of Parliament. Many parliamentary rights are invested in the party groups rather than individual Deputies. The groups, led by the party leaders, exercise tight control over the activities of their members, especially as regards legislation, but also when it comes to parliamentary questions and motions. Group discipline is expected and strictly enforced.
- There is a sharp divide between the governing and opposition parties that permeates nearly all of Parliament's activities. For example, all committee chairmanships go to the governing party and the same principle applies if subcommittees are formed. The governing party (or, in earlier parliaments, the governing coalition) controls plenary and committee agendas and priority is given to government business. Political or policy initiatives that cut across this divide are very rare.

(6) *Capacity concerns* associated with the Turkish variant of 'rationalised parliamentarism' will be set out in greater detail in the following pages, but three ought to be highlighted early on. First, there is the question of whether the speed with which government bills can be processed under the conditions of tight government control over the parliamentary agenda and the volume of legislation that Parliament is expected to deal with do not come at the expense of thorough scrutiny. This point deserves all the more attention since, as discussed below, there is limited advance planning of committee and plenary agendas, so that the capacity of Deputies and parliamentary support staff – whether working for committees or individual Deputies – to prepare for the substantive scrutiny of bills is hampered.

(7) Second, there is the question of the balance amongst the main functions commonly associated with democratic parliaments: legislation; the adoption of the budget; executive oversight and scrutiny; and representation, understood as dealing with the concerns of constituents.<sup>2</sup> As elaborated below, much parliamentary time is spent on the first of these functions – legislation – and, for most Deputies, the fourth – service to constituents – takes up a large part of their time. As a consequence, executive oversight and scrutiny are in danger of being 'squeezed out'.

(8) Third, as will be elaborated below, several fault lines exist within the TGNA administration, which have their origin in two related phenomena: a very strong government – opposition divide, which threatens to spill over into the daily work of the administration; and the politicisation and, in particular, the party politicisation of the professional bureaucracy and individual patronage, which affects staff management.

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<sup>2</sup> To these, one might add the elective function, but this is limited in the Turkish case, as the President is elected by the popular vote and the Prime Minister is appointed by the President.

## ***II. 2. Parliamentary Committees***

**(9)** The TGNA has a fully developed standing committee system that is primarily geared towards the scrutiny of draft legislation, comprising bills (i.e. legislative initiatives submitted by the Government) and, to a lesser extent, draft laws, i.e. legislative proposals submitted by Deputies. Their organisation and operation are regulated in the Constitution and, in particular, in the Rules of Procedure. There are, at present, 17 standing committees, the membership of which ranges from 16 to 40 Deputies. The State Economic Enterprises Committee and Plan and Budget Committee (which is explicitly provided for in the Constitution) have by far the largest membership, with 35 and 40 Deputies, respectively. Only Deputies who belong to a party group can be members of a committee (this proviso does not apply in the cases of the Plan and Budget Committee, the State Economic Enterprises Committee, the EU Harmonization Committee, the Committee for Equality of Opportunity for Women and Men and the Human Rights Inquiry Committee). Members of the Council of Ministers and members of the Bureau of the TGNA cannot serve on committees. Membership of more than one committee is possible, in principle, but rare in practice and not permitted for members of the Plan and Budget Committee and of the Petition Committee.

**(10)** The leadership of the party group controls the allocation of committee membership. The Board of Spokesmen discusses the number of seats on each committee for each of the party groups, which are then submitted to the Plenary for approval. Members of each group apply to the respective group leadership for committee membership, indicating their preferences. It is then the group leadership of each party that decides on the list of proposed names to be forwarded to the Speaker, who, in turn, submits the parties' lists to the Plenary for approval. The newly elected Plenary routinely approves the lists. After two years, membership of committees and committee leadership positions are subject to re-election. Re-nomination and re-election mean that committee members and chairs are effectively 'on probation' during the first two years of the legislative term and face the threat of being de-selected by the party leadership controlling the nomination should they fall out of favour.

**(11)** Each committee is led by a chairman, elected with a simple majority of committee members present at the first meeting of the committee (provided that it is quorate). The same principle also applies to the positions of deputy chairman, committee spokesman and committee secretary. Although there is, therefore, something like a 'committee board' or 'bureau', it is, in reality, the chairman who directs the activities of the committee. The chairman draws up the committee meeting agenda in close consultation with the whips of the government party (although the agenda is to be confirmed by a majority of the members) and also acts as the prime point of contact for parliamentary staff serving the committee. Importantly, the TGNA does not routinely appoint *rapporteurs* for individual bills and draft laws, so that the committee chairman leads in discussions of draft legislation. It is also the committee chairman who has the right to present the committee's report on draft legislation to the Plenary, although, in practice, committee chairmen rarely take the floor so as to save time.

**(12)** *Capacity concerns* centre on four issues. First, in most of the committees, the task of scrutinising draft legislation dominates all else, a point that has also been raised during discussions on new Rules of Procedure. There are, of course, some committees where other functions dominate, such as the Petitions Committee; the State Economic Enterprises Committee, which examines in detail the reports prepared by the Prime Ministry's Higher Auditing Board and establishes subcommittees to this purposes; or the Examination of Human

Rights Committee. But, in general, committees are almost exclusively engaged in law-making. Inquiry and scrutiny, rather than being routine tasks of standing committees, are either moved to the Plenary or to ‘parliamentary inquiries’, set up to examine specific issues in greater depth (see below). This state of affairs also means that committees that do not specialise in legislative work are in danger of being regarded as less central to the TGNA’s political mission, an issue that has been highlighted with reference to the Examinations of Human Rights Committee.

(13) Second, there is considerable imbalance in the workload of committees. Thus, the Plan and Budget Committee is involved in all legislation with budgetary implications and, of course, in the annual budget process. Up to now, this committee also has exclusive competence in considering the draft budget, though this would change under the draft Rules of Procedure now under discussion (see below). Deputies who are not members of this committee can thus only express their views on the budget during plenary debates. Workload of other committees varies, depending on the quantity of legislation introduced relevant to their remits.

(14) Weak inter-committee relationships constitute a third concern. This is especially problematic in cases where bills and draft laws are considered both in a primary committee and a secondary committee, as determined by the Speaker. Interview evidence suggests that to the extent that secondary committees do report at all, the primary committee rarely takes their views into account. The subsequent discussions in the Plenary are based solely on the report of the primary committee. As discussed in detail in Section 6, this practice is especially problematic when it comes to the EU Harmonization Committee, which can only act as a secondary committee. As a consequence of weak inter-committee relationships, sectoralisation is encouraged and integrative policy-making becomes more difficult to achieve. The creation of a ‘board of committee chairmen’, as envisaged by the draft Rules of Procedure, could go some way towards improving inter-committee co-ordination, though to perform this role effectively it would need to meet more frequently than every three months, as is currently envisaged.

(15) Finally, expert and administrative support for committees is very limited, with typically only one or two legislative experts serving a committee. Only the Plan and Budget Committee, the EU Harmonization Committee and the Human Rights Examination Committee are serviced by several experts and other support staff. Moreover, policy expertise located elsewhere in the administration, most notably the Directorate of Research, is not integrated strongly into the routine legislative work of committees. As the Strategic Plan notes, there is, therefore, not just a problem of the availability of expertise, but also its effective delivery. As will be suggested below, bottlenecks in the timely provision of expert and administrative support, coupled with a high volume of bills, tight deadlines and limited incentives for Deputies to allocate individual time to legislative scrutiny, mean that committees’ ability to probe and, where necessary, challenge the rationale and substance of government bills is quite restricted.

### ***II. 3. Managing Parliamentary Business***

(16) The management of parliamentary business is governed by the Constitution, most notably, but not exclusively, Articles 93 to 100; the Rules of Procedure, which, in their current version, date back to the early 1970s, but have been amended on many occasions; and precedent and convention. The chief institutions involved in managing the flow of



parliamentary business include the Speaker; the Bureau of the Assembly; and the Board of Spokesmen.

(17) The Speaker, who ranks second in the hierarchy of the state and acts as Head of State in the absence of the President, is elected at the start of the parliamentary session for two years in the first instance. If he so decides, he may seek re-election in mid-term for a further two years (as already noted, other key posts in Parliament, including committee memberships and committee chairmanships, are subject to the same rule). The Speaker is elected by secret ballot. Amongst the Speaker's chief tasks are the representation of the Assembly at home and abroad, the administration of the Plenary, and the duty to oversee the activities of the committees. As will be discussed further below, the Speaker is also heavily involved in decisions on the employment of administrative personnel.

(18) The Speaker chairs two bodies that are critical for managing the flow of business; the Bureau of the Assembly and the Board of Spokesmen. The Bureau consists of 17 members, including the Speaker, four Deputy Speakers, seven secretary members; and five administrative members. Their respective tasks are detailed in the Rules of Procedure. It is important to note that Article 94 of the Constitution explicitly requires that "The Bureau of the Assembly shall be so composed as to ensure proportionate representation to the number of members of each political party group in the Assembly". This provision means that, at present, the governing party also has a solid majority in the Bureau. Although, unlike the Board of Spokesmen, it is established in the Constitution, the Bureau has an administrative rather than a strongly political management role. In particular, it is required to monitor plenary votes and elections and, if necessary, to correct irregularities. Its remit also includes personnel matters, including those of Deputies and administrative staff.

(19) In contrast to the Bureau, the Board of Spokesmen is not mentioned in the Constitution; it does, in effect, serve as the agenda and timetabling committee. Composed of the Speaker and one representative of each of the party groups, the Board of Spokesmen draws up the plenary agenda. In so doing, it makes decisions on the time to be allocated for plenary debates, questions and inquiries, and legislative and other business. It is customary that the Plenary follows the proposal as agreed by the Board of Spokesmen. If the latter fails to agree, the vote of the Plenary on the agenda is decisive.

(20) *Capacity concerns* relating to the management of parliamentary business focus, in particular, on the volume of business<sup>3</sup>; on cumbersome and, it would appear, unnecessarily time-consuming procedures; and on the unpredictability of agenda planning. Regarding the volume of business, it is high by comparative standards. Thus, during the first two years of its 23<sup>rd</sup> term (i.e. from August 2007 to October 2009), the TGNA dealt with a total of 520 government bills and a further 506 draft laws submitted by Deputies (it also considered, at committee stage only, 237 decrees having the force of law, but none of these were put on the agenda of the Plenary). During the same period, it passed a total of 315 laws. Both at committee and at the plenary stages of law-making, there is ample scope for submitting amendments, an opportunity used both by the governing and the opposition parties; precise figures on the number of amendments accepted at committee and plenary stages are

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<sup>3</sup> A wealth of information on the activities of the political and administrative parts of the TGNA is contained in the annual Activity Report ([http://www.tbmm.gov.tr/bilgiedinme/faaliyet\\_raporlari.htm](http://www.tbmm.gov.tr/bilgiedinme/faaliyet_raporlari.htm)) (in Turkish). Useful information on Deputies' activities is also published by the Turkish Association of Committee for the Monitoring of Parliament and Elected Officials (Tümikom). See <http://www.tumikom.org/english/index.php#>

unavailable. It is against the backdrop of a legislative culture in which formal or informal restrictions on the volume of government bills are not deemed feasible that the management of business becomes strongly driven by the desire to increase ‘legislative throughput’, i.e. to speed up processes so as not to become overwhelmed by volume. As will be discussed at greater length in the next section, some existing legislative procedures, such as the reading out of draft legislation in the Plenary, stand in the way of this desire.

(21) More importantly, agenda planning, both at the level of the committees and the Plenary, appears too susceptible to short-term vagaries and last-minute interventions. Committee agendas are difficult to plan ahead since government bills are not signalled early on; the same applies to draft laws submitted by party groups. Moreover, amendments to be tabled in committee need not be pre-notified prior to committee meetings, so that it is difficult to predict the course of discussions about individual pieces of draft legislation. At the level of the Plenary, a frequent complaint relates to the late addition to the agenda of items to be voted on. Moreover, since it is possible to submit amendments to draft legislation without prior notification even during the course of plenary discussions and just before the voting on an article (as long as at least five Deputies request such a motion), planning the agenda and ensuring the orderly management of plenary discussions are very difficult.

#### ***II. 4. Executive-Parliament Relations, the Legislative Process and Quality of Legislation***

(22) As noted at the outset, executive-legislative relations in Turkey follow the pattern of a parliamentary democracy, with most executive powers concentrated in the Council of Ministers. In accordance with the amendment of the Constitution of 31 May 2007, the President is to be elected directly by the people in future. The Government is fully anchored in Parliament in that its members are typically recruited from amongst Deputies (the Prime Minister must be a Deputy) and are individually and collectively accountable to Parliament. After the formation of a new Council of Ministers, the Government must submit to a vote of confidence on its Government Programme. The Prime Minister, under Article 111 of the Constitution, may ask for a vote of confidence at any time. In accordance with Article 99 of the Constitution, it is possible to initiate a motion of censure against the Council of Ministers or individual ministers with the support of a party group or at least 20 Deputies. If the majority of Deputies adopt a motion of censure, the Council of Ministers or, in the case of a motion directed against an individual member of the Government, the minister, are unseated. Under Article 100 of the Constitution, Parliament may also launch a ‘parliamentary investigation’ against the Prime Minister or ministers, effectively the start of an impeachment procedure. In the following, the focus will be on the relations between the Government and the Parliament.

(23) When examining executive-parliamentary relations, in addition to executive oversight and scrutiny, which are examined in Section 5, and Parliament’s budgetary powers, which are discussed in Section 7, the respective powers of the executive and the Parliament in law-making are of special importance. Under Article 88 of the Constitution, both the Council of Ministers and Deputies may introduce draft legislation. Under Article 91 of the Constitution, the TGNA may also adopt empowering laws that allow the Council of Ministers to issue decrees having the force of law. Such decrees must be submitted to the TGNA on the day of their publication in the Official Gazette (which is normally also the day they come into force) and must then be considered by the relevant standing committees and the plenary “with

priority and urgency” (Article 91). However, the practice of issuing such decrees was discontinued by the early 2000s.

**(24)** It is important to note that, with the exception of stipulations on the promulgation of laws by the President of the Republic (Article 89) and the ratification of international treaties (Article 90), principles and procedures of the law-making process in Parliament, such as the number of readings, the respective rights and responsibilities of committees and the Plenary, or the maximum duration of the different stages of the law-making process are not regulated in the Constitution. Article 88 of the Constitution stipulates that “The procedure and principles relating to the debating of draft bills and proposals of law in the Turkish Grand National Assembly shall be regulated by the Rules of Procedure”. This means that, in principle, the TGNA possesses a great deal of discretion in how it arranges the process of legislation.

**(25)** If we examine the number of government bills and draft laws submitted annually, it may appear, at first sight, that the executive and Deputies share legislative agenda-setting, as the opposition is very active in submitting draft laws. As noted above, in the first two years of the 23<sup>rd</sup> term, the Government introduced 520 bills and Deputies submitted 506 draft laws. However, as it to be expected under conditions of a parliamentary democracy, the overwhelming majority of laws eventually adopted by the TGNA are based on government bills. Draft laws submitted by opposition Deputies have scarcely any chance of becoming law.

**(26)** The procedure for the parliamentary consideration of bills and draft laws is, in principle, quite straightforward and swift. Note that the following remarks only refer to ‘ordinary laws’ that make up most legislation. Special provisions apply for the annual budget law (see Section 7); decree laws, the use of which, as noted above, has been abandoned by the government; so-called ‘basic laws’, which are designated as such by the Plenary on the proposal of the Board of Spokesmen, and allow for an expedited legislative process; general or special pardons; and changes to the Constitution. Bills and drafts, once they have been received by the Speaker, are examined by the legal advisers in the Department of Acts and Resolutions, and, if they meet formal-legal requirements, are sent to the relevant primary and, where necessary, secondary, committee. In committee, consideration may begin at least 48 hours after draft legislation has been received. The primary committee is required to conclude its deliberations within 45 days, the secondary committee is given only 10 days. These deadlines are rarely met.

**(27)** Committees enjoy extensive amendment rights, which, as interview evidence suggests, they also use in the case of government bills. Legislative proposals by Deputies from the opposition parties are routinely voted down in committee and not much time is spent debating them. Such proposals are typically rejected in their entirety rather than amended. Bills are considered article by article. There is no limitation on the number of amendments that the committee may adopt; the decision is taken by simple majority of the committee members present. Deputies who are not members of a committee may attend and speak, although they are not allowed to submit motions or to vote. The Government is also represented at the committee, but, again, it may not introduce amendments at committee stage. Instead, it is customary to rely on Deputies from the governing party (or parties) to introduce any amendments desired by the Government. ‘Wrecking amendments’, intended to undermine a bill’s legislative intent, have no chance of succeeding, given the Government’s inbuilt majority in the committee and a culture of strong party group discipline.

**(28)** The Government does not possess formal means of preventing amendments to its bills at committee stage (there are special provisions in place for the budget law). Perhaps more surprisingly, the plenary stage of law-making is also wide open to the possibility of amendments; under the draft Rules of Procedure such possibilities would be significantly curtailed. Under the current rules, the Government has few formal means of preventing last minute amendments to its bills. Thus, Article 87 of the Rules of Procedure envisages that Deputies, the primary committee or the Government itself may submit motions for amendment to the Plenary regarding the rejection of an article in a bill or draft law, the return of the entire draft or a specific article to the responsible committee, the amendment of one or several articles or additional clauses to the text. Deputies may submit up to seven amending motions per article. If requested by at least five Deputies, such motions can also be submitted even after the plenary debate on bill has already commenced. The Government may, however, request that a bill or parts thereof are returned for reconsideration to the responsible committee (the committee itself also possesses such a right). Also, before the final vote on the bill as a whole is taken, the Government or the responsible committee may request reconsideration of a specific article, although this needs to be approved by the Plenary upon the proposal of the Board of Spokesmen through a show of hands.

**(29)** *Capacity concerns* have, in part, already been highlighted in the preceding sections on the management of parliamentary business. There is, on the one hand, the question of the efficiency of the parliamentary law-making process. For example, at present, all bills submitted to the Plenary are read out article by article, a practice regarded as a time-consuming ritual by many. However, the more important concern is about the link between legislative procedures and the quality of legislation. To what extent are existing arrangements suited to scrutinise effectively the quality of bills submitted by the Government and, where necessary, enhance legislative quality? The high volume of legislative business (caused in part by a glut of legislation amending existing laws); the tight deadlines imposed; an expectation on the part of the government to be able to proceed speedily with its bills; imbalances in committees' legislative workload; the practice of late additions to the plenary agenda; and ample opportunities for introducing amendments to bills during the final plenary stages of the legislative process combine to make the in-depth consideration of bills and draft laws difficult. Moreover, last-minute amendments from the floor, in particular, carry the risk of being abused by special interests, as their full implications cannot be assessed in the time available.

**(30)** A systematic assessment of the likely budgetary, economic or social impacts of proposed legislation and the administrative implementability of legislation is very difficult to carry out by Deputies and TGNA staff when the volume of legislation is high, schedules tight and amendments frequent and unpredictable. Of course, to be able to carry out such an assessment, Parliament cannot rely on the analysis of the draft text alone. Nor it is able to perform itself a detailed impact assessment (although some EU member states parliaments do so in selected cases). For much of its scrutiny activity, Parliament relies on the information provided by the Government that accompanies the draft bill; Article 14 of Law 5018 stipulates that bills that affect public revenues or expenditures should be accompanied by detailed calculations of their longer-term financial impact. If that information is deficient, then parliamentary scrutiny must inevitably suffer. Since 2008, the Government has begun to carry out regulatory impact assessments (RIAs) in the case of bills with major revenue or expenditure implications, although capacities in the ministries and the Prime Minister's Office to carry out such assessments are still in the process of being developed. Surprisingly, these

assessments are not, at present, being made available to the TGNA, which further limits the capacity of Parliament to scrutinise legislation.

**(31)** Next to the information provided by the Government, the analytical capabilities of the TGNA Secretariat-General – most notably, but not exclusively, the Laws and Resolutions Department with its various Directorates – and the views solicited from interest groups and non-governmental organisations (NGOs) form critical inputs into the parliamentary law-making process. As regards the former, the organisation of the Secretariat-General and its ability to help support the legislative process will be discussed at greater length in Section 10. For the moment, it may suffice to highlight that, as the Strategic Plan 2010-2014 underlines, the administration’s possibilities for assisting Deputies and committees to enhance the quality of legislation are quite limited. Some factors – notably time pressures due to the unpredictability of the legislative agenda and organisational obstacles, which impede the timely and well-targeted delivery of the administration’s legal and substantive expertise – have already been noted briefly. Another issue concerns the need to provide continuing professional training to TGNA staff – and, possibly, also Deputies and their personal advisors - in approaches and methods that can enhance the legislative process and the improve quality of legislation. In this regard, the intention to establish a Legislative Academy, as signalled in the Strategic Plan, could be an important contribution. This issue is discussed in more details under ‘Options for Change’.

**(32)** Interest groups and NGOs form another important source of information at both the executive and the parliamentary stages of the legislative process. As is to be expected, there are, of course, great differences in the ability of interest groups and NGOs to monitor the parliamentary law-making process and to provide timely, substantive inputs. Also, as is well-documented for many European parliament’s, core socio-economic interests, notably those of employers and employees, as represented by employers’ and producers’ organisations and trade unions and professional associations, are typically granted more regular and structured access to parliamentary deliberations than many other interest groups and NGOs. Such consultation typically takes the form of written submissions and, upon invitation, participation in committee meetings during which representatives may be questioned by Deputies. Consultative practices in the TGNA broadly show a similar pattern. Where, as in Turkey, the law-making process is strongly dominated by the Government – both as regards parliamentary law, but also, and in particular, secondary legislation – it is also to be expected that interest organisations target their scarce resources primarily at seeking to inform and influence the executive stages of law-making.

**(33)** There are, however, some obstacles to effective participation at the parliamentary stages that are shared by all affected interests. First, there is, at present, no system for accrediting interest and civil society organisations, so that the status of the organisations invited to take part in committee meetings, especially those that are based on voluntary rather than mandatory membership (such as, e.g., chambers of industry and commerce), is somewhat uncertain. Accreditation as it is, e.g., practised in the German Federal parliament (the *Bundestag*) does not, in itself, give the registered organisations a right to be consulted. But by requiring, e.g., information about membership, official registration helps to ascertain the basis on which interests organisations’ claims for representativeness are based. Second, the unpredictability of committee agendas, which has already been noted in a different context, creates problems not just for Deputies and the TGNA administration, but equally for interest and civil society organisations. With legislation often put on committee agendas at short

notice, it is, in practice, difficult for civil society organisations to respond effectively to invitations to present their views. Third, although committee meetings are, in principle, held in public, meetings at which time is set aside to allow a range of affected interests to state their views and opinions in a formal manner are rare.

**(34)** Next to the quality of information available to Parliament, the phasing of the parliamentary legislative process is of critical importance. Unlike most parliaments, the TGNA's Rules of Procedure do not allow for a first plenary reading of draft laws and bills prior to their detailed consideration in committee. This observation also applies to the budget bill, which is first considered in the Plan and Budget Committee. This practice contrasts with the situation in a number of EU member states. In Italy, e.g., there is an early opportunity for Parliament in June-July to debate the guidelines for structuring the budget prior to the submission of the budget bill in September.

**(35)** This immediate referral of bills to committees has three problematic consequences. First, the Government does not have an opportunity to state clearly its legislative intent to Parliament prior to the committee stage nor do the opposition parties have a chance to signal their stance publicly. In addition, the public, including relevant external groups and interests, may be hampered in their efforts to inform parliament and the committees about their concerns. There is no parliamentary *political* debate prior to detailed, more expert discussion in the committees. Second, as a consequence, the nature of committee work is affected. Rather than engaging in the expert consideration of legislation and its likely consequences, committees can easily become venues in which political discussions dominate, as Deputies of the governing party feel it is their duty to defend government bills, whilst opposition Deputies focus on challenging the Government. Scrutiny threatens to be overshadowed by political debate. Third, because the final plenary stage is the first time that bills are debated in front of the whole Assembly, the concluding plenary debate is politically highly charged. The extensive opportunities for tabling late amendments, as outlined above, further foster last-minute bargaining and the unpredictability of outcomes.

**(36)** In sum, then, it would appear that there is too little functional differentiation between the different stages of the parliamentary law-making process. The committee and plenary stages follow a very similar, essentially political, logic rather than indicating a reasonably clear demarcation between opportunities for political argument and signalling to the public, on the one hand, and expert scrutiny, input from external sources and negotiation, on the other. The discussions surrounding the new draft Rules of Procedure recognise this point to some extent, although here the emphasis has so far been on restricting opportunities for amendments at plenary stage, so as to reduce the likelihood of last-minute amendments whose full implications cannot be assessed for lack of plenary time.

## ***II. 5. Parliament, the Budget and Scrutiny of Public Accounts***

**(37)** The setting of the state budget is widely thought to be every democratic parliament's single most important power and responsibility. How this power is best understood and measured is subject to a lively debate. Important variables that tend to be highlighted include Parliament's capacity to influence both the overall envelope of the state budget and sectoral allocations; amending powers in relation to the budget bill; the extent, quality and accessibility of the information that accompanies the budget bill; the time and resources that committees and plenary have at their disposal in considering and debating the budget; and the

discretion accorded to the executive in implementing the budget and, if considered necessary, deviate from the provisions of the budget law..

**(38)** Parliament's powers over the budget are principally set down in the Constitution and in the Public Financial Management and Control Law. The draft budget must be submitted to Parliament at least 75 days before the beginning of the financial year. As noted above, there is no first reading in the Plenary, but the draft budget is immediately submitted to the Plan and Budget Committee. Under the Constitution, the participation of other committees in the parliamentary scrutiny of the draft budget is not envisaged.<sup>4</sup> The Committee is required to complete its deliberations within fifty-five days. Thereafter, the draft budget is considered in the Plenary. At the plenary stage, no proposals that entail an increase in expenditure or decrease in revenue are permitted. Thus, only the Committee can propose changes to the Budget that affect revenues or expenditures. Although the committee suggests several hundred amendments, budget expenditures are only affected marginally. The Plenary discusses the budget on an article basis and the revenue and expenditure schedules on an institutional basis and then votes on the draft on a section basis.

**(39)** The implementation of the amended Public Financial Management and Control Law means that, in addition to the draft budget and a National Budget Estimation Report, Parliament is provided with a range of additional documents to aid its deliberations. According to Article 18 of the Law, they comprise a budget memorandum, including the medium-term fiscal plan; the annual economic report; the schedule of public revenues renounced due to tax exemptions, exceptions, reductions and similar practices; the public debt management report; the last two years' budget realisations and the next two years' revenues and expenditures estimates of public administrations within the scope of general government; budget estimates of local administrations and social security institutions; and a list of public administrations that are not within the scope of the government but are subsidised from the central government budget or of other agencies and institutions.

**(40)** The Plan and Budget Committee and the Plenary are thus faced with a wealth of information, which they have to scrutinise in a short period of time, especially since neither the Committee nor the Plenary normally exhaust the time given to them for scrutiny and debate. In so doing, they are assisted by committee staff. The Plan and Budget Committee is the best resourced amongst the TGNA's standing committees by some margin, with approximately 25 staff, including several directors, experts and administrative staff. There is, however, no specialised legislative budget office, as can be found in some EU member states parliaments (see also Paragraph 103 below). Nor do other committees participate in the budget process

**(41)** Next to its role in deciding on the budget, the TGNA also has the function of scrutinising public accounts, although the draft Rules of Procedure envisage a separate committee for this purpose. Under the Constitution and the Law on the Turkish Court of Accounts (TCA), the TCA audits on behalf of the TGNA the revenues, expenditure and properties of public administrations. In this auditing, reliability and accuracy are to be examined, as well as

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<sup>4</sup> In countries where sectoral committees do take part in the budget process, this participation tends to take one of two main forms: members of sectoral committees attend meetings of budget committee when the budget relating to their committee's policy domain is debated and are invited to join the budget committee's deliberation (this need not mean that they are given a vote). In a more decentralised system, the budget committee sets the sectoral expenditure targets, but leaves it to the individual sectoral committees to decide on the specific appropriations.

economy, efficiency and effectiveness. The main document submitted by the TCA to Parliament is the annual Statement of General Conformity. This document is complemented by various other reports as provided for in the Law on the TCA and the Public Financial Management and Control Law. Increasingly, this also includes ‘performance audit reports’, which examine the performance of different parts of public administration in terms of their efficiency, effectiveness and economy. The task of discussing the reports and approving the Consolidated Final Accounts falls to the Plan and Budget Committee, which, thus doubles as a Public Accounts Committee, though, as highlighted below, there are major concerns regarding the parliamentary use of the information provided by the TCA.

**(42)** *Capacity concerns* regarding the role of the Parliament in the different stages of the budget process and public accounting have been broadly and publicly discussed for some time, including at the international symposium ‘The Changing Role of Parliament in the Budget Process’ of October 2008, which was organized by the TGNA in collaboration with SIGMA and the European Commission. As regards budgeting, in addition to issues concerning the presentation of budgetary information that would make it easier for parliamentarians to assess its implications, the exclusion of standing committees other than the Plan and Budget Committee from consideration of the budget has been identified as a key issue to be addressed (and has been taken on board in the draft Rules of Procedure, which envisage the involvement of the sector-based standing committees). Thus, the sectoral expertise of the committees is, up to now, effectively excluded during the parliamentary budgetary process. Moreover, although there have been improvements in the number of expert and support staff of the Plan and Budget Committee, including the recent creation of a Budget Analysis Unit, the extent to which staff can provide detailed expert support is limited, given the tight timelines.

**(43)** To these concerns, one might add another: the absence of a public first reading of the budget prior to the committee stage or, alternatively, of a parliamentary debate on the main contours of the budget and the chief political aims and objectives that inform it prior to the submission of the budget bill. As with legislation in general, expert discussion in committee is not preceded by parliamentary political debate in the Plenary. In this way, neither the Government nor the opposition is given an opportunity to discuss the general thrust of the budget and the government policies that are behind them. Moreover, only a small percentage of Deputies, i.e. the 40 who are members of the Plan and Budget Committee, have a formal right to submit amendments to the budget. In practice, then, the large majority of Deputies are sidelined in what constitutes a key parliamentary prerogative.

**(44)** Turning to the public accounts function, the overriding concern is whether Parliament makes sufficient use of the information provided by the TCA. In a public statement on its relationship to Parliament dating from the mid-1990s, the TCA noted its independence from Parliament, but also a lack of reciprocity in this relationship. Thus, it was suggested that

“this relationship is mostly unilateral: from the TCA to Parliament. The TCA receives very few, if any, reactions from Parliament on its achievements except words of praise voiced by MPs at the Budget and Plan Committee during discussions on TCA Budget (...) the relations between the TCA and Parliament is of somewhat lower intensity compared to those of the most other European SAIs [Supreme Audit Institutions]. It may be argued that the TCA's judicial power renders it self-sufficient in achieving results from audit and diminishes the need for Parliament's support. Thus the TCA has not been very



enthusiastic in taking the opportunities for submitting reports to Parliament provided by various provisions in the TCA Law. On the other hand, the General Statement of Conformity which is now accompanied by a supplement on financial analysis of the previous budget year does not arise much interest in Parliament: heated discussions on the budget proposal always overshadow the monotonous narration of audit observations and findings related to the past financial activities.”<sup>5</sup>

(45) It would appear that this situation has not changed significantly since, although the range of information submitted has increased, e.g., through the performance reports. The present initiative aimed at establishing two subcommittees of the Plan and Budget Committee, one for dealing with accounts related documents, such as performance reports and the final accounts law, the other dealing with budget matters, would allow for the more intensive parliamentary consideration of TCA reports. But unless both attract high-profile Deputies, the accounts subcommittee could easily become marginalized.

## ***II. 6. Parliament, EU Accession and the Obligations of Membership***

(46) The question of how the parliaments of both EU member states and candidate countries can be integrated most effectively into the EU policy process has been the subject of long-running political and academic debates. Until the early 2000s, attention focused on the national level of existing member states and revolved around two issues: First, how could national parliaments monitor, influence and, where deemed necessary, mandate the actions of national governments in the EU’s decision-making bodies (notably the Council of the European Union and the European Council)? Second, what as the appropriate role of the national parliaments in the transposition of EU law into national legal systems? As far as candidate countries were concerned, the key issues were, first, whether and how accession policy could be parliamentarised, so that the candidate countries’ parliaments would not just be onlookers in the process of negotiating accession and the strategies for preparing countries for membership; and, second, how parliaments could best organise to facilitate the process of assuming the obligations of membership, i.e. the *acquis* as expressed in the Treaties, secondary legislation and the policies of the Union. Here, transposition of EU law and the harmonisation of national law with EU law were the decisive challenges.

(47) With the imminent coming into force of the Lisbon Treaty, the role of national parliaments is decisively enhanced. In addition to their EU-related powers at national level, which are determined subject by national constitutional and ordinary law and conventions, they are also given a direct role at EU level. Thus, Article 12 of the Treaty on European Union deals, inter alia, with their rights to information, their powers in monitoring subsidiarity, their participation in the evaluation of the implementation of policy in the fields of freedom, security and justice, their involvement in the revision of the Treaties and inter-parliamentary co-operation between the European Parliament and national parliaments. Of particular importance is their new power to enforce subsidiarity, if a national parliament is of the opinion that an EU action violates this principle.

(48) Up to now, the TGNA’s involvement in the accession process – involving, in particular, the accession negotiations, the formulation and implementation of the accession strategy, and the assumption of the *acquis* – largely falls to the EU Harmonisation Committee. Established in 2003 through Act No 4847, the Committee is given four main responsibilities: to assess the

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<sup>5</sup> [http://www.sayistay.gov.tr/english\\_tca/comp/c.htm](http://www.sayistay.gov.tr/english_tca/comp/c.htm)

compliance of draft legislation with the *acquis*; to monitor the developments in the accession process; to follow EU policies; and to conduct relations with the EU institutions and with the national parliaments of member and candidate states. The Committee, which has 26 members, is supported by a small committee secretariat, consisting of legislative experts and clerical staff. There is also the EU-Turkey Joint Parliamentary Committee (JPC), which has been in existence since 1965 and was charged with debating all matters relating to Turkey's association with the European Communities. With one exception, its membership is identical with that of the Harmonisation Committee. It appears to have effectively ceased its activities in the mid-2000s. At the level of parliamentary administration, there is also the Secretariat for EU Affairs, which can be dated back to 2000, but was put on a new legal footing through Law No 5916 on the Organisation and Functioning of the Secretariat for EU Affairs of July 2009; and the EU Affairs Unit in the Foreign and Protocol Directorate, which has been in existence since 2007. Whilst the former is expected to co-ordinate parliamentary activities related to preparing Turkey for EU membership, the latter is expected, in particular, to manage the relations between the Harmonisation Committee and the EU institutions.

**(49)** *Capacity concerns* relating both to the political structures and processes for handling EU-related parliamentary business and the related administrative support structures have been set out in detail and at length in the 2008 Twinning Reports on the EU Harmonisation Committee and the EU Affairs Unit respectively (see Appendix). The Review Team's interviews have broadly confirmed their findings. As regards the Harmonisation Committee, in each of the four main functions mentioned above, there appear to exist considerable shortcomings. As regards its legislative function, the number of bills and draft laws on which the Committee is asked to comment is small. Under present arrangements, the Harmonisation Committee can only act as a secondary committee; it does not operate on an equal footing to the majority of standing committees involved in the legislative process. As is common with other secondary committees, its reports are rarely considered in detail by the primary committee and are not debated in the Plenary.

**(50)** The Committee seems equally impotent when it comes to monitoring and informing the accession process and following EU policies. Thus, the Government does not regularly inform the Committee on developments relating to the accession negotiations and the accession strategy and the Committee does not issue opinions or recommendations that could feed into the accession process. Equally, its role in following EU policies on behalf of the TGNA as a whole seems largely perfunctory. A more positive picture only emerges with respect to the performance of international and inter-parliamentary activities, where the Committee participates in COSAC (Conference of Community and European Affairs Committees of Parliaments of the European Union), carries out visits to member state parliaments, receives delegations and, constituted as the Turkey-EU Joint Parliamentary Committee, holds bi-lateral meetings in its capacity as control body of the EU-Turkey Association Agreement.

**(51)** Although the Peer Review Team has not examined the executive institutional framework for the governance of accession policy, the information gathered within the TGNA suggests that the parliamentarisation of EU accession in Turkey is still in its infant stages. This state of affairs has implications not just for the effectiveness of Turkey's accession policy. Given Parliament's key roles both in the articulation and communication of political views and opinions and in ensuring the transparency and accountability of executive action the weakness of parliamentary involvement also carries risks in terms of the longer-term legitimisation of an EU policy, which, at present, appears very much executive-dominated.

## ***II. 7. Parliamentary Oversight and Scrutiny***

(52) Next to law-making and representation, parliamentary oversight and scrutiny are chief parliamentary functions. Article 98 of the Turkish Constitution lays down that the TGNA “shall exercise its supervisory power by means of questions, parliamentary inquiries, general debates, motions of censure and parliamentary investigations”. Questions to the Prime Minister and ministers can be oral or written; parliamentary inquiries are conducted to gain information of a specific subject. General debates allow “consideration of a specific subject relating to the community and the activities of the state at the plenary sessions” (Article 98). The use of motions of censure has already been noted above. Finally, as set out in Article 100 of the Constitution, parliamentary investigations into the conduct of the Prime Minister or ministers can be launched and may eventually lead to a decision by the Plenary to bring the person involved before the Supreme Court.

(53) As the data published by the TGNA and also by the Turkish Association of Committees for Monitoring Parliamentarians and Elected Offices show, these oversight and scrutiny instruments are used vigorously, though, as befits the logic of a parliamentary system, they are primarily used by opposition Deputies and party groups. During the first two years of the 23rd term (August 2007 to October 2009), 1,549 oral and no fewer than 10,024 written questions were presented to the Speaker; of these about half – i.e. 808 and 5,349 respectively – were answered (the bulk of the rest were either still on the agenda, withdrawn, or returned as inadmissible). 10 general debates had been requested (though, by October 2009) none had yet been accepted; and 467 motions for the establishment of parliamentary inquiries had been submitted to the Speaker, of which 60 were accepted. However, only eight committees of inquiry were, in fact, established during the time under consideration. Finally, 10 motions requesting the launch of parliamentary investigations were presented to the Speaker, but none was successful.

(54) In addition to the means mentioned in Article 98, there are other oversight and scrutiny mechanisms in place, such as invitations of members of the Government to appear before committees and the Plenary; the activities of the Plan and Budget Committee which include consideration of the reports of the Turkish Court of Accounts, notably the Statement of General Conformity, performance reports and reports provided for in the Public Financial Management and Control Law; the work of the State Economic Enterprises Committee, which examines the accounts of state economic enterprises; and the Petition Committee, which deals with complaints and requests by individual citizens. In many respects, provisions in the Turkish Constitution, the TGNA’s Rules of Procedure and various provisions in statutory law follow those found in other parliamentary democracies.

(55) *Capacity concerns* exist as regards the range of oversight and scrutiny instruments at the disposal of the TGNA - both *ex ante* and *ex post* and both internal and external – and, more importantly, the use made of existing instruments and procedures. Concerning the availability of instruments, comparative analysis indicates that they are quite restricted in the Turkish case. There are fairly strict limitations on the content and length of questions – a written question must not be longer than 100 words and a motion requesting the setting up of a committee of inquiry should not exceed 500 words. Also, oral questions can only be posed in the Plenary. Other instruments commonly found elsewhere are not available. For example, the Rules of Procedure do not allow for interpellations through which more complex issues can

be raised<sup>6</sup>; committee hearings to question ministers are every rare (although ministers may attend committees when draft legislation is discussed); and there is no parliamentary ombudsman. The informational disadvantage for Parliament is compounded by the fact that there are very few regular reporting requirements of the Government to the legislature, which could provide Deputies with detailed information on executive activity and performance and allow for critical questioning of members of the executive in committee or in the Plenary.

(56) A second concern has to do with the use of instruments available. Here, the question is not just one of the supply of information by the Government, but, equally the use that Deputies make of the information that there is. Opposition Deputies complain that their questions frequently remain unanswered or are answered in perfunctory manner; between August 2007 and October 2009, more than a third of all written questions – 3,560 – were listed in the Official Parliamentary Bulletin because they had not been answered in time and a further 889 were returned as inadmissible. There is often a long delay before oral questions and motions for parliamentary inquiry are put to a vote. Conversely, interview evidence suggests that oversight and scrutiny are not a central part of the opposition strategy. Thus, opposition Deputies (just like members of the governing party) allocate a great deal of their time to constituency service. Perhaps more surprisingly, the opposition does spend considerable resources on tabling draft laws, even though these have no chance of being adopted by the Plenary. For example, between November 2003 and October 2005 alone, the CHP submitted no less than 185 legislative proposals. This provides an indication that oppositional signalling to the electorate through the means of draft legislation may be given greater weight than scrutinising the government's past performance and future intentions. Frequent challenges to laws initiated by the opposition before the Constitutional Court are a further important weapon in the armoury of the opposition.

(57) Perhaps the greatest capacity concern relates to a lack of follow-up concerning the information elicited from the government. As noted earlier, the existing powers of oversight and scrutiny are concentrated in the Plenary and the standing committees do not, at present, exercise real oversight and scrutiny powers. This is an issue that the draft Rules of Procedure seek to address. Whilst the Plenary-centred system of oversight and scrutiny encourages transparency in the exercise of this vital parliamentary function, it discourages sustained attention to how the executive responds to problems raised. This is also applies in the case of committees of inquiry. The committees' reports regularly contain both findings and suggestions, but the Plenary does not vote on such suggestions and it is entirely within the discretion of the government whether it wants to take them on board. As a consequence, the inquiry committees' activities have long-term little impact.

## ***II. 8. Party Groups and Deputies***

(58) The Turkish parliamentary system accords an exceptionally powerful position to parliamentary party groups. Several observations support this statement: the rights and privileges given to the groups in the Constitution and the Rules of Procedure; the fact that many rights of Deputies, such as joining a standing committee, are tied to parliamentary group membership; and the tight control that the group leaderships wield over their members, so that Deputies' legislative and oversight and scrutiny activities are mostly exercised under

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<sup>6</sup> Note that in the English translation of the relevant Turkish texts, the impeachment procedure of executive office holders is sometimes translated as interpellation. In the present context, it means a procedure whereby the government is asked to explain an act or policy. It is more extensive and in-depth than a simple written question.

the guidance of the group leaderships. A high degree of party discipline is expected and hierarchically enforced; the control of the party leadership over the (re-)nomination of candidates in parliamentary elections gives leaders strong leverage over their Deputies.

**(59)** The Constitution mentions parliamentary groups in a number of places. Perhaps the most important reference is contained in Article 95 which lays down that “The provisions of the Rules of Procedure [of the TGNA] shall be drawn up in such a way as to ensure the participation of each political party group in all the activities of the Assembly in proportion to its number of members; political party groups shall be constituted only if they have at least twenty members”. In line with this provision, as noted earlier, membership of the Bureau of the Assembly is to be based on the proportional representation of the political groups in the Assembly (Article 94). As regards membership of the Plan and Budget Committee, the Constitution not only regulates the number of members, but also stipulates, in Article 162, that “In the composition of this Committee, the proportional representation of the various political party groups and independent members in the Assembly shall be taken into consideration, subject to the allocation of at least twenty-five seats to the members of the party or parties in power.”

**(60)** Political party groups, beyond being officially recognized, are also accorded certain procedural privileges under the Constitution. Thus, a motion of censure must either be tabled by a party group or at least twenty Deputies (Article 99) and party groups are also privileged in the debates on this motion. When it comes to seeking annulment before the Constitutional Court, Article 150 of the Constitution stipulates that “The President of the Republic, parliamentary groups of the party in power and of the main opposition party and a minimum of one-fifth of the total number of members of the Turkish Grand National Assembly shall have the right to apply for annulment action to the Constitutional Court, based on the assertion of the unconstitutionality of laws in form and in substance, of decrees having the force of law, of the Rules of Procedure of the Grand National Assembly or of specific articles or provisions thereof. If more than one political party is in power, the right of the parties in power to apply for annulment action shall be exercised by the party having the greatest number of members”.

**(61)** The constitutional privileges are further reinforced by the Rules of Procedure. For example, the important Board of Spokesmen, which, unlike the Bureau, is not mentioned in the Constitution, consists of the leaders of the party groups (or their designates (Art. 19); party groups nominate all committee members (which then need to be approved by the Plenary) (Art. 21); a party group may expel a member from a committee if they have a poor attendance record (Art. 28); party groups control the submission of amendment motions by their members during plenary debates on bills; and general debates in the Assembly can be requested only by Government, party groups or at least twenty Deputies. In short, both the Turkish Constitution and the Rules of Procedures fully recognise that, under modern conditions, Parliament is reliant on effective party groups.

**(62)** Party groups, which possess their own rules of procedure that must be submitted to the Speaker, are strongly centred on a relatively small number of leaders. The party leader is typically also the leader of the parliamentary group, which bolsters his position vis-à-vis Deputies. Next to the leader, there are typically between three and five deputy chairs, the group supervisors (two per group) and the group discipline councils (with normally around three to seven members). The parliamentary groups’ executive boards have a membership of

10 to 20. In the case of the governing party, the Deputy Prime Minister in charge of relations to Parliament attends the board's weekly meetings.

**(63)** The party leadership effectively decides who should represent the party on the Bureau and determines membership in committees and, in the case of the governing party, committee chairmanships. The capacity of party groups to prepare effectively for committee work is limited; none of the party groups has a formal structure to complement or mirror the standing committee structure. Party groups have a limited number of support staff working for them; in the case of the governing party these number approximately 50, of whom about one third are classed as 'experts'. A small percentage of the costs is covered by Deputies' payments to the party group, the bulk is paid for out of parliamentary funds. However, compared to the number of personnel employed in the General Secretariat and the advisors and secretaries working for Deputies, the number of party group staff – about 25 in the case of the larger groups - is small.

**(64)** Turning from party groups to individual Deputies, several interrelated factors are key to understanding the profile of their activities. First, turnover rates in the Turkish Parliament have been very high. Since the 1950s, they have been consistently above 50 per cent, and in the 2002 and 2007 elections, they reached 89.1 and 59.3 per cent respectively. Even under normal circumstances, apart from a small number of top party leaders, the great majority of Deputies face considerable uncertainty over their re-election and, for the majority, the 'realistic' assumption must be that they will not return at the end of Parliament's term. Second, the high turnover rate is not just due to electoral volatility. Rather, it also reflects the strong grip that the national party leadership exercises over the nomination process. Turkish Deputies are elected in 85 multi-member constituencies on the basis of a party-list proportional representation system (with a threshold at national level). The lists are closed, i.e. voters cannot change the order of candidates on the list. The national party leadership decides the composition of the provincial lists. Hence, Deputies who fall out of favour with the leadership face the threat of either not being re-nominated at all or being shunted down the list. As a consequence, for the majority of Deputies, demotion (e.g., by not being re-nominated for committee membership) or de-selection are realistic threats.

**(65)** More so than in other legislatures with lower turnover rates and less centralised nomination procedures, Turkish Deputies thus have strong incentives to spend their time on activities that maximise their *individual* chances of re-nomination and re-election. This takes three principal forms. In addition to an oft-noted tendency to comply with the demands and expectations of the party leadership and to engage in parliamentary and other political activity that increase a Deputy's chances of coming to the attention of the leadership and garner favour, Deputies will tend to seek committee memberships that are of special interest to their constituents. As a consequence, committees' policy preferences can be expected to differ from the preferences of Parliament as a whole.

**(66)** A third consequence of the quest for survival is the amount of time and energy that Deputies devote to dealing with individual requests from their constituents. Responding to individual requests, often communicated directly to Deputies during meetings at their offices in Ankara, takes up a large part of Deputies' time, to the detriment of other parliamentary activities. It also takes up much of the time of their immediate support staff – i.e. the advisor and secretary that every Deputy has at his or her disposal. Looking after about one million visitors per year places a considerable strain on the logistical services of the Parliament. There

appears to be some variation in the resultant workload of parliamentarians. Deputies from small constituencies would seem to spend more time on dealing with their constituents' individual problems than those from large ones, and Deputies from Western urban constituencies seem somewhat less pressed than those from Eastern, more rural areas. But no Deputy can afford to neglect their constituents' individual requests and parliamentarians must be seen to involve themselves closely in local matters.

(67) *Capacity concerns* focus on three issues. First, it is not clear whether the resources available to the party groups are sufficient to allow them to carry out effectively the considerable powers and responsibilities given to them. To be sure: the parliamentary party groups and the national party organisations are closely interconnected, not least because the nation-wide party leaderships are principally drawn from amongst the Deputies. Thus, the national party headquarters in Ankara and their staff help to support parliamentary activities. But it is noticeable that internal party group structures seem primarily geared towards decision-taking rather than policy-making.

(68) Second, and following on from the previous point, there are arguably too few points of access for Deputies to participate effectively in the different parliamentary tasks. Not all Deputies are members of a standing committee, and the opportunities for 'back-bench' Deputies, i.e. those who are not members of the party leadership, to help shape the policy profile of the party through sectoral specialisation are very limited. Lack of access is coupled with weak incentives for specialisation: turnover in Parliament is high; committee assignments uncertain; and committee memberships might change after two years. In short, the oft-criticised concentration of Deputies on dealing with the business of individual constituents may, at least in part, reflect the lack of institutional channels for influencing policy in what appears as a fairly top-down policy-making system and insufficient incentives for specialisation.

(69) Third, effective specialisation, which, for the majority of Deputies who are not members of the party leadership, is key to having influence in legislation and oversight and scrutiny is also hampered by the lack of expert support. Individual advisors are mostly oriented towards constituency business; and the expert support provided to committees is, inevitably, aimed at the committee as a whole rather than individual Deputies. Thus, access to policy expertise is both difficult and the 'payoffs' of specialisation – in terms of Deputies' policy influence or personal advancement – are, at best, uncertain.

## ***II. 9. The Status, Emoluments and Entitlements of Deputies***

(70) The Turkish Constitution, in Articles 75 to 86, regulates the status of Deputies at some length and in considerable detail; the Rules of Procedure, in Part 9, Chapters 1 and 2, provide further specification as regards legislative immunity and loss of membership. With certain exceptions, as specified in Article 76, every citizen over the age of 25 is eligible for election as Deputy. Many categories of state personnel are not eligible to stand for election or eligible to be a Deputy unless they resign from office. This provision includes "Judges and prosecutors, members of the higher judicial organs, members of the teaching staff of institutions of higher education, members of the Higher Education Council, employees of public institutions and agencies who have the status of civil servants, other public employees not regarded as labourers on account of the duties they perform, and members of the Armed Forces" (Article 76).

**(71)** In many instances, there is, however, a right to return to the former employment after the election or after the term of office as Deputy. Accordingly, the public sector is an important recruitment ground for Deputies; it is interesting to note that former military personnel is scarcely represented at all. In terms of professional background, four groups dominate and despite party political upheavals, their shares have remained fairly stable over time. They include Deputies with a background in economics and business: 25.9% in 2007 (the figures for 2002 and 1999 were 22.7% and 20.2% respectively); education: 19.5% (2002: 18.2%; 1999: 19.8%); law: 15.9% (2002: 15.3%; 1999: 13.6%); and engineering: 15.9% in 2007 (2002: 16.2%; 1999: 18.9%). Perhaps surprisingly, the social profile of the Deputies from the two largest parties – the AKP and the CHP – is remarkably similar in terms of their professional backgrounds. The 2007 elections have increased the percentage of female Deputies to 9.1%, compared to 4.4 and 4.0 per cent in the two previous legislatures. The average age of Deputies was 50.8 years in 2007, up from 48.4 years after the 2002 elections.

**(72)** Once elected, Deputies must resign from any activity deemed incompatible with the exercise of their mandate, as laid down in Article 82 of the Constitution; these incompatibilities are defined quite extensively. Reasons for loss of membership, in addition to a Deputy's resignation, are defined in Article 84. They include, e.g., deprivation of legal capacity or continued incompatibilities under Article 82 (in the latter case, however, loss of membership requires a secret plenary vote). Importantly, Article 84 also lays down that "The membership of a Deputy whose statements and acts are cited in a final judgement by the Constitutional Court as having caused the permanent dissolution of his party shall terminate on the date when the decision in question and its justifications are published in the Official Gazette". This stipulation has practical significance, given that in the recent past, parties have been declared unconstitutional on several occasions.

**(73)** In exercising their mandate, Deputies benefit from parliamentary immunity as set out in Article 83 of the Constitution. Thus, "A Deputy who is alleged to have committed an offence before or after election shall not be arrested, interrogated, detained or otherwise tried unless the Assembly decides otherwise. This provision shall not apply in cases where a Deputy is caught in the act of committing a crime punishable by a heavy penalty and in cases subject to Article 14 of the Constitution if an investigation has been initiated before the election. However, in such situations, the competent authority shall notify the Turkish Grand National Assembly immediately and directly". Importantly, "the execution of a criminal sentence imposed on a member of the TGNA either before or after his election shall be suspended until he ceases to be a member". Under this provision, a jailed independent candidate, who had campaigned from prison with the support of the Democratic Society Party (DTP), was released after the 2007 elections to take her seat.

**(74)** Article 86 of the Constitution leaves the regulation of the salaries, allowances and retirement arrangements of members of the TGNA to the law, but stipulates that "the monthly amount of the salary shall not exceed the salary of the most senior civil servants; the travel allowance shall not exceed half of that salary". As of January 2009, Deputies received a total monthly payment of TRY 9,023 (approximately EUR 4,600), with small additional payments for the Speaker, Deputy Speakers, and Members of the Bureau. The Speaker and Deputy Speakers, chairmen of committees, members of the Bureau and the eleven chairmen of international groups, who head the Turkish delegations in international assemblies, are entitled to an official car.



(75) Deputies, as noted earlier, are entitled to employ an advisor and a secretary, paid for by the TGNA. They are free in selecting personnel, though advisors must possess a university degree. Advisors have either already worked in another capacity for the Parliament, are on secondment from other parts of the state administration (notably ministries) or are employed on a contractual basis. During the 22<sup>nd</sup> Parliament, contractual staff made up about 50% of the advisors; at present, about 150 advisors are on contracts. The secretaries are civil servants employed by the Parliament. Most of them have been directly recruited by the Parliament, but others are on long-term secondment from other public institutions. Regarding seconded staff, TGNA staff receive a parliamentary supplement of approximately 35%, which makes the move to Parliament financially attractive. Deputies do not receive an office allowance or other staff allowances that would allow them to maintain offices in their constituencies or maintain permanent staff there (advisors spend most of their time in Ankara). Thus, to the extent that Deputies have access to offices and other support in their constituencies, these have to be provided for by the parties to which they belong.

(76) *Capacity concerns* centre largely on the material and personnel support available to Deputies. Most personal advisors seem to spend a large part of their time on assisting Deputies' in the task of dealing with the individual requests of constituents; expert support in legislation and oversight and scrutiny typically takes second place. Equally, since Deputies do not maintain dedicated parliamentary offices in their constituencies, maintaining contact with constituents can be difficult (the long parliamentary sessions in Turkey mean that Deputies need to spend much of the year in Ankara). The absence of regular constituency offices implies that constituents will often seek to approach their Deputy directly by coming to Ankara, resulting in a high number of visitors to the Parliament who put considerable strain on logistical resources, a point highlighted in the Strategic Plan.

(77) High turnover amongst Deputies implies that following every election, a large proportion of the newly elected members of the TGNA do not have any prior parliamentary experience. After the 1999 election, 54.2% of Deputies had never held parliamentary office before; in 2002 and 2007, the percentages were 80.5% and 49.3% respectively. Some party groups are more affected by this problem than others. The percentages of newly-elected Deputies with no prior parliamentary experience in the 2007 elections were: 90% for the DTP (Democratic Society Party); 64.1% for the MHP (Nationalist Movement Party); 46.2% for the AKP; 43.9% for the CHP; and 38.5% for the DSP (Democratic Left Party). This raises the urgent question of how first-time Deputies are familiarised into parliamentary practices and procedures so as to be able to participate fully in all aspects of Parliament's activities. At present, beyond the provision of information on technical issues, this seems a largely unstructured process, with only minimal assistance from either the Secretariat or the party groups. What appears to be lacking is a framework for the structured provision of information and the exchange of experiences relevant for novice Deputies and their staff.

## ***II. 10. Administrative Support and the General Secretariat***

(78) In exercising its central functions of legislation; the adoption of the budget; executive oversight and scrutiny; and representation, Parliament as a whole; its main steering bodies, including the Speaker, the Bureau, and the Board of Spokesmen; its main working bodies, including the Plenary, committees and party groups; and individual Deputies are supported by what is, at first sight, a large support structure in the form of the General Secretariat. The tasks of the Secretariat; its legal and organisational framework; central aspects of its personnel

system; and performance data, indicating, in particular, workloads of the different units that make up the General Secretariat, are well-documented in the Strategic Plan of the TGNA General Secretariat 2010-2014, and the annual Accountability Report of the General Secretariat, the latest of which covers the year 2008. The Strategic Plan also demonstrates that there is both awareness of key performance challenges facing the General Secretariat and an already well-articulated set of ideas about the direction in which functions, organisational arrangements, processes and the personnel system ought to be developed in the years 2010 to 2014.

**(79)** There is no need here to repeat this rich descriptive material in detail or to re-state performance challenges across the institution. Rather, the Peer Review Team has decided to focus in its comments on those aspects in the operation of Secretariat General that relate, first, to its function of supporting the key political tasks of the TGNA and, second, to the areas where tensions between political versus administrative organisational logics and principles appear especially pronounced. Such tensions, if not properly managed, can have problematic consequences for the relations between elected politicians and support staff; they also cause problems of co-operation and co-ordination across different organisational units and staff categories. In practice, this means that the Peer Review Team has focused, in particular, on the organisational units that directly report to the Speaker; the Bureau; and the Secretary-General. Amongst the six departments reporting to one of the three Deputy Secretary-Generals, the Team has concentrated, in particular, on the Acts and Resolutions Department; the Communication Department; and the Personnel and Accountancy Department.

**(80)** It is important to emphasise at the start, however, that the other three departments – Auxiliary Services, Technical Department and the National Palaces Department –account for the majority of personnel employed by the TGNA. This concentration of staff in functions which are primarily auxiliary (such as the TGNA’s large medical service or its catering operations); technical (such as the directorates for construction and maintenance or parks and gardens); or essentially unrelated to core parliamentary activities (as is the case with the large National Palaces Department, which has a staff of approximately 1,170) has at least two important implications for the operation of those parts of the Secretariat involved in core parliamentary business. First, it would appear that attention of both the Speaker and the Bureau and, perhaps to an even greater extent, the Secretary-General is often in danger of being diverted towards dealing with management issues that have little or no relation to the core parliamentary tasks. This seems particularly the case when it comes to personnel matters and requests for individual advancement. Second, given the numerical predominance of staff employed in non-core activities, the development of a clear organisational framework supporting a professional administration and, in particular, personnel policies geared towards professional, academically trained staff can easily suffer.

**(81)** The main organisational principles governing the TGNA administration are laid down in the Organisational Law on the TGNA; this law is complemented by specific regulations and decisions adopted by the Bureau of the TGNA. Several potential fault lines run through the large and complex organisation of the TGNA Secretariat, which numbers over 5,000 staff in total. They are partly grounded in the tensions between politics and administration that characterise support services in democratic parliaments. The first tension arises in the relations between the Speaker and the staff directly answerable to him, notably his consultants and advisors, on the one hand, and line TGNA expert units and staff, most notably the Departments and Directorates under the authority of the Deputy Secretary-General for

Legislative Services, on the other. The Speaker is, of course, a political figure, as are the members of the Bureau. It is not surprising that the Speaker will wish to involve himself in the selection and deployment of personnel with whom he works closely on a daily basis. However, this involvement, combined with the fact that personnel recruited by the Speaker need not go through a competitive hiring process, means that the Speaker's (and also the Bureau's) staff appear to be widely regarded as party political appointees rather than career professionals.

**(82)** Second, the status and task profile of the Secretary-General require him to perform a very difficult balancing act. On the one hand, the Secretary-General is the professional head of the administration. As such, he is expected to act as the guarantor and defender of the standards of a professional, non-partisan administration, an expectation most keenly expressed by staff who have been hired through competitive, merit-based procedures. On the other, the Constitution and the Rules of Procedures envisage that the political figure of the Speaker, aided by the Bureau, executes and controls the administrative and financial affairs of the Assembly. The potential for conflict between administrative and political rationalities is further increased by the fact that the Secretary-General is appointed by the Speaker. Moreover, Deputies, who are often themselves under pressure by constituents seeking patronage, will often seek to influence the Secretary-General when it comes to issues of staff recruitment, promotion and deployment. Information available on the TGNA website shows that Secretary-Generals' terms of office since the early 1990s have averaged about two years, with the shortest tenure of three months and the longest tenure, from June 2003 to May 2007, of 47 months. This relatively high turnover underlines that the Secretary-General's position is precarious. In sum, the exposed position of the Secretary-General makes it difficult for him to be universally accepted as guarantor and defender of non-partisan professionalism within the organisation.

**(83)** Conversely, however, at least some Deputies feel that the bureaucracy is insufficiently responsive to their needs and requirements. Parts of the TGNA administration are seen as being 'supply-led' rather than 'demand-led': procedures, staff allocation and the tasks performed are seen to follow administrative preferences rather than the priorities of Deputies and permanent staff are sometimes accused of being unresponsive to Deputies' legitimate requests.

**(84)** Widespread suspicion of politicisation and patronage in decisions on hiring, deployment and promotion, concerns that are also highlighted in the Strategic Plan, can lead to problems of communication, cooperation and co-ordination across different organisational units and staff categories. 'Legislative experts', the only staff category hired on the basis of competitive examinations, appear, at times, suspicious of other support staff recruited through different avenues and are wary of being drawn into performing what they may regard as political tasks. Conversely, personal staff of Deputies – one advisor and one secretary for each of the 550 Deputies – report that they feel that their professionalism is sometimes called into question by other TGNA staff who are more removed from daily working contacts with Deputies.

**(85)** The resultant trend towards compartmentalisation in the TGNA administration is arguably fostered further by the fact that TGNA staff are not allowed to join a trade union and by the absence of an elected body to represent the common interests of all staff *vis-à-vis* the Speaker, the Bureau and the Secretary-General. Instead, a number of professional associations representing parliamentary staff have been formed, such as the Association of Legislative

Experts (YUDER) or the Association of Parliamentary Advisors (PDD). Although different in status, the Association of Legislation (Yasader), which was initially formed at the initiative of legislative expert staff in the TGNA, but whose membership is more broadly based, could also be counted among such professional associations.<sup>7</sup>

**(86)** A further force behind compartmentalisation lies in the very diverse range of tasks performed by the TGNA administration. As noted already, some of these fall outside the services normally performed by parliamentary administrations, most notably the National Palaces Department, with a total of 1,198 staff. Others units, chief amongst them those concentrated in the Auxiliary Services Department, are focussed on servicing other parts of the administration, yet account for large parts of the total staff. Thus, the five units falling under the Auxiliary Services Department employ a total of 1,085 personnel alone (Directorate of Internal Services: 401; Directorate of Social Services 390; Doctor in Chief: 77; Directorate of Transport: 77; Nursery: 49). To these, one might add the Directorate of Construction and Maintenance, with 270 staff, or the Directorate of Parks and Gardens, which employs 117. It is not always evident that the tasks performed are best undertaken within the organisational ambit of the General Secretariat, and the level of resources allocated to them requires further scrutiny.

**(87)** Several *capacity concerns* have been highlighted in the Strategic Plan. They include a deficient human resources management, which is seen to give too little consideration to professional criteria in decisions on the hiring and promotion of staff and is thought to contribute to the de-motivation of personnel; deficiencies in technical equipment and lack of suitable physical space, especially for staff serving committees; and what is seen as a ‘weakening of organisational culture and commitment’, associated, in particular, with the influx and advancement of contract personnel who are recruited on an *ad hoc* basis and work side-by-side with permanent Secretariat staff. The ‘threat’ of political intervention in personnel policy is also emphasised. The fact that the Bureau, made up of political figures, can decide on discretionary ‘compensation’ payments for certain staff further fuels suspicion. Perhaps more importantly, the recruitment of a large number of staff outside the competitive procedures for ‘experts’ means that many staff do not have access to the normal career progression envisaged for expert staff. Personnel policy and human resource management – including, in particular, legal status, rights of association, procedures for recruitment, deployment and promotion, career mobility, training, remuneration, evaluation and assessment – are, therefore, a widely recognised concern.

**(88)** Politicisation and patronage (whether personal and political) are not, in itself, surprising in an institution with 550 elected political ‘principals’, and it may be difficult to eliminate them altogether. There are, however, several capacity concerns, which, if tackled systematically, would reduce pressures and opportunities for non-meritocratic personnel decisions. These include, in particular, clear and transparent rules regarding the hiring, deployment, promotion and remuneration of personnel. This includes clear criteria for deciding which tasks are to be carried out by civil servants or contractual staff respectively; clear and transparent job specifications and related skills profiles; competitive hiring

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<sup>7</sup> It is worth noting that both the Association of Legislation (YASADER) and the Association of Parliamentary Advisors (PDD) have recently played a major part in the project on ‘Inclusive Civic Engagement in Legislation Making in Turkey’, supported by UNDP. Full details of this programme can be found at <http://www.undp.org.tr/Gozlem2.aspx?WebSayfaNo=1272>. The Director of Acts and Resolutions in the TGNA chairs YASADER.

procedures as a general principle to be applied as widely as possible and to be monitored independently; regular evaluation procedures which form the main basis for decisions on promotions; and a remuneration system which both incentivises staff and is seen as transparent and fair. At present, the co-existence of different categories of staff performing similar or identical functions (notably contractual staff on continuously renewed fixed-term contracts and civil servants); limited and uncertain career prospects, stemming from a lack of institutional capacity for career development, very limited staff mobility within the organisation and political interference in personnel decisions; a remuneration system which is regarded as giving insufficient performance incentives; and a personnel training system which seems insufficiently, if at all, linked to prospects for individual career advancement all have a negative impact on staff's motivation.

**(89)** Personnel policy and human resources management are part of the broader challenge of how best to ensure the most effective functioning of the TGNA as a political institution, without running the risk of the excessive politicisation and, in particular, the party politicisation of the organisation. This challenge is heightened under conditions where the government-opposition divide is very marked in all aspects of parliamentary work and political actors have both formal and informal influence over large parts of the personnel system.



### III. OPTIONS FOR CHANGE

(90) The restrictions on institutional capacity set out in Part II point to changes in the TGNA's powers, political organisation, procedures, support services and personnel system that might be worth exploring. In formulating options for change, the Peer Review Team does not start with a *tabula rasa*. As regards the TGNA administration, the Strategic Plan contains many valuable ideas on how the General Secretariat's capacity to support the key parliamentary functions of legislation, budgeting, oversight and scrutiny, and representation could be supported more effectively. The Strategic Plan also highlights obstacles – both political and organisational – to reform. Of equal importance is the political effort to attempt a comprehensive revision of the Rules of Procedure. In moving towards this aim, which is supported, in principle, by all party groups in Parliament, the Committee on the Constitution, which has responsibility for considering the Rules of Procedure, has a central role to play. Both the Strategic Plan and the revision of the Rules of Procedure constitute very important steps towards strengthening the TGNA.

(91) These 'Options for Change' also take account of developments in parliamentary practice across a range of EU member states. After several decades during which the progressive 'deparlamentarisation' of European politics was at the subject of much critical political and academic comment, more recent developments, especially since the early 1990s, point to a reversal of the oft-alleged 'decline of parliaments', leading some commentators to speak of a renaissance of European parliamentarism. This trend can even be observed in countries such as France, where, during the first decades of the 5<sup>th</sup> Republic, the executive clearly dominated over the National Assembly. Thus, we witness efforts in many European parliaments to strengthen legislatures' capacity to subject government bills to detailed examination; to extend the range of executive oversight and scrutiny mechanisms; to improve parliaments' ability to monitor the implementation of major pieces of legislation; to bolster parliamentary budget units that can assist parliamentarians in the scrutiny of budget and finance laws and in assessing the financial implications of other legislation; to intensify dialogue with citizens and civil society; to overhaul the career structures of parliamentary staff; and, in particular, to deepen the involvement of member states' parliaments in EU affairs. Such initiatives can be traced back to several sources: evidence of declining public trust in parliaments, which has led elected officials in many countries to examine critically often long-standing practices and arrangements in an effort to regain public esteem; more intensive public scrutiny of parliaments, *e.g.*, through NGOs that monitor and document in detail the activities of individual members of parliament, such as the German *Abgeordnetenwatch*; greater electoral volatility in many European countries and a growth in the number of parties represented in parliament, both of which have tended to support calls for greater rights of the parliamentary opposition; and, in particular, the process of European integration, which has led parliaments in both EU member states and candidate states to consider reforms aimed at making them better equipped to play a constructive role in European policy-making and in the scrutiny of their governments' activities at EU level. This impetus has become even stronger with the Lisbon Treaty, which gives national parliaments increased opportunities to shape the work of the EU alongside national governments and the European institutions.

(92) Major improvements in the institutional capacity of the TGNA require co-ordinated political and administrative action. The Speaker, the Bureau, the leadership of the parliamentary groups and committee chairmen are central when it comes to the revision of the Rules of Procedure; their leadership is also needed in spearheading the legislative changes

required for organisational and, especially, personnel reforms in the TGNA Secretariat. The administrative leadership – including the Secretary-General, his three deputies and the heads of departments – have a critical role in assessing the implications of changes in the Rules of Procedure in terms of organisational, personnel and financial requirements and in driving forward the realisation of the ambitious aims and objectives set out in the Strategic Plan. Although political action – centred on the Rules of Procedure – and administrative action – concentrated on the implementation of the Strategic Plan – are interdependent, delay in the former should not slow down the momentum for the latter. Moreover, whilst a comprehensive approach, as expressed in a thorough revision of the Rules of Procedure and a Strategic Plan covering all aspects of the General Secretariat, is, of course, desirable in principle, this should not preclude the adoption of more limited initiatives that command support from the political or administrative leadership.

### ***III. 1. Majority and Opposition***

(93) The division between majority (governing) parties and opposition parties is constitutive to parliamentary democracies, but how their relationships are structured in parliament differs greatly across European democracies. Strong polarisation in terms of the programmatic ambitions of the parties represented in parliament can go hand in hand with a pronounced orientation towards interparty co-operation in the day-to-day workings of parliament. Such an orientation does, on the one hand, allow the opposition to perform its vital constitutional role (and avoid its effective marginalisation). On the other hand, it makes the opposition less likely to resort to ‘wrecking’ tactics that are aimed more at frustrating the majority parties than ensuring the effective scrutiny of legislation and executive action. The practice of minority governments, which is widespread in Europe, further encourages inclusive parliamentary practices, since the governing parties rely on a co-operative opposition to get major legislation passed. Similarly, party systems in which different coalition formulas have been used in the past mean that there is no strong segmentation between implacably hostile ‘party blocs’. As recent scholarship underlines, whilst there are exceptions, there has been a trend towards more co-operative majority-opposition relations in many countries, as part of a broader move from ‘majoritarian’ towards more consensus-oriented political systems.

(94) In the Turkish context, there are two principal ways in which the government-opposition dynamic might be altered, so as to improve the functioning of the TGNA overall:

- ***Committee chairmanships should be allocated proportionately to the size of the parliamentary groups.*** This would constitute a clear departure from the current Turkish practice of ‘winner takes all’ when it comes to committee chairmanships and also the chairmanships of inter-parliamentary groups. The Turkish practice of reallocating committee chairmanships in mid-term would facilitate such an arrangement, as committees would not necessarily be chaired by a member of the same party for the duration of the four-year term. It is also worth considering whether to adopt the practice found in many EU countries, such as Germany, The Netherlands, Portugal, Spain or, more recently, France, to reserve the chairmanship of the Plan and Budget Committee to a representative of the largest opposition party. In the UK, the Rules of Procedure of the House of Commons require that the chairman of the Public Accounts Committee be an opposition Member. The desired effect is to encourage ‘responsible’ opposition.



- *A part of the agenda of both committees and the Plenary should be reserved for business suggested by the opposition or, at a minimum, approved by the opposition.* Through such a system of ‘reserved time’, the majority, whilst it still has the opportunity to proceed with its own business, most notably legislation that is prioritised by the Government, partially cedes control of the timetable. For example, in the UK, from 2010, a separate business committee, on which the Government will not have a majority, will allocate time for non-Government business. Governing and opposition parties, thus, share parliamentary time. This principle ought to be applied, in particular, in matters concerning the annual budget, public accounts and oversight and scrutiny instruments, which serve to hold the executive to account. In exchange, the opposition is less likely to resort to delaying and filibustering techniques when it comes to government business. Put differently: government and opposition are encouraged to disagree, and compete over, substantive issues rather than timetables.

### ***III. 2. Government and Parliament***

(95) Given the extent to which co-operation between the government and the parties that support it infuses nearly all aspects of democratic legislatures’ activities - at least in parliamentary systems - the distinction between government, on the one hand, and parliament, as a collective actor, on the other, can easily be overstated. Nevertheless, executive-legislative relations cannot be reduced to government-opposition dynamics. In the Turkish case, there are two issues that deserve special attention. First, at present, Government largely appears to conceive of parliamentary time, in particular, legislative time, as a ‘free good’; there is no evidence to suggest that in preparing bills the Government pays serious consideration to the parliamentary workload involved in legislative scrutiny. The fact that parliamentary time cannot be extended at will does not impose a constraint on the Government’s legislative ambitions, in terms of the volume and detail of bills. Moreover, the timing of the submission of bills to the Parliament during the legislative terms seems at the discretion of the executive. As a way of addressing this problem,

- *the TGNA should require the Government to produce a rolling, authoritative legislative plan that clearly indicates the Government’s forthcoming legislative initiatives for a period between six to twelve months*, as is found, e.g., in the UK or in Hungary. Bills not included in the legislative plan should only be introduced in exceptional circumstances. In this way, the Government cannot avoid agreeing on clear legislative priorities and parliamentary time is treated as a ‘scarce resource’ rather than a ‘free good’. Better legislative planning also allows the TGNA a greater degree of control over its internal timetables.

(96) Conversely, it would appear that Parliament, to some extent treats Government time as a free good, as the very high number of written questions and requests for parliamentary inquiries (of which very few, however, are accepted) seems to indicate. It is against the spirit of a democratic parliament to put a formal numerical cap on the use of such instruments; but nor is it desirable that, as at present, more than a third of all questions put to the Government remain unanswered. As a way forward

- *the Speaker and the Board of Spokesmen should agree to monitor closely the Government’s record in answering questions and, where necessary, issue*

*reprimands, whilst seeking to establish a cross-party consensus on the volume of questions to be submitted.*

### **III. 3. Committees, Plenary and the Legislative Process**

(97) In much of Europe, recent decades have seen major initiatives aimed at enhancing the ability of parliaments to improve the quality of legislation through changes in parliamentary legislative structures and procedures. Many of these initiatives have centred on strengthening the rights of parliamentary committees in the legislative process and on supporting the informational basis on which they perform their tasks. The central aim of improving the legislative process in the TGNA, as is given expression in the draft Rules of Procedure, is strongly supported by the Peer Review Team. In line with European developments, the thrust of the changes proposed seeks to rebalance the responsibilities between committees and the Plenary and to ensure that both committees and the Plenary dispose of the information necessary to allow for informed debate.

(98) Chief measures to further this end include:

- ***The TGNA should consider introducing a first plenary hearing for major pieces of legislation. It would be possible to limit this procedure to government bills.*** Such a first reading, as it is practised in much of Europe, would allow the Government to explain the principles of its legislation to the assembly and the opposition parties to outline their response. Under current arrangements, the Government only gets to present and defend its bills once they have been through committees, from which they usually emerge in amended form. An early public debate could not only increase the transparency of the legislative process, but also help a more focused debate in committee.
- ***The powers of secondary committees and the EU Harmonisation Committee in the legislative process need to be reinforced. Every committee should have the right to request that it be permitted to consider a bill or draft law. As envisaged by the draft Rules of Procedure, the Board of Committee Chairmen should be able to challenge the Speaker's decisions on the referral of bills and draft laws to committees. In case of disputes, the final decision should rest with the Plenary.***
- ***To facilitate inter-committee co-ordination, the planned Board of Committee Chairmen should meet more frequently than currently proposed.***
- ***To perform their tasks effectively, secondary committees need to be given longer than the current usual 10 days to perform legislative scrutiny.***
- ***When submitting their reports to the Plenary, primary committees should be required to state how they have sought to address the points raised by secondary committees.***
- ***As regards the committee stage of legislation, there needs to be better advance planning of committee agendas and detailed committee agendas should be published in advance.*** All participants in the process – committee members, their support staff, committee staff, other relevant units in the Secretariat General, interest groups and NGOs and also Government representatives – need to be able to prepare

adequately. This requires effective communication between the Government and the Speaker; the Speaker and committee chairmen; and ministries and committee staff.

- ***There should be a formal protocol that governs how and in what form members of the Government, interest group and NGO representatives and others, such as experts, may participate in committee meetings.***
- ***The TGNA should consider introducing a system of rapporteurs, akin to the one operated in the European Parliament*** to encourage the participation of all members of committees in legislative activity. The *rapporteur*, who may come from the majority or opposition parties, both drafts the report of the committee on a piece of legislation and presents it to the Plenary.<sup>8</sup> Such an active engagement of committee members in the committee stage of the legislative process would encourage both majority and opposition Deputies to devote greater resources to legislative activities. It would not undermine the majority's ability to pass legislation in the Plenary, but promote opposition engagement with legislation. It would also foster relations between Deputies and committee support staff who, at the moment, work primarily for committee chairmen.
- ***The Government should be routinely required to make available to the TGNA the Regulatory Impact Assessments (RIAs) that it carries out in the preparation of legislation.*** This measure needs to be part of a broader effort to improve the informational bases on which committees consider legislation, both through information and expertise that committees solicit themselves (e.g., through hearings) and through information made available by the Government. To make best use of this information, committees will need greater access to specialist support (see below).
- ***There is much to be said for the - modest - restrictions on the Plenary's amending powers as recommended in the draft Rules of Procedure.*** At a very minimum, it makes sense to require that all amendments have to be tabled in writing in advance of the final debate and vote (this does, of course, require that the agenda of the Plenary is established in good time). A similar practice should be adopted for the submission of amendments for consideration in committees, so that all participants can prepare their stance in advance.
- ***The TGNA should consider recommitting bills from the Plenary to committees in cases where major amendments are suggested during the plenary stage on a more regular basis. This mechanism, which is already envisaged in Article 88 of the current Rules of Procedure, allows a more thorough consideration of amendments than is possible during the plenary stage and helps to ensure that bills are internally consistent and practicable.***

### ***III. 4. Executive Oversight and Scrutiny***

**(99)** In parliamentary democracies, the task of executive oversight and scrutiny falls largely to the individual deputies and opposition parties, as parliamentary statistics on the use of

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<sup>8</sup> For details see <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+IM-PRESS+20060725STO09938+0+DOC+XML+V0//EN>

oversight and scrutiny instruments show. There has been a trend across much of Europe to bolster the opposition's ability to hold the executive to account and to investigate cases of the alleged abuse of executive power by introducing additional instruments and by ensuring that the results of oversight and scrutiny are made easily accessible to the public. Also, the institution of ombudsmen, who investigate cases of maladministration, has become increasingly widespread, and they usually report directly to parliament.

(100) In the TGNA, the strengthening of its executive oversight and scrutiny capacity, an aim broadly shared by all parliamentary groups, could be achieved in a number of ways. Some of the options set out below would imply a significant expansion of the role of committees in the TGNA.

- ***There is a case for introducing additional oversight and scrutiny instruments, which are, at present, quite limited in scope. At a minimum, it would make sense to add the instrument of 'major interpellations', i.e. requests for written information from the Government the answers to which are debated in the plenary.*** For example, in the German *Bundestag*, individual members and/or groups of Deputies, have a range of instruments at their disposal to question the Government, including minor and major interpellations (both of which require a quorum), written questions (which can be posed by individual Deputies) and question times, debates on matters of topical interest and questions addressed to the Government following its weekly cabinet meetings. In the UK, a fixed number of days each year is available for motions introduced by opposition parties; for half an hour at the end of each sitting day, an individual MP may raise an issue and receive a ministerial response.
- ***Potestative rights aimed at ensuring that opposition parties can exercise their oversight and control functions should be strengthened in the Rules of Procedure. Potestative parliamentary rights guarantee that party groups can exercise oversight and control without having to secure the prior agreement of others (e.g., the Speaker or the Bureau).*** In Portugal, e.g., since a comprehensive revision of the Rules of Procedures in 2007, there are detailed rules as to how often parliamentary groups can call on the government to attend the Assembly; request emergency debates; set the order of business for plenary meetings; request debates on current affairs; and request prime ministerial debates. There are also provisions regarding potestative rights in committees.
- ***Committees should become central sites for executive oversight and control. In particular, ministers should regularly be called upon to answer detailed questions in committee on all aspects of their respective departments' actions. Committees should regularly discuss the Accountability Reports produced by ministries.***
- ***The reports of committees of inquiry should be debated in the Plenary and Parliament should monitor the measures taken by the Government. The relevant standing committee should perform this monitoring task.***
- ***Attention must be given to how committees and the Plenary can engage more systematically in the scrutiny of the implementation of legislation.*** One way to achieve this is to establish a greater range of regular reporting requirements of the Government to the TGNA; these reports would then be examined and debated in committees and/or the Plenary. In the German case, e.g., the Government must

regularly report to parliament on developments across the entire range of domestic and foreign policies, with the specialised reports often extending to several hundred pages. Another means are *ex post* Regulatory Impact Assessments, which have become commonplace in many European countries.

- ***The TGNA should consider setting up special bodies within parliament to track developments.*** For example, in the French National Assembly, “The Assessment and Monitoring Mission” (MEC) was set up in 1999 within the Finance Committee. Its brief is to assess, each year, the results of certain public policies (...) In the same way an Assessment and Monitoring Mission for the Social Security Finance Laws (MECSS) was set up by the Cultural, Family and Social Affairs Committee in 2004. It (...) is a structure which monitors the spending on social issues and thus enables M.P.s to better follow the implementation of the social security finance laws and to ensure that the new legislative and regulatory instruments correspond well to the financial objectives set.”<sup>9</sup> In the UK, select committees are charged with monitoring the expenditure, administration and policy of each government department and report regularly on their findings. Most recently, a new process of post-legislative scrutiny by Westminster parliamentary committees has been established, based on a mandatory report to Parliament by the Government assessing the effect of the legislation. In Portugal, the Assembly’s Department for Documentation, Information and Communication prepares a six monthly report on the implementation of the laws adopted by parliament.

### ***III. 5. Consultation and Expertise***

**(101)** Structured dialogue and exchange with representatives of interest groups, organised civil society, and experts is a hallmark of modern parliaments and an indispensable part of parliamentary activity. The key challenge that parliaments and individual parliamentarians face in their exchanges with representatives from a very wide range of organisations and interests is to ensure that open channels of communication do not lead to private interest capture or, in the worst case, corruption. The growing professionalisation of lobbying, as seen, *e.g.*, in the growth of professional lobbying firms in many European countries, has further increased the need to provide transparent rules that regulate how consultations are to be carried out and in what form interest representatives should interact with parliamentarians. In the case of the European Parliament, for example, all organisations that wish to lobby the EP must request accreditation and sign up to the EP’s code of conduct. There is also move, as part of the European Transparency Initiative, to develop a common register and a common code of conduct covering both the EP and the European Commission. We witness, therefore, a growing formalisation of the relationship between legislatures and the representatives of societal interests.

**(102)** As regards the TGNA, there are several ways in which to improve consultation with interest groups and NGOs and enhance engagement with expertise to be found outside the parliament and the executive:

- ***The Rules of Procedure should set out the conditions under which interest groups, NGOs and experts are invited to present their views to committees; the form which this should take (e.g., written statements, presentations, joint seminars,***

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<sup>9</sup> [http://www.assemblee-nationale.fr/english/synthetic\\_files/file\\_48.asp](http://www.assemblee-nationale.fr/english/synthetic_files/file_48.asp)

*'hearings'); the manner in which committees deal with the views presented to them; and the most appropriate way in which the views collected are communicated to the Plenary.*

- *Affected interests should be given a right to express their views on legislative proposals.*
- *The current standard limitation, whereby bills should not spend more than 45 days in committee, needs to be rethought* to allow for a detailed response and to enable committees to engage seriously with the views expressed,
- *As regards interest groups and NGOs, it makes sense to create a registry of organisations accredited with the TGNA*, similar to that found in many other European legislatures. Such accreditation should, of course, be voluntary. It allows committee chairmen to gain an authoritative overview of the organisations active within a particular policy area.
- *Identifying the NGOs and other groups relevant to their committee's work should be a key responsibility of committee staff. They should be required to ensure that interest groups and NGOs are given full information about the committee's work programme to enable them to contribute effectively.*
- *The right to nominate experts whose views may be solicited should be shared by all party groups represented on a committee.*
- *Expert assessments made available to the committees should subsequently be forwarded to the Plenary.*

### **III. 6. Budgeting and Accounts**

(103) Parliaments' budgetary powers and their control over public expenditure, which is nearly always exercised in collaboration with a supreme audit institution, put them at the heart of public finance systems. Recent surveys underline how changes in budgeting procedures, which are initially typically focused on the executive preparation of the budget, have required changes to parliaments' classical budgetary procedures. Such changes have centred on the ability of parliaments to influence governments' longer-term budgetary plans and on improving their capacities for assessing the impact of expenditure and revenue proposals. At the same time, public sector auditing has undergone major changes, notably as the previous focus on legality has been increasingly complemented by an emphasis on performance auditing. Again, parliaments across Europe have sought to 'catch up', which has often also led to closer interaction with supreme audit institutions.

(104) There is a broadly shared recognition in the TGNA that further structural and procedural change is necessary if Parliament is to play its full role in all stages of the budget process, i.e. both in setting the budget and in monitoring its implementation (notably through the consideration of public accounts). The following recommendations are by no means exhaustive, but direct attention to neglected aspects of the parliamentary budget process:

- *There should be a general plenary debate on the budget law and accompanying legislation prior to the referral of the budget law to the Plan and Budget Committee and other committees involved in its scrutiny.*
- *Equally, the Annual Statement of Conformity should be debated in Plenary, before being subject to detailed consideration in committee.*
- *The proposal to establish two sub-committees of the Plan and Budget Committee, focusing on the budget and final accounts, respectively, should be implemented.*
- *The accounts subcommittee should co-operate closely with the relevant standing committees when it comes to probing accounts, e.g., through holding joint meetings.*
- *Early consultation between the Government and members of the Plan and Budget Committee on the budgetary plans of the Government prior to the completion of the annual budget bill is necessary. The Government and the TGNA should regulate the principles of such consultation in a memorandum.*
- *Introducing the practice of a pre-budget statement by the Government to be debated in Parliament should be considered as a further means of improving the substantive input of the TGNA prior to the submission of the budget bill,*
- *Arrangements should be made for standing committees to participate in the annual budget process.* As a first step, the chair and deputy chair of the relevant standing committee should take part in the deliberations of the Plan and Budget Committee when the respective sectoral budget is considered.
- *The working relationship between the TGNA and the TCA needs to be intensified. In particular, there should an obligation that all reports submitted by the TCA to the TGNA are considered by the relevant committees and, where appropriate, the Plenary and a response recorded.*
- *The recently created Budget Analysis Unit should be upgraded – in terms of its staff resources and its competences – as part of the drive for a more knowledge-focused organisation.* This proposal takes account of the fact that budget units in parliament, some in the form of full-blown legislative budget offices, are becoming increasingly common in democratic parliaments. They can aid the legislative, oversight and scrutiny, and, of course, the budgetary functions of parliament. Their core functions include economic forecasts, baseline estimates, analysis of the executive's budget proposals; and medium-term analysis; in addition, they may also be involved in the analysis of proposals, options for spending cuts, mandates, taxation or the preparation of policy briefs.

### **III. 7. EU Accession and Harmonisation**

(105) Few aspects of parliamentary practice in Europe have seen as much change in recent decades as the way in which they organise for the process of European integration. As the number of member states has risen from 6 to 27, with more countries seeking membership; the *acquis communautaire* has progressively expanded and deepened; and as the EU itself has

acquired a directly elected legislature, the question of how national parliaments can adapt to Europe – in terms of their structures, procedures, and, perhaps most importantly, their self-understanding – has become ever more pressing. Four challenges are common to all EU member-states parliaments: how to monitor and influence the decision-making process, especially the legislative process, at EU level; how to hold national governments to account for their European actions, especially in the Council of the EU and the European Council; how to ensure the timely transposition of EU law into national law; and how to debate the range of integration-related issues in a way that is accessible to national electorates. One finds considerable variation in the way in which this challenge of parliamentarising EU integration has been handled. However, a number of common trends can be discerned: the establishment of structures and procedures designed to ensure that national parliament learn about EU-level initiatives as early as possible and have sufficient time to formulate their views; greater parliamentary powers when it comes to defining the national position of governments in negotiations in the EU councils; more frequent and thorough parliamentary scrutiny of governments' actions in the EU arena; a greater awareness of substantive discretion in the transposition of EU law into national law; and many initiatives aimed at increasing the public's interest and involvement in how parliaments deal with EU matters.

**(106)** Against this background, it is worth emphasising that the Twinning Project Reports on the EU Harmonisation Committee and the EU Affairs Unit of 2008 have set out the obstacles to the effective parliamentarisation of accession policy in Turkey and have suggested a series of detailed measures aimed at their removal. Effective parliamentarisation implies that the TGNA has structures, procedures and personnel in place that enable it to perform a systematic assessment of the compliance of draft legislation with the *acquis*; to participate in the formulation and implementation of Turkey's accession strategy; to monitor the accession process (notably the negotiations) and hold the Government to account; and to assist in informing and engaging the public about the integration process. To carry out these tasks requires

- *a clear legal framework for the respective responsibilities of the Government and the TGNA and their cooperation in the accession process;*
- *an EU Harmonisation Committee constituted as a standing committee with equal rights to other standing committees;*
- *all legislation to be screened so as to ascertain its compatibility with EU law* (this does not, of course, weaken the TGNA's right to adopt legislation not deemed in compliance with the *acquis*);
- *strong inter-committee relations between the EU Harmonisation Committee focusing, as far as legislation is concerned, on compatibility issues, and the other standing committees, which would focus on the scrutiny of underlying policy;*
- *an EU Harmonisation Committee able to monitor closely the accession negotiations;*
- *regular Plenary debates on the accession process;* and
- *an efficient division of labour between staff serving the EU Harmonisation Committee and the TGNA's EU Affairs Unit.*



### **III. 8. Party Groups and Deputies**

(107) The Peer Review Team did not consider changes in the relationship between party groups and Deputies that would require amendments to the Parliamentary Elections Law or the Law on Political Parties. There are, however, a number of recommendations for which changes to the Rules of Procedure or the legal framework governing the organisation and financing of the TGNA would seem sufficient. In particular,

- ***The number of political expert staff working for the parliamentary groups and the physical and technical infrastructure at their disposal should be reconsidered.*** At the moment, they seem scarcely sufficient to cover the range of domestic and foreign policy issues. The staff of individual Deputies cannot make up for this shortage, giving that their time is largely taken up by day-to-day management tasks associated with running the Deputies' offices.
- ***All Deputies should be given the opportunity and put under an obligation to assume committee responsibilities*** (unless they are members of the Bureau or the Board of Spokesmen) so as to encourage greater involvement of Deputies in parliamentary work not directly associated with constituency services. Coupled with a *rapporteur* system (see above) this would help to increase Deputies' willingness to allocate time to Parliament's legislative and scrutiny functions.
- ***Funding for staff and offices in Deputies' constituencies should be considered,*** both to free Ankara-based staff from the day-to-day pressures of constituency business (and thus allow time for legislative and scrutiny-related support) and to enhance the capacity of Deputies to remain in close contact with their constituencies (and thus to reduce the need for constituents to travel to Ankara). Such offices could be established at the provincial level, allowing several Deputies from the same party group shared use of the facilities. It is to be debated whether funding should be provided directly by the TGNA or by political parties.
- ***Induction programmes for new Deputies designed to familiarise them with parliamentary organisation and procedures are essential*** given the high turnover of Deputies in Turkey following parliamentary elections. They may also be opened to Deputies' staff. This proposal does not detract from the responsibility of party groups to familiarise their members with the TGNA's party political structures.

### **III. 9. The General Secretariat**

(108) As the Strategic Plan underlines there is a confluence of pressures that necessitate a re-examination of the formal organisation and personnel system of the General Secretariat; the Strategic Plan contains far-reaching measures to address current performance problems. In particular,

- ***There should be a thorough grading and pay review for TGNA staff, notably those serving Deputies, committees and the Plenary.*** Such a review should involve measures to set the competences for each grade; to create clear job specifications and related skills profiles; to design open and competitive recruitment processes as the norm (the positions that can be filled directly by the Speaker should be strictly limited); to establish simple and transparent procedures for performance appraisals

and promotions and to provide thorough training so that appraisals are carried out professionally by managers trained for the task; and to build a new rewards system that is fully transparent and abolishes political involvement in decisions on individual remuneration.

- ***There needs to be a detailed assessment of the personnel needs arising from implementation of the Strategic Plan and the draft Rules of Procedure.*** This assessment needs to focus, in particular, on staff allocation throughout the TGNA administration; the competency profiles required in different parts of the organisation and at different levels; resultant recruitment and training needs in the short, medium and longer-term; and a career development and remuneration strategy.
- ***All decisions by the Speaker and the Bureau concerning personnel matters – with the exception of decisions on individuals – should be made publicly available,*** so that staff are fully aware of the legal framework governing their obligations and rights.
- ***The TGNA should consider making the appointment of the Secretary-General subject to approval by the Bureau.***
- ***The creation of a ‘Staff and Management Council’ should be considered.*** There is, at present, no structured dialogue between the TGNA’s administrative leadership and TGNA staff through which concerns and views could be communicated and discussed. This is especially worrisome in view of the ambitious organisational and personnel reforms envisaged by the Strategic Plan, whose realisation will necessitate intensive communication throughout the organisation.
- ***Training policy will need to be placed a broader context of an explicit career development policy*** if staff are to reap the full benefit of what is on offer. Figures show that the 2000s have seen a great expansion in training activity, in terms of the numbers of courses offered and numbers of staff attending, although there are major fluctuations from year to year.
- ***The establishment of a permanent centre for the provision of high-level training and competency formation and development in the form of a ‘Legislative Academy’ is a worthwhile objective.*** Issues to be considered in this context include:
  - Whether such a body should form part of the Secretariat-General or should be established on an inter-institutional foundation, with both the TGNA and the Government as stakeholders.
  - Whether the body should be exclusively concerned with training or should also undertake research for Deputies. If the latter, issues regarding the size, scope and allocation of research resources will need to be addressed.
  - What training should be provided and at whom it should be aimed. The training facility might include advice for new Deputies on procedures and training and continuing education for staff working in the Secretariat-General (including Deputies’ personal staff).
  - Whether this training should include training in legislative drafting for Deputies or officials or both.
  - Whether synergies can be developed in aspects of training by co-operating with other domestic and international bodies.

#### **IV. OPTIONS FOR SUSTAINING REFORM AND EXTERNAL INVOLVEMENT AND ASSISTANCE**

**(109)** The TGNA – at both political and administrative levels – disposes of very considerable expert knowledge to analyse shortcomings in its organisation and to formulate measures designed to address them. The processes of drawing up the Strategic Plan and the draft Rules of Procedures and the substance of both documents have clearly underlined that the TGNA is more than capable of critical self-evaluation. Both elected officials and administrative staff have emphasised the extent to which the systematic consideration of parliamentary experiences across a range of European countries has informed the TGNA’s thinking about organisational improvements. Against this background, two questions remain to be addressed. First, how can the capacity for critical self-monitoring and reform be best sustained? Second, what could be the role of future external involvement and assistance in furthering parliamentary reform?

**(110)** Institutionalising reform capacity in parliament, so that parliamentary structures and processes are subject to continuous monitoring, evaluation and, where necessary, change is not an easy undertaking. The main challenges result, first, from the dual nature of parliaments as both eminently political and administrative institutions; second, from the pervasive influence of the majority-minority distinction on all aspects of the organisation of parliament; and, third, from the interdependence between parliamentary reform and developments in the broader political system. The duality of parliament as a political and administrative institution means that political and administrative parliamentary reforms are interdependent, but that formal powers and responsibilities for reform are dispersed in the organisation, which makes co-ordinated approaches difficult to sustain. The distinction between majority and minority parties as a basic structuring principle for the operation of parliament bears the risk that parliamentary reform itself becomes quickly embroiled in a government-opposition dynamic, with each side anxious to avoid giving the other a possible advantage. Moreover, not only is the need for parliamentary reforms often externally driven, as with EU integration; effective reforms, whether they concern legislative, budgetary or oversight and control processes, the management of parliament’s timetables or personnel reforms are typically reliant on close co-operation with other institutions, be they the government, a supreme audit institution or courts.

**(111)** Within such an overall context, external involvement and assistance – under the specific Turkish conditions - can usefully perform two main functions. First, to feed systematic comparative information about European experiences into the TGNA’s organisational evaluation and development process; and, second, to assist in the implementation of major reform projects. Technical assistance oriented towards these two main tasks can draw on a range of instruments, including, in particular,

- TAIEX – Technical Assistance and Exchange Instrument – which “provides centrally managed short-term technical assistance in the field of approximation, application and enforcement of European Union legislation”;
- Twinning which involves “the secondment of EU experts, known as Resident Twinning Advisors (RTA) to the acceding, candidate countries and potential candidates on specific projects”;

- “Twinning Light”, defined by the Commission as a “flexible tool for medium-term assignments, providing Member State civil servants’ expertise for assignments of up to six months, with possible but limited extensions”; and
- SIGMA.

**(112)** The choice of instrument does, of course, depend on the substantive tasks to be tackled. These tasks will need to be defined further once the TGNA leadership has taken a clear position on the ‘Options for Change’. For the moment, the Peer Review Team sees the following priority areas where external involvement and assistance might be especially useful:

- the elaboration and implementation of plans for the establishment of a Legislative or Parliamentary Academy oriented towards the training of staff with various types of expertise relevant to the legislative, budgetary and oversight and scrutiny functions of Parliament;
- the development of a comprehensive regulatory and procedural framework governing the participation of external actors (interest groups, NGOs, experts and others) in the legislative process;
- the elaboration and implementation of a comprehensive framework for human resources policy aimed at the professionalisation of recruitment, deployment, evaluation, promotion, mobility, training and remuneration across the range of TGNA staff (including the support staff of Deputies);
- the establishment of a procedural and institutional framework for augmenting the TGNA’s role in the EU accession process, taking systematic account of trends for the ‘parlamentarisation’ of integration policy in existing member states;
- the elaboration of detailed proposals for the future funding and organisation of Deputies’ direct support services.

## ANNEX

### ***Key documents consulted in the preparation of this report***

The Constitution of the Republic of Turkey

TGNA General Secretariat: Strategic Plan, 2010-2014

TGNA Rules of Procedure (in force)

TGNA Rules of Procedure – Draft Proposal

Explanations on TGNA Rules of Procedure Draft, Prepared by TGNA Rules of Procedure Conciliation Committee, 16 February 2009

Law Enacting Process in Turkey (undated)

Law on Political Parties

Law on Public Servants

Parliamentary Elections Law

Public Financial Management and Control Law

Commission of the European Communities – Turkey 2009 Progress Report

SIGMA – Turkey: Public Expenditure Management System Assessment 2009  
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Prime Minister's Office

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Turkish Court of Accounts

[http://www.sayistay.gov.tr/english\\_tca/eng.asp](http://www.sayistay.gov.tr/english_tca/eng.asp)

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<http://www.tbmmdanismanlari.org/2009/index.php>

Turkish Association of Legislation

<http://www.yasader.org/sayfa/>

Association of Committees for Monitoring Parliamentarians and Elected Officials

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